Mr. FLORIO, Mr. DRINAN, Mr. HUGHES, Mr. SOLARZ, Mr. HOWARD, Mr. MURPHY of Pennsylvania, Mr. WAXMAN, Mr. TAUKE, Mr. VENTO, Mr. GUDGER, and Mr. FAZIO.

H.J. Res. 267: Mr. STEED, Mr. ROTH, Mr. NOWAK, Mr. BEARD of Rhode Island, Mrs. FENWICK, Mr. JENKINS, Mr. MONTGOMERY, Mr. DUNCAN of Oregon, Mr. ROYER, Mr. REGULA, Mr. AMBRO, Mr. GONZALEZ, Mr. BEREUTER, Mr. JACOBS, Mr. MARRIOTT, Mr. DERWINSKI, Mr. SKELTON, Mr. LLOYD, Mr. CORMAN, Mr. STENHOLM, Mr. EDWARDS of Oklahoma, Mr. LUJAN, Mr. CONTE, Mr. CAVANAUGH, Mr. MURPHY of New York, Mr. SIMON, Mr. COELHO, Mr. MADIGAN, Mr. CORCORAN, Mr. BEVILL, Mr. DANNEMEYER, Mr. MARKS, Mr. STAGGERS, Mr. WEAVER, Mr. LONG of Louisiana, Mr. YOUNG of Alaska, Mr. HYDE, Mr. MATHIS, Mr. DASCHLE, Mr. RUSSO, Mr. STANGELAND, Mr. DODD, Mr. CLAY, Mr. ZEFERETTI, Mr. GUARINI, Mr. ROSE, Mr. TRAXLER, Mr. LOTT, Mr. HOPKINS, Mr. DICKS, Mr. DE LA GARZA, Mr. CLINGER, Mr. STRATTON, Mr. HUTTO, Ms. OAKAR, Mr. BEDELL, Mr. PETRI, Mr. PURSELL, Mr. KINDNESS, Mr. CAMPBELL, Mr. EVANS of Delaware, Mr. MINETA, Mr. NEAL, Mr. WIRTH, Mr. GRAY, Mr. HAMMERSCHMIDT, Mr. BARNARD, Mr. HUCKABY, Mr. SOLARZ, Mr. BAUMAN, Mr. TAUKE, Mr. RAILSBACK, Mr. ALBOSTA, Mr. BROYHILL, Mr. SMITH of Iowa, Mr. LEATH of Texas, Mr. MCCLORY, Mr. KRAMER, Mr. LEE, Mr. THOMAS, Mr. GLICKMAN, Mr. GILMAN, Mr. WHITTAKER, Mr. OBERSTAR, Mr. COLLINS of Texas, Mr. BOLAND, Mr. RANGEL, Mr. KASTENMEIER, Mr. HIGHTOWER, Mr. GRISHAM, Mr. PEPPER, Mr. HUBBARD, Mr. RINALDO, Mr. YOUNG of Missouri, Mr. HAWKINS, Mr. KOGOVSEK, Mr. YATRON, Mr. PERKINS, Mr. WOLFF, Mr. QUILLEN, Mr. HANCE, Mr. LATTA, Mr. KOSTMAYER, Mr. HAMILTON, Mr. JONES of North Carolina, Mr. MAZZOLI, Mr. MCKINNEY, Mr. FORD of Michigan, Mr. NOLAN, Mr. HEFNER, Mr. HARRIS, Mr. HOWARD, Mr. HARKIN, Mr. BRINKLEY, Mr. WYATT, Mr. ADDABBO, Mr. BOB WILSON, Mr. BENJAMIN, Mr. NICHOLS, Mr. ROE, Mr. COLEMAN, Mr. PASHAYAN, Mr. MCDADE, Mr. MOORHEAD of California, Mr. PEYSER, Mr. MILLER of Ohio, Mr. KAZEN, Mr. HAGEDORN, Mr. RUDD, Mr. WHITEHURST, Mr. MYERS of Indiana, Mr. LEDERER, Mr. COURTER, Mr. CLEVELAND, Mr. DICKINSON, Mr. CLAUSEN, Mr. BUTLER, Mr. COUGHLIN, Mr. RUNNELS, Mr. BADHAM, Mr. ASHBROOK, Mr. ROUSSELOT, Mr. DEVINE, Mr. PRITCHARD, Mr. ABDNOR, Mr. ANDERSON of California, Mr. MICHEL, and Mr. SCHULZE.

H. Con. Res. 199: Mr. HARKIN, Mr. WEISS, Mr. RANGEL, Mr. VENTO, Mr. GRAY, Mr. DIXON, Mr. CARR, and Mr. EVANS of the Virgin Islands.

H. Con. Res. 212: Mr. WEISS, Mr. WHITTAKER, Mr. FITHIAN, Mr. DODD, Mr. QUAYLE, Mr. HANSEN, Mr. SNYDER, Mr. QUILLEN, Mr. GOLDWATER, Mr. CORMAN, Mr. BAFALIS, Mr. HORTON, Mr. MITCHELL of New York, Mrs. HOLT, Mr. LATTA, Mr. DOWNEY, Mr. MCHUGH, Mr. CAVANAUGH, Mr. MURPHY of Pennsylvania, Mr. BEDELL, Mr. MOORHEAD of Pennsylvania, Mr. KEMP, Mr. WYDLER, Mr. GOODLING, Mr. MATHIS, Mr. LOEFFLER, Mr. DICKINSON, Mr. HYDE, Mr. ERDAHL, Mr. BEARD of Rhode Island, Mr. D'AMOURS, Mr. ANTHONY, Mr. BONIOR of Michigan, Mr. BROOKS, Mr. O'BRIEN, Mr. DANNEMEYER, Mr. MCKAY, Mr. LONG of Louisiana, Mr. YATRON, Mr. LAFALCE, Mrs. SMITH of Nebraska, Mr. JEFFRIES, Mr. WALGREN, Mr. HUGHES, Mr. NATCHER, Mr. RATCHFORD, Mr. STEWART, Mr. SOLARZ, Mr. BADHAM, Mr. ANNUNZIO, Mr. NELSON, Mrs. BOGGS, Mr. JOHNSON of California, Mr. ROTH, Mr. GRISHAM, Mr. LEACH of Iowa, Mr. DAN DANIEL, Mr. CORCORAN, Mr. PURSELL, Mr. ENGLISH, Mr. MCDADE, Mr. HOLLENBECK, Mr. BROOMFIELD, Mr. SHUMWAY, Mr. SHARP, Mr. WIRTH, Mr. DANIELSON, Mr. SLACK, Mr. JACOBS, Mr. STENHOLM, Mr. DEVINE, Mr. GRAMM, Mr. GIAIMO, Mr. ROSE, Mr. BRADEMAS, Mr. EVANS of Delaware, and Mr. PHILLIP BURTON.

H. Res. 446: Mr. STARK, Mr. BRODHEAD, Mr. RUNNELS, Mr. SEIBERLING, and Mr. MILLER of California.

H. Res. 477: Mr. GRISHAM, Mr. RUDD, Mr. ALBOSTA, and Mr. ATKINSON.

SENATE—*Friday, November 16, 1979*

(Legislative day of Thursday, November 15, 1979)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DAVID L. BOREN, a Senator from the State of Oklahoma.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou who are holiness, justice, and love, to whom all men and nations are accountable, look upon this troubled world and have compassion upon the waywardness and perverseness of mankind. May some miracle of divine grace overrule the enmity, the hostility, and the belligerence of sinful man. May Thy goodness and mercy redeem and heal the nations, fill all hearts with love, and call forth that invincible goodness which overcomes evil.

Be with those who suffer the loneliness and anxiety of captivity. Guide those who confer for their deliverance. Help us to do what we can, when we can where we are to bring the peaceable reign of Thy spirit among men. Keep us in our praying and in our working for Thy kingdom's sake. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 16, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve my time for the moment.

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

RECOGNITION OF THE ACTING MINORITY LEADER

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

Mr. STEVENS. Mr. President, I yield my time to the Senator from New Mexico.

RECOGNITION OF SENATOR SCHMITT

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

THE LEGISLATIVE VETO

A SYSTEMATIC PROCEDURE FOR EXERCISING OVERSIGHT

Mr. SCHMITT. Mr. President, this has been referred to as the oversight Congress. Hopefully, that title will stick, and we will, in the next session of this Congress, continue to expand the process of oversight over the independent and executive agencies of Government and over their exercise of the statutory authority that we have given them.

In this light, it is therefore no coincidence that the legislative veto has become an important part of the debate concerning the most appropriate means for Congress to exert better and more consistent control over the Federal bureaucracy.

The legislative veto concept has been variously referred to as a panacea for all the problems of Government, or as an unconstitutional mechanism that will overburden the Congress with reviewing rules promulgated by the executive and independent agencies.

Neither of these positions is the correct one. Instead, the legislative veto is an aid to effective oversight of the exercise of statutory authority by the agencies of Government. It is neither a panacea nor an unconstitutional intrusion on the rights of the executive branch. It will vastly increase the effectiveness of the Congress in representing the concerns of our constituents with regard to lawmaking in the form of Federal regulations and in assuring agency compliance with the intent of Congress in national policy formulation.

In developing the present legislative veto concept over the last 3 years, my colleagues and I have taken into account questions of constitutionality, House and Senate prerogatives, commit-

tee workload, and the threat of narrow special interests. It may be useful as this debate approaches to explain in some detail the concepts and procedures behind the legislative veto amendment that will be offered when the Federal Trade Commission authorization bill reaches the floor.

PROPOSED RULES

Our legislative veto amendment would require that a proposed FTC rule would be transmitted to both Houses of Congress and be referred to the appropriate committees of jurisdiction. Before such a rule would go into effect, the proposed rule would lie before the Congress for 60 days, at which time the rule would go into effect automatically if neither House of Congress has agreed to a resolution of disapproval. Should one House agree to a resolution of disapproval within that 60-day period, the effective date of the rule would be postponed an additional 30 days to allow the other House of Congress an opportunity to overturn the disapproval resolution. If the disapproval resolution is overturned, then the proposed rule is disapproved and returned to the Commission for further consideration.

It is intended that should the Commission decide to formulate a new rule similar to that which was disapproved, the Commission will be guided by the committee report and floor debate on the disapproval resolution in determining congressional intent on the matter in question. This has been the experience with the proposed rules of the Federal Elections Commission which are already subject to legislative veto, and one such veto was exercised on September of this year.

COMMITTEE DISCHARGE

In order to insure that resolutions of disapproval are treated seriously and that the Senate as a whole is able to pass judgment on changes in the law of the land, the amendment contains a provision which would permit one-fifth of the membership of either House to bring to a vote a motion to discharge the committee of jurisdiction from further consideration of a resolution should the committee fail to act on such a resolution after 45 days.

It is important to note carefully the need for such a provision that provides for the discharge of a committee. With ordinary legislation it is obvious that bills which will create changes in the Nation's laws must be brought before the full membership of both bodies of the Congress. Each Member has a full opportunity to express his or her views with regard to changes in national policy. This is the system of free and open debate we have inherited and its benefits are self-evident. Regulatory law, however, is an entirely different matter. Most decisions on these regulatory laws are made in the middle levels of the Federal bureaucracy and are not entirely open to public scrutiny. In fact, such laws are made by those who do not have to respond to the electorate as do Members of Congress.

With the establishment of a veto procedure we will allow the elected representatives of the people an opportunity to review and possibly veto proposed FTC rules. Should we fail to provide a safeguard for committee inaction on a disapproval resolution, we will be endorsing the idea that fundamental changes in law will be permitted to occur without an opportunity for discussion on the floor of either body of Congress. This situation would be rectified by the discharge provision in amendment No. 212. On the other hand, the requirement that one-fifth of the membership of either body sign a discharge petition will insure that narrow special interests will not be able to cause disapproval resolutions to be brought to the floor, in a frivolous manner.

LIMITATION ON DEBATE

In order to avoid a situation where debate is needlessly prolonged with regard to proposed rules, amendment No. 212 contains a provision which will limit debate to 1 hour on motions to discharge the committee from consideration of a resolution of disapproval. Debate on the resolution itself would be limited to 2 hours.

These limits, severe as they are, would insure that there will be adequate time to consider the major policy or constitutional issues addressed by a proposed rule rather than be bogged down in technical details better left to a committee or more specifically to the FTC.

The limits would also disallow the possibility of excessive debate and possible filibuster on these proposed rules.

We must remember in this context, Mr. President, that the FTC, as are many agencies, is a creature of the Congress. It is an extension of the Congress to which we have given broad legislative powers. The legislative veto merely provides an opportunity for Congress to review the extension of that power on specific national policy issues.

RESOLUTION OF RECONSIDERATION

The amendment contains a provision which would allow the Congress to act on a resolution of reconsideration that would require the Federal Trade Commission to reconsider an existing rule and to repromulgate the rule within 210 days. Procedural safeguards similar to those for consideration of a resolution of disapproval would apply such reconsideration initiatives. Should the FTC decide not to repromulgate the rule during this period, the rule would lapse. This procedure is designed to allow regulations which may have been on the books for many years to be systematically reevaluated by Congress in light of changed circumstances. For Congress to exercise proper oversight over the actions of the Federal Trade Commission, it is essential not only that rules which are already in effect be subject to congressional review along with new regulatory initiatives, but that proper safeguards be in place to assure objectivity in this review process.

EXPEDITED COURT REVIEW

Mr. President, since I spoke last week, the constitutionality of the legislative veto has frequently been discussed in both the House and the Senate and it is likely that a constitutional challenge will be lodged against a legislative veto being applied to the FTC. In light of the facts that there are currently 295 provisions of law containing legislative veto or review procedures, that such procedures are regularly used by the Congress, and that, on the several occasions when it has been addressed by the courts, the veto has not been ruled unconstitutional, it appears likely that the Supreme Court will uphold the constitutionality of the procedure outlined in amendment No. 212. However, in order to insure that this issue is resolved as soon as possible after this legislation is enacted, and if a constitutional challenge is raised, the amendment contains a provision that will require expedited considerations of such a challenge by the Supreme Court.

Mr. President, these are the major provisions of the legislative veto amendment I intend to offer to the Federal Trade Commission authorization bill along with at least 34 cosponsors. We believe that this is a fair, reasonable and efficient approach to regulatory reform that responds to the public demand for greater congressional accountability for the delegated legislative actions of the Federal Trade Commission.

It has become increasingly evident that Congress cannot stand on the sidelines and be an uninvolved bystander to the regulatory process at the FTC. Neither can we just apply short-term fixes to specific rulemaking activities, as has been proposed by some. The presence of the possibility of a legislative veto at the end of the regulatory pipeline will insure that the FTC considers our concerns at the beginning of the pipeline. Congress must become a part of the process by insisting on an opportunity to review the final rulemaking product of the Commission.

Amendment No. 212 to S. 1020, the FTC authorization bill, is designed to strengthen the legitimate consumer protection initiatives of the Commission by sharing its lawmaking burden with the elected representatives of the people—namely, the Congress. I urge my colleagues to give this amendment their careful and favorable consideration and to recognize that it does not weaken but rather adds strength to the necessary functions of the Federal Trade Commission while preventing continued abuse of its authority.

Mr. President, I yield the floor and yield my time, as well as the minority leader's time, back to him if he so desires. If not, I shall yield the floor.

Mr. STEVENS. Mr. President, I am happy to have the time. Against that time, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. I yield such time as I may have left from leadership time to the Senator from Rhode Island.

RECOGNITION OF SENATOR CHAFEE

The ACTING PRESIDENT pro tempore. Under the previous order, the Sen-

ator from Rhode Island (Mr. CHAFEE) is recognized.

IRANIAN STUDENTS IN THE UNITED STATES

Mr. CHAFEE. Mr. President, in June of 1900, thousands of Chinese belonging to a secret society in China, called the Boxers, entered Peking, looting and killing Chinese Christians and foreigners. It was the goal of the Boxer Rebellion to eliminate all foreign influence, foreign religion and foreign people from China. The Boxers laid siege to all of the foreign legations in Peking, including that of the United States, and slaughtered 250 foreigners and hundreds of Chinese Christians in the environs of Peking.

American indignation was at a white heat, matched only by the horror that we felt at what was happening. Two months after the fighting in Peking started, an international military rescue force arrived to lift the siege on the legations and to pacify areas of North China.

In September of 1901 the foreign powers forced the Manchu government to enter into a very harsh agreement, the terms of which included the payment to the Western nations of the then incredible sum of $333 million, payable over 40 years at extremely high interest rates.

Several years later the United States, in a very unique undertaking, declined to accept further payments from China with the proviso that the sums which normally would have been paid under this agreement, instead of coming to the United States, be used to educate young Chinese in American universities.

Hundreds of young Chinese were thus able to come to the United States, be educated here and simultaneously to teach us more about their native land.

In 1942, following the attack on Pearl Harbor, Americans were enraged, and rightfully so, at all Japanese and everything associated with Japan. (A zealot even chopped down some cherry trees next to the Tidal Basin.) The United States rounded up all Americans of Japanese ancestry, including many who were longtime U.S. citizens, and most of whom lived in California, and shipped them off to internment camps in Arkansas, Idaho, and elsewhere. The closest Japanese-United States fighting was 2,000 miles from California.

This action by U.S. authorities was contrary to our Constitution and in violation of the rights of those interred.

Americans look back with different views on those two incidents.

Americans look back with pride on what we did regarding the Boxer indemnification. And we reflect with shame on our handling of those Japanese-Americans in California who were shipped off to the internment camps.

Now 80 years after the Boxer Rebellion, and 38 years after Pearl Harbor, we are confronted by an equally enraging situation. Our Embassy in Tehran has been seized by a mob described as students. Americans are being held hostage, our flag demeaned, our Nation mocked. There is a natural reaction in this country to vent our sentiments on the nearest Iranian we can find—and it turns out there are a multitude of them around, some 50,000 students scattered across our Nation in various colleges and universities.

Some Iranian students in this country have banded together to demonstrate, shouting curses on the Shah and praise for Khomeini. Americans, disgusted by such actions by guests in our Nation, have on occasion attacked the demonstrators and mauled individuals.

Our Government has commenced a swift and thorough review of all Iranian students in the United States. Any who are not complying with all terms of their student visas will be deported. No other foreign students in this Nation are to be held to the same standard. Never mind. If the Iranians are going to play hard ball in Tehran, we will play hard ball here also. Public reaction to this has been enthusiastic.

No one carries any brief for those Iranian hooligans who, under the guise of protesting, do physical damage and riot as they did early this year outside the home in California where the 90-year-old mother of the Shah was living.

We should come down hard and swiftly on that crowd. Send them back whence they came. Similar treatment should be accorded any other foreign students who abuse the privileges of this Nation.

But what about the thousands of other Iranian students here? Those who demonstrate peacefully in accordance with our laws? Those whose violations of their student visas are no different from thousands of other students from other nations—violations such as not being fulltime in a university, or working part-time at some job. Because of the temper of the times, do we want to have a double standard? One for Iranians, one for all others, many of whom are not very friendly to this country? I do not think we want this double standard.

We have long taken the view, as demonstrated in the post Boxer Rebellion days, that it is beneficial for this Nation to have foreign students here.

That is why we provided that indemnification not come to this country, to the U.S. Treasury, but, instead, would be used to educate Chinese students in our universities here. We learn from them and we are hopeful that they will learn from us—learn about this Nation's heritage, about the preciousness of freedom, come to respect what we call human rights. They will see the effectiveness of a free enterprise system, and they will experience the virtues of democracy.

Many students may bitterly disappoint us, but others will not.

Because we are justifiably enraged at the actions of a particular nation, let us not either as a country or as individuals conduct ourselves in a demeaning manner or lower ourselves to the tactics employed by those on the other side. The United States is too great to seek mere revenge. Let us come through this difficult period with our integrity, our self-respect and our reputation intact.

Mr. STEVENS. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. STEVENS. Mr. President, I am delighted that I was present while my good friend for so many years made the statement he has just made, which reflects well upon all that I know he has stood for over the years. I am pleased to say that I agree with his statement.

It does seem that many are asking us to respond in kind, and, as Senator CHAFEE says, to lower our standards in order to compete in sort of a gutter way in this public relations battle that is going on.

Without in any way condoning what has happened in Iran, or what the Iranian students are doing here, I think he speaks well for all of us who remember the traditions of this country and to hopefully maintain some balance and perspective as we attempt to deal with these problems.

I congratulate the Senator from Rhode Island.

Mr. CHAFEE. I thank the Senator.

Mr. SCHMITT. Will the Senator yield further?

Mr. CHAFEE. Yes.

Mr. SCHMITT. Mr. President, I join with my distinguished colleague from Alaska in complimenting the Senator from Rhode Island on this very fine statement, with which I also concur completely.

This country has a very special role to play in the modern world. I think it will have a very special role to play indefinitely in Western civilization and in the entire civilization of the Earth.

But if we begin to compromise the principles that we alone truly protect in this world because of our power of economy, of national defense, and our power of faith, if we begin to demean those principles in any way, we begin the long process of losing faith with the future.

If we do that, if we take steps decried by the Senator from Rhode Island, then I, for one, will be tremendously concerned, not only about the future of this country, but about the future of freedom and all the other principles that we stand for on this planet Earth.

I congratulate the Senator on his statement. I certainly will join him in continuing to try to prevent any abuses of our system in the future.

Mr. CHAFEE. I thank the Senator for his comments.

I yield back the remainder of my time.

RECOGNITION OF SENATOR YOUNG

Mr. STEVENS. Mr. President, I ask unanimous consent that the time under the special order that was reserved for the Senator from Kansas be transferred to the Senator from North Dakota (Mr. YOUNG), to the extent that he desires to use it, and that the remainder of Senator DOLE's time be reserved until he arrives.

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

The Senator from North Dakota is recognized.

S. 2016—TARGET PRICES ON WHEAT AND FEED GRAINS

Mr. YOUNG. Mr. President, I am today introducing a bill cosponsored by Senator DOLE to increase target prices on wheat and feed grains.

Last week the House passed a bill

which would increase target prices for wheat for 1979 from $3.40 to $3.63 and increase the target price for corn from $2.20 to $2.35.

These levels will provide additional disaster payments to those who participated in this year's farm program and suffered a crop disaster. They are not high enough, though, to result in increased target price payments.

The Young-Dole bill contains the House-passed provisions for wheat and feed grains, but also increases the target prices for the 1980 crop year. The bill provides a target price for wheat for 1980 at $3.88 a bushel. Without this, target prices for wheat would drop to around $3.07 a bushel next year. At this level, the target price would be meaningless.

This bill also increases target prices for corn, barley, and other feed grains and establishes a corn target price at $2.51 a bushel for 1980.

Costs of production have increased sharply in the last year, due to high fuel and other costs. This increase in target price payments for wheat and feed grains is fully justified.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas is recognized for not to exceed 12 minutes.

Mr. DOLE. Mr. President, I commend the distinguished Senator from North Dakota, who, in his long years in Congress, has provided leadership for the American farmer. I think it is typical that the senior Senator from North Dakota (Mr. YOUNG) wasted no time in introducing this important legislation aimed at protecting the interests for our grain producers and consumers.

Mr. President, the Senator from Kansas is pleased to join with the distinguished senior Senator from North Dakota in introducing this bill today which will provide for the necessary increase in target prices on wheat and feed grains for America's farmers.

The House bill passed last week increasing target prices for wheat for 1979 from $3.40 to $3.63 and increase the target price for corn from $2.20 to $2.35 is just one aspect of the needed program Congress must enact to help alleviate the economic burden that many of the Nation's farmers are now experiencing. The levels proposed by Senator YOUNG and myself will be helpful. This bill contains the House provisions but we go further by increasing the target prices for the 1980 crop year as well. This bill provides for a target price for wheat for 1980 at $3.88 per bushel. Without this needed proviso target prices for wheat for next year could drop to around $3.07 per bushel. There is no telling what disastrous results could occur if we do not act to insure farmers a fair price for their crops.

The bill also increases target prices for corn, barley, and other feed grains and establishes a corn target price at $2.51 per bushel for 1980.

COSTS OF PRODUCTION

Costs of production for the American farmer have increased tremendously this past year, due in large part to the high costs of fuel. This bill will provide the needed price and income protection that these producers will need in order to deliver the crops in 1979 and 1980. We are all hurt by inflation and the American farmer is no exception.

The year of 1978 was a year of partial recovery for agriculture. The recovery, though, was not fast enough or strong enough. There are some improvements needed in this price and income level for some commodities. This bill will provide that improvement.

Today farmers are not receiving an adequate return on their investments and their time. Many farmers are having to sell all or part of the farming operation to pay for debts. The family farm system, vital to the future of our country, is in serious economic condition.

Without this target price legislation, we may see many of these family farm operations end before 1980, along with double digit inflation causing farmers' costs of production to rise even higher. Like any other business, farmers must make a profit in the long run to stay in business. It is in the best interest of the American consumer that these family farmers stay in business and produce food. We cannot refuse to raise farm prices under the banner of fighting inflation when farmers are losing money. The battle to save the family farm is worth fighting for and with the target prices provided, we can insure that there will always exist an adequate supply of farm products.

I urge my colleagues to join me in supporting this measure and in working for swift passage in this Congress.

Mr. YOUNG. Mr. President, I am deeply appreciative of the comments of my friend from Kansas.

No one is more knowledgeable with respect to the problems of the wheat growers than is the Senator from Kansas, who comes from the biggest wheat-producing State. He has had a part in writing farm legislation in the House of Representatives and in the Senate ever since he came here, almost a quarter of a century ago.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from Oklahoma (Mr. BOREN) be added as a cosponsor of the bill.

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

Mr. DOLE. Mr. President, I think the Committee on Agriculture, Nutrition, and Forestry will be taking some action in the near future, and I hope they will include the provisions of this bill initiated by Senator YOUNG and which is supported now by the distinguished Presiding Officer, the Senator from Oklahoma (Mr. BOREN), as well as the Senator from Kansas.

ORDER OF BUSINESS

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order.

CAMBODIA RELIEF

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 277, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 277) relating to the commitment to ease the human suffering in Cambodia.

The Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. Time for debate on this resolution is limited to 30 minutes, to be equally divided between and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from New York (Mr. JAVITS), with 10 minutes on any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I think I have some time remaining.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I believe the distinguished acting Republican leader has some time remaining. There is time remaining that has not been used by Senators on their orders. I ask unanimous consent that I may be in control of that time.

Mr. STEVENS. I have no objection.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that it be charged against that time.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, is it understood that upon the completion of the debate on the Cambodian resolution, the Senate will immediately go to the windfall profits tax legislation?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. And that at 1 o'clock the vote on the question of agreeing to the Cambodian resolution will occur?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. ROBERT C. BYRD. And that the Senate will again return to the windfall profits tax legislation; am I correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. ROBERT C. BYRD. It is all automatic?

The ACTING PRESIDENT pro tempore. It is all automatic.

Mr. ROBERT C. BYRD. There will be no gap, then, between the 1 o'clock hour of the vote and the moment that the

Senate completes its debate on the Cambodian resolution, upon which there is a time limitation of 30 minutes?

The ACTING PRESIDENT pro tempore. The Senator is correct.

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

The PRESIDING OFFICER (Mr. BENTSEN). The Chair observes the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. 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. JAVITS. Mr. President, I ask unanimous consent—or I think we have unanimous consent, for the consideration of Senate Resolution 277, the so-called Cambodian resolution.

The PRESIDING OFFICER. It is now the pending business.

Mr. JAVITS. It is now the pending business. Mr. President, our chairman is now here, and I hope the Chair will recognize him.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

On this question, there is a time limitation of 30 minutes, equally divided. The Senator may proceed.

Mr. CHURCH. Mr. President, in this instance the equal division is pure tokenism, since both the able Senator from New York and I are in full support of the resolution. Indeed, I wish to commend Senator JAVITS for the initiative he took to move the resolution through the Committee on Foreign Relations and to bring it to the floor of the Senate in such an expeditious manner. It is typical of him to give particular attention to issues relating to humanitarian relief and measures designed to alleviate human suffering. I extend to him my compliments for the special attention that he has given to this resolution.

Mr. President, the Foreign Relations Committee reported Senate Resolution 277 favorably by a unanimous vote. It was introduced by the Senator from New York (Mr. JAVITS), and many other Senators joined in the cosponsorship of the resolution. I ask unanimous consent that the names of those Senators cosponsoring this resolution be printed in the RECORD at this point.

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

Mr. Javits, Mr. Sasser, Mr. Danforth, Mr. Baucus, Mr. Boschwitz, Mr. Pell, Mr. Exon, Mr. Bentsen, Mr. Goldwater, Mr. Heinz, Mr. Durenberger, Mr. Helms, Mr. Melcher, Mr. Ford, Mr. Chiles, Mr. Inouye, Mr. Schweiker, Mr. Weicker, Mr. Tsongas, Mr. Sarbanes, Mr. Williams, Mr. Hatfield, Mr. Moynihan, Mr. Cranston, Mrs. Kassebaum, Mr. Pressler, Mr. Morgan, Mr. Nelson, Mr. Packwood, Mr. Randolph, Mr. Ribicoff, Mr. Riegle, Mr. Magnuson, Mr. Pryor, Mr. Metzenbaum, Mr. Gravel, Mr. Hayakawa, Mr. Percy, Mr. McGovern, Mr. Bradley, Mr. Burdick, Mr. Chafee, Mr. Church, Mr. Cohen, Mr. DeConcini, Mr. Domenici, Mr. Glenn, Mr. Jackson, Mr. Lugar, Mr. Humphrey, Mr. Stafford, Mr. Dole, Mr. Matsunaga, Mr. Biden, and Mr. Eagleton.

Mr. JAVITS. Mr. President, will the Senator yield on that point?

Mr. CHURCH. I yield.

Mr. JAVITS. I ask unanimous consent that the names of Senators GARN and SIMPSON be added to that list.

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

Mr. CHURCH. The purpose of the resolution is to address the continuing human suffering in Cambodia. Each day the world is filled with sorrow at the ever-increasing reports of the genocide occurring in Cambodia.

The resolution seeks to encourage all nations of the world to provide voluntary relief to ease the human suffering occurring in Cambodia.

Senator SASSER, Senator BAUCUS, and Senator DANFORTH have in the most commendable manner reported on their trip to Cambodia.

I have spoken personally with each of those Senators to compliment them on the way they conducted their mission.

The ranking Democratic member of the Foreign Relations Committee, Senator PELL, held a hearing for Senator SASSER, Senator BAUCUS, and Senator DANFORTH to report on their trip to Cambodia. One of the products of that report was this resolution.

Passage of this resolution will compliment their effort and attempt to move one step further toward ending this tragedy.

I urge the Senate to adopt the resolution.

I yield to my good friend, our distinguished colleague, the senior Senator from New York.

Mr. JAVITS. Mr. President, I wish to underline, first, the tremendous service done to our country by Senators BAUCUS, SASSER, and DANFORTH in their mission to Cambodia and in the initiation of their activities which, in my judgment, have resulted in an opening of the situation to very intensive world discussion. I referred to them in the debate on the authorization for a relief package for Cambodia here on the Senate floor as "our heroes." I reiterate that today. They did the Senate great honor and credit in the action they took. It was their initiative, plus the initiative of the very fine group of women Members of Congress led by Ms. ELIZABETH HOLTZMAN, of New York, who have recently returned from Camobdia and who have persevered in this effort.

The main point, Mr. President, which they emphasize and which is now endorsed, in my judgment, by the United Nations, is that the Heng Samrin regime which has been installed in Cambodia by the Soviet Union through Vietnam, which now has 200,000 troops there, is to be charged heavily with the responsibility for the existing danger of genocide—indeed, the genocide going on now—which threatens completely to eliminate the Khmer people.

It is unbelievable in today's world that these conditions should continue. But there they are.

Mr. President, the United Nations General Assembly, in a vote which breaks new ground because the Third World has been very careful to avoid criticisms of these Communist countries in comparable situations and has never censured Vietnam, has now joined in this condemnation by a vote on November 14 of 91 to 21, with 29 abstentions. I would like to emphasize, Mr. President, that that resolution not only asks that foreign troops, to wit, those of Vietnam, withdraw from Cambodia, but demands also support for the international relief activities and a return to normalcy in Cambodia.

Mr. President, what our people—that is, our Senators—recommended was a land bridge by truck and motor car, and that, apparently, is the only feasible way in which food can be distributed because cther means are either nonexistent or completely inadequate.

Now, allegedly there has been an opening up of the Mekong River passage and that there have been some airdrops. But, based upon our Senators' findings on the ground, this is simply inadequate to the situation and it cannot be cured unless a land bridge is permitted. And that is entirely up to this Communist regime which is now in Phnom Penh.

Mr. President, that brings me to a very critical part of this resolution. Obviously, we do not want to get into a row with the Soviet Union even though the Soviet Union can uncork this bottle by simply dealing with their own allies in Vietnam in letting these trucks through and facilitating their passage. But it is necessary to explain the facts so that they are plain to the whole world; otherwise the Soviets could easily get by, in the general confusion, with generalized statements like the one they made not many days ago that they provided 200,000 tons of food for Cambodia. I am speaking of the Soviet Union.

Now, it takes 1,000 tons a day of food in Cambodia—unbelievably little—to avoid this genocidal starvation. So Cambodians would have enough for 200 days if that were true. But there is no accounting, even if they supplied 200,000 tons of food, of where it went and who it was provided for. Obviously, from everything we can see, it was not provided to the rank and file of the people of Cambodia. And they are the people who are starving.

Mr. President, in presenting this resolution, which I believe sets forth in particularized detail the real situation, we are trying to make another important contribution in the Senate. We made one contribution by authorizing appropriations and, as of yesterday, by the continuing resolution which gives us additional money; we have shown the good faith of Members of the Senate and the women from the House who have traveled and confirmed these findings—now supported by the United Nations itself, notwithstanding its reluctance to condemn Third World countries, which made that same condemnation by a very decisive vote.

It seems to me, Mr. President, that it is now very squarely up to our other superpower, to wit, the Soviet Union, that if it really wants to be recognized as a superpower, it has to act like one. And superpowers must avoid the appearance—I am using every word carefully—must avoid even the appearance of letting vast populations starve in an area in which we have every right to feel that they have very strong control.

Mr. President, I feel that this resolution, in practical effect, without insulting the Soviet Union, which is the last thing in the world I want to do or the resolution wants to do, lays it squarely at the door where it belongs. Because the resolution says, "Whereas, political obstacles"—and that is it, political obstacles—"have hampered these organizations"—to wit, the voluntary organizations and the international organizations—"in their efforts to launch the massive relief effort required to save the Cambodian people." It goes on to say in the resolving clause, "That the United States and the United Nations should express to the great power supporters of the factions in Cambodia, in the strongest terms possible, our concern and expectation that they will use their good offices to insure that one of the great human tragedies of the century does not occur and that they share in the international responsibility for averting a famine."

Now, Mr. President, the responsibility is laid right where it belongs: the great powers. And there are two concerned: One very eminently and decisively, the Soviet Union—the backer, supporter, and the one generally responsible for Vietnam; and the other, the People's Republic of China. Their regime, to wit, Pol Pot, controls only a fringe between Thailand and Cambodia, but, nonetheless, Pol Pot's cooperation will also be required if there is to be a real relief effort.

Finally, Mr. President, I want to reemphasize that any real relief effort to move food in adequate quantities and to keep it moving has to be by land. It is tragic and unfortunate, but that is the condition in which we find ourselves.

Mr. President, the history of our times, so deeply troubled and disturbed, is even more troubled and disturbed now by the terrible affront to civilized values which faces us with respect to the holding of U.S. Embassy hostages in Iran. That tends, Mr. President, to take up all the newspaper space and generally obscure the situation in Cambodia, upon which attention was so very firmly fixed up until recent times.

I hope very much that this resolution will show to the world that, notwithstanding the fact that we in the United States are the victims of this terribly tragic situation in Iran, that, nonetheless, we do not forget and that we keep constant the needs of other peoples as well. The Senate of the United States, therefore, is acting today through this resolution to record both its views and its dedication and purpose with respect to Cambodian relief and also with respect to calling to the attention of the world, as the United Nations General Assembly has done, where the responsibility lies. And in this regard, we have every right to speak as the other superpower, and we do so by this resolution.

Mr. President, I am delighted to be informed that I may ask unanimous consent, which I do, to add Senator STEVENS to the resolution.

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

Mr. JAVITS. Mr. President, we now have on this resolution 58 Members of the Senate.

I would also ask unanimous consent to add Senator LEVIN of Michigan.

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

Mr. JAVITS. And that makes our count 59, Mr. President, 34 Democrats and 25 Republicans. I think that is a very gratifying showing on the part of the U.S. Senate.

Mr. President, do I have any further time or does Senator CHURCH have any further time? How much time do we have on the resolution?

The PRESIDING OFFICER. The Senator still has 3 minutes.

Mr. JAVITS. I yield 3 minutes to the Senator from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. President, I commend Senator JAVITS for his leadership in this regard. It was typical of the Senator from New York, who takes leadership in issues such as this. The horrors of Cambodia must be attacked from many directions. Three of our finest have been there and have reported to us and the world on what they have seen.

This is one of those tragedies that words cannot describe, but perhaps only photographs of millions of emaciated bodies of human beings can come close to adequately portraying the tragedy in Cambodia.

I would point out, Mr. President, that by this action the Senate is putting its full prestige behind this resolution which, in effect, says to the superpowers involved that they bear a responsibility, that the relief agencies are ready and willing and able, that the land bridge is ready to be built, and that it is now up to them to open the doors for food to come to the starving millions in Cambodia.

Later on today I will be placing into the RECORD a different approach, which takes a somewhat different posture toward this, different only in that its target is perhaps more sharply delineated.

This resolution on behalf of the whole Senate is very, very much needed, and hopefully it will dramatize to the superpowers involved that this country is serious about getting help and putting the pressure where it belongs, on their doorstep. Again I thank my friend from New York for yielding me time and I commend him on his leadership in this area.

Mr. JAVITS. I thank my colleague for his statement. Mr. President, I yield myself the remaining time.

Mr. President, I ask unanimous consent that there be printed in the RECORD a news account of the actions of the United Nations, the testimony of our own Senators who went to Cambodia, the actions of the women in the House who went there, led by Congresswoman HOLTZMAN, of New York, and published references pertaining to the Cambodian situation.

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

U.N. ASSEMBLY BIDS VIETNAMESE FORCES EVACUATE CAMBODIA

(By Edward Schumacher)

UNITED NATIONS, N.Y., Nov. 14—The General Assembly demanded overwhelmingly today that Vietnam withdraw its troops from Cambodia.

Although the resolution it adopted was generally regarded as likely to have limited practical effect, United Nations officials said it was the first time that the organization had censured Vietnam.

The vote after three days of debate, was 91 to 21, with 29 abstentions. The resolution, which does not mention Vietnam by name, was sponsored by the five member countries of the Association of Southeast Asian Nations—Thailand, Singapore, Malaysia, Indonesia and the Philippines.

U.S. AVOIDS PUBLIC ROLE

The United States, which supported the resolution, did not play a major public role in the debate. However, China, which backed the Cambodian Government that was ousted last December by a Vietnamese-supported regime, lobbied actively for the resolution.

Joining Vietnam in voting against the resolution was its ally, the Soviet Union and other Communist countries.

Although the text of the resolution calls only for the withdrawal of all "foreign" troops from Cambodia, most of the speakers in the debate specifically mentioned the Vietnamese as the only foreign forces there.

FORCES PUT AT 200,000

Vietnam is said to have 200,000 troops in Cambodia. Last month, the Vietnamese reportedly launched a dry-season offensive in western Cambodia against the remnants of the forces of Prime Minister Pol Pot, who has been ousted by the Vietnamese-backed Government of President Heng Samrin.

Asian diplomats behind the resolution, which also calls on Secretary General Kurt Waldheim to consider holding an international conference on Cambodia, said that it isolated Vietnam within the international community as an outlaw. That pressure, they said, will begin to be felt by Vietnam if it cannot wipe out the remaining Pol Pot forces before April, when the rainy season begins.

"By April, if they are bogged down in a guerrilla war, which is not unlikely, this will be another pressure on them to rethink their policy," T. T. B. Koh of Singapore said in an interview.

The Southeast Asian nations sponsored the resolution for fear that the Vietnamese offensive might spill over into Thailand. While they condemned the Pol Pot Government, accusing it of cruelty and hundreds of thousands of deaths, they said that the principle of nonintervention had to be maintained if small countries like theirs were to survive. The Vietnamese contend that their troops were invited in by the Heng Samrin Government.

Twice before, in January and in March, motions were introduced into the Security Council to censure Vietnam for the invasion, but the motions were vetoed by the Soviet Union. The Vietnamese, however, did lose in an attempt to have the Heng Samrin Government replace the Pol Pot representative in the Cambodian seat at the United Nations.

The Vietnamese and the Soviet bloc backed a counterresolution today calling for a "zone of peace" in Southeast Asia. It was defeated by a margin of almost 2 to 1.

The three days of debate here took place against a background of widespread famine and suffering inside Cambodia. Last week, 50 nations met here and pledged $210 million in relief, and the opposing sides today cited humanitarian considerations as the motivation behind their positions.

HANOI FORCES SAID TO INTEFERE

William J. Vanden Heuvel, the United States deputy delegate, said in a speech that the Vietnamese offensive was hampering food distribution and "has escalated the destruction of life and property which is pretended to be against."

Ha Van Lau of Vietnam said its forces had invaded Cambodia to stop what he called genocide under the Pol Pot regime.

Behind the maneuvering has been a tangle of alliances. The Chinese, who said that Vietnam was the "cat's paw" of the Soviet Union, seek to restrict Vietnamese-Soviet expansion on their southern border. The Vietnamese have been historically fearful of China, and Mr. Lau called the Southeast Asian sponsors of the resolution "accomplices" of China.

Mr. Koh and other representatives of the sponsoring nations denied the allegation, noting that they had publicly condemned the Chinese invasion of Vietnam earlier this year.

Each of the five countries maintains diplomatic relations with Vietnam and some of their diplomats stressed in interviews that they hoped to continue current exploratory moves to further those relations and possibly someday admit Vietnam to the Association of Southeast Asian Nations.

SENATORS' REPORT ON REFUGEES

(At the direction of President Carter and the leadership of the Senate, Senators James R. Sasser of Tennessee, John C. Danforth of Missouri, and Max Baucus of Montana went on a humanitarian mission to Southeast Asia October 19–26, 1979. Following is their report, "The Refugee Situation in Thailand and Cambodia," released on October 26, 1979.)

We went on this humanitarian mission at the direction of the leadership of the Senate and the President of the United States. We went to see first-hand the nature of the refugee problem, to learn what more should be done, and to report our findings.

Over the past few days, we have witnessed a human tragedy of enormous and unfathomable proportions. Without a massive and prompt international relief effort, the situation will continue to deteriorate. Inside Cambodia today, and in refugee camps located in Thailand near the Cambodian border, hundreds of thousands of Cambodians face death by starvation and disease. The survival of the Khmer race is in jeopardy.

At three refugee camps on the Thai-Cambodian border, we saw human suffering of a kind so deep and pervasive as to defy our ability to describe it adequately.

We walked through encampments of thousands of Khmer who stared at us in silence. No one smiled, and no one laughed. Indeed, they seldom spoke to each other. We saw the swollen bellies and stick-like legs of children suffering from acute malnutrition. Even at the hospital, areas where physical suffering was greatest, they didn't cry. We saw people protected from the elements by only a plastic sheet strung up on sticks.

In makeshift hospitals, we walked among hundreds of comatose patients, crawling with flies. The people were suffering from prolonged malnutrition and malaria. We were told by those to whom we talked that conditions were even worse on the Cambodian side of the border. Only the strongest survive the trip across the border.

Yet, amidst this appalling scene of human suffering, we had reason to feel a degree of encouragement. The Government of Thailand has magnanimously promised to permit entry to all refugees who arrive at the border. The relief efforts by international organizations are beginning to provide food, medical supplies, and personnel. The international relief agencies are making a valiant effort to bring aid to those in need of assistance, but their efforts are still inadequate. The voluntary agencies stand ready to increase their assistance as soon as it is possible.

We are absolutely convinced that a practical means exists to provide the food and medical supplies needed to save hundreds of thousands of lives. That means is the immediate establishment of an overland route—a "land bridge" linking Cambodia to relief supplies in Thailand. The international relief agencies estimate that as many as 2.25 million Cambodians face serious food shortages. They estimate that nearly 30,000 tons of food and medical supplies are required to meet this need each month. Currently only 12,000 tons can be brought in by sea, and 300 by air per month. This is less than half the estimated need. The establishment of an overland route could, within 3 to 5 days, more than double the current capacity.

During our visit, we devoted much of our energies seeking to establish this land bridge. We discussed it with Thailand's Prime Minister Kriangsak, with Vietnamese Vice Foreign Minister Thach, and with representatives of the international relief agencies. We traveled to Phnom Penh to discuss the land bridge with the authorities there. We were encouraged by what we heard. The challenge now is to open the overland route. The decision currently rests with the Phnom Penh authorities. We are committed to prepare to pursue this goal anywhere and on an urgent basis. To delay is to prolong the suffering and loss of life we have seen.

A more detailed description of our experiences, our findings, and our recommendations follows.

CONDITIONS IN THE REFUGE CAMPS

We visited three refugee areas located at Khlong Gai Thuen, Tap Phrik, and Nong Samet. More than 150,000 people were in those areas and estimates are that another 100,000 to 200,000 are concentrated just inside the Cambodian border. Persons of all descriptions, including some former combatants, wander across the border into the areas. Intensified fighting or continued lack of food may force additional Cambodians across the border in the days and weeks ahead.

In the areas visited, we saw children near death from acute malnutrition and disease. We saw men and women lying on the ground in makeshift "hospitals." We saw people too weak to walk the last 100 yards to food distribution points. The eerie quiet strikes a visitor. Emaciated and sick people lay on the ground in a silence interrupted only by the coughs of those with tuberculosis.

These areas are not "camps." They are places where people stopped running from war and deprivation inside Cambodia. They have no sanitary facilities, little water, and little shelter. "Hospitals" are places where the very ill and the dying lie on the ground. We were told that 5–10 percent of the people in the hospital die every day. A large portion are beyond help and some of those we saw last Monday are not alive today.

Food distribution points, operated by a variety of relief agencies, are scattered through the areas. Those strong enough to walk to the distribution points are fed. Those who cannot, go hungry, unless relatives or friends help. The social order among these people has so deteriorated that they are not helping those outside their immediate family group.

The principal constraint in the effort to aid the refugees in the areas we visited is insufficient staff. We were told by physicians in the camps that they had adequate medical supplies and food but they did not have enough people to distribute either. Without adequate staff, there is no organized system for allocating and distributing supplies of food or medicine.

CONDITIONS IN CAMBODIA

Our 9-hour visit to Cambodia enabled us to observe the rice planting situation around the capital, to see the condition of the city, and to test the reaction of both government cadre and ordinary people to discussions with a delegation of Americans. In addition we met with the Heng Samrin regime's Foreign Minister to make a specific proposal that Phnom Penh permit the International Committee of the Red Cross (ICRC) and the U.N. Children's Fund (UNICEF) to truck emergency food and medical supplies from Thailand to Cambodia.

Phnom Penh authorities received us courteously and hospitably. Our guide for the day was a middle-level Foreign Ministry official. On the streets we were met with curiosity, friendliness, and a few suspicious looks.

The shambles that was Phnom Penh can hardly be called a city. The rundown condition of this once-graceful city betrays both the neglect of the past 4 years and deliberate destruction by the previous regime; both the National Bank and the Roman Catholic Cathedral were destroyed, presumably for political reasons. Phnom Penh residents estimate that its population is between 30,000 and 70,000. A few vehicles travel the deserted streets. Whole sections of the town are still barricaded shut. We saw few foreigners.

Rice is scarce. In the capital, in the absence of currency, a small can of rice acts as the medium of exchange for the few street hawkers we saw. No organized central market exists. Food is distributed through local street markets. The former central market area has been planted in coconuts. Our brief aerial view of agricultural areas around Phnom Penh showed small plots of vegetables and many fields of rice. A large number of paddies remain fallow. This, combined with the comments of more knowledgeable international officials and short interviews with passers-by during our tour of the city, leads us to conclude that the government's claim that 2.0 million acres of rice have been planted is too optimistic.

ICRC/UNICEF officials in Phnom Penh confirmed the desperate food situation of the country. To date their programs have dealt successfully with hospital and supplementary feeding. Only very recently have the two agencies been faced with the logistical problems created by bulk arrivals of rice.

There was general agreement that approximately 30,000 tons of rice per month are needed inside Cambodia. The best estimate we heard was that under current circumstances only 13,000 to 15,000 tons of foodstuffs could be moved inside Cambodia. Transportation within Cambodia is the major problem. Less than 5,000 tons of food per month can now be moved from the port of Kompong Som. The port of Phnom Penh has the potential to handle an additional 8,000 tons if inland transportation is available. The present airlift to Phnom Penh adds only fractionally to available supplies.

CONCLUSIONS

Our principal conclusion is that thousands of Cambodians will die unless a massive expansion of relief efforts proceeds on an emergency basis.

This finding is based on our personal observation of refugees, our discussions with the international relief agencies, and our discussions with the Phnom Penh authorities.

Our interviews indicated that as many as two-thirds of those who try to reach Thailand from Cambodia may not make it. They die along the way from starvation and disease. Given the conditions in Cambodia, we expect the flow of refugees to continue into Thailand. The need to provide assistance will accelerate in the months to come.

The refugee problem is compounded by the arrival of large numbers of Lao who further flood the refugee camps. Reports of an extensive shortfall of food in Laos will undoubtedly increase the refugee flow from there unless relief is available at the source.

The most serious problem inside Cambodia and along the border with Thailand is the lack of sufficient food and medical supplies. Under the best circumstances, the shortfall in total supplies is about 15,000 tons per month. The current situation is even worse, and not likely to improve much in the near future.

We have concluded that this condition need not exist. There is a practical solution which can be implemented immediately. An all-land route can be opened between the

Thai border and Phnom Penh along highways 5 and 6.

This plan could increase transport capacity by as much as 1,000 tons per day within 3–5 days of the opening of the route into Cambodia.

The essential considerations for opening such a route were: first, security of the shipments; and second, authorization and cooperation from the authorities involved, i.e., the international agencies, the Thai Government, the authorities in Phnom Penh, and the Vietnamese.

In an effort to open up the land route to Cambodia, we met with the head of government of the Thai kingdom; a representative of the Socialist Republic of Vietnam; representatives of the Phnom Penh authorities; and representatives of the international agencies.

MEETINGS WITH THE VOLUNTARY AGENCIES

We met with representatives of UNICEF, the ICRC, and World Food Program (WFP). They agreed unanimously that the key to solving the situation inside Cambodia and on the Thai border was to establish a land bridge. They stand ready in every way to implement the planning and shipment of the needed supplies. Other aspects of those meetings appear throughout the report as appropriate.

MEETING WITH THAILAND'S PRIME MINISTER KRIANGSAK

At the time of our meeting, we were just beginning to explore the possibilities of a land bridge to Cambodia via the road from Aranyaprathet near the Thai-Cambodian border. The Prime Minister was totally supportive of the idea.

He felt that adequate quantities of most of the needed supplies were available in Thailand. He also expressed the view that there were enough trucks in Thailand to send convoys in immediately.

The dominant subject of our meeting was the desperate situation of the Cambodian refugees. The day before our meeting with the Prime Minister, he had taken a trip to the border and had witnessed first-hand the suffering. He said he had been touched by this experience and had decided to open the border to admit all refugees from Cambodia. This was an unpopular decision, he said, because it would result in the displacement of 60,000 Thais.

The Prime Minister told us that he was planning to move the refugees from the border to a nearby holding area. In fact, the movement of the refugees began before we left Thailand. It should be noted that the Prime Minister made it clear to us that the fleeing Cambodians would be granted only temporary status.

He expressed hope that it would be possible for the Khmer to return home when conditions improve. He was not optimistic that this would occur soon. He told us that he welcomed the growing involvement and support of the international relief agencies. He stressed the importance of close coordination of that effort.

We expressed our appreciation and gratitude for the Prime Minister's humanitarian policy toward the refugees, notably his decision to allow unlimited entry to the Khmer.

MEETING WITH NGUYEN CO THACH OF VIETNAM

At the Vietnamese Embassy in Bangkok we met with Secretary of State for Foreign Affairs Nguyen Co Thach. We explained that we did not want to raise political questions. We expressed our appreciation for his help in obtaining a favorable reply to our request to visit Phnom Penh. We noted that our purpose for wanting to visit Phnom Penh was to meet with representatives of the international relief agencies and get a more complete view of the problems of refugees. We emphasized in our discussions that U.S. assistance to needy Cambodians would be provided through the international organizations.

We asked Mr. Thach if his government would cooperate in providing security for truck convoys on an overland route between Thailand and Cambodia. He replied first by saying that he could not speak for the Cambodian people. But, he added: "If the Cambodian people or the Cambodian Government asked us for help we will agree. There is no problem on this. You can be sure any humanitarian actions without ulterior motives we will welcome."

Mr. Thach emphasized that the truck convoy proposal was no problem for his government, but was a question that had to be addressed by Phnom Penh. He said that Vietnamese troops would not fire on trucks that were on humanitarian missions.

MEETING WITH THE OFFICIALS IN PHNOM PENH

We presented the proposal for a land route to Phnom Penh's Foreign Minister, emphasizing the humanitarian need and our desire to make political considerations secondary to the fundamental problems of life and death. With regard to the security of food convoys, he agreed that Phnom Penh could insure security for the shipments and drivers. He said that he would take the proposal to the Central Committee for decision. In the meantime, relief supply by sea and air should continue. We urged him to recommend the speedy and favorable decision. We pointed out that to delay is to prolong the human suffering.

Subsequently Hun Sen issued the following statement to the press: "In case of a substantial increase in the aid, we are ready to study with the two organizations the improvement of our means of reception and transportation and to think about other access routes in case of need." We view his statement as a positive reference to the land bridge because the only way practical of substantially increasing aid is by a truck route along highways 5 and 6.

Our Ambassador in Bangkok has been in contact with officials of ICRC/UNICEF requesting that they follow through on this directly with the officials in Phnom Penh.

RECOMMENDATIONS

1. The United States should provide strong support for the creation of a "land bridge" operated by the ICRC and UNICEF to bring food and medicine into Cambodia. We should strive to do the following:

Achieve agreement to permit up to 1,000 tons of food and medical supplies to be carried daily by truck into Cambodia from Thailand;

Acquire by lease or purchase a sufficient number of trucks to establish the necessary distribution network (one international relief official believes a total of 500 trucks is needed);

Assure the security of the truck convoys;

Establish storage centers at regional distribution points on the main highways between the border and Phnom Penh.

2. In order to develop an international program of food relief for Indochinese refugees, the United States should:

Expedite implementation of the full $69 million 6-month aid package announced by President Carter on October 24;

Assess funding requirements for a longer range program of food and medical relief;

Name a senior-level White House coordinator with specific responsibilities for implementation of the food and medical relief program in Cambodia;

Utilize emergency relief funds to provide sufficient logistic support to the ICRC and UNICEF to get food and medicine to where it is needed.

3. The President should call on other nations and American citizens to support the efforts of international organizations and voluntary agencies. Both money and volunteers are needed.

4. The U.S. Government should make diplomatic efforts and mobilize world opinion in support of the opening of the land bridge to Cambodia. The role of the Secretary General of the United Nations is critical to the success of this effort.

5. The United States should assist the international relief agencies as appropriate to:

Increase and regulate distribution of food and medicine on the border areas;

Increase immediately the staff in the border areas;

Increase capacity of the ports to handle shipments by sea;

Provide air transportation for critically needed items;

Establish a system for equitable distribution from central storage facilities to local areas inside Cambodia;

Secure agreement that the international agencies have staff and access to insure that food is used effectively.

[From the Washington Post, Nov. 13, 1979]

U.S. LEGISLATORS DISCUSS AID ON ONE-DAY CAMBODIAN TRIP

(By Denis D. Gray)

PHNOM PENH, November 12.—Six U.S. representatives, all of them women, toured an orphanage, a school and a hospital today and later said they were encouraged by a positive attitude among Phnom Penh authorities toward receiving aid for the embattled country.

The legislators also met Cambodian Foreign Minister Hun Sen, who called the visit "very helpful and substantial indeed" and said Cambodia was "grateful for all aid provided from the outside, provided it is not linked to any political conditions."

The Vietnam-backed government of Premier Heng Samrin is engaged in bloody fighting with guerrilla forces backed by ousted premier Pol Pot for control of the country.

As the legislators met with Cambodian officials, reporters accompanying them toured Tuol Slaeng Prison, where authorities charged that the former Pol Pot government tortured and executed six American and two Australian yachtsmen in 1978.

Cambodian officials did not identify the yachtsmen and their report could not be vertified independently. They said all eight victims had been captured sailing off the Cambodian coast, but it was not clear whether they were captured together. The Americans, at least, were accused of being spies, they said.

The officials took the reporters to Tuol Slaeng, where they said the Pol Pot regime executed more than 20,000 persons at the prison.

The current leadership in Cambodia was installed by the Vietnamese troops who ousted Pol Pot last January.

At Tuol Slaeng, once a school and now a museum, the reporters were shown grisly torture instruments and photographs of some of the victims. One official pointed to a picture on the wall and said it was one of the executed Americans. The face appeared Caucasian, but the heavy beard and agonized expression made an exact determination difficult.

The Cambodians also said the museum had documentation on the eight foreigners, but the tight schedule of the reporters did not afford them time to examine it.

Rep. Elizabeth Holtzman (D-N.Y.), the delegation leader, told Foreign Minister Hun Sen at a luncheon that they had come to Phnom Penh on a humanitarian mission. "The people of the United States are deeply moved and troubled by the plight of your country," she said.

Hun Sen said aid is arriving by air to Phnom Penh and by ship to the port of Kompong Som and up the Mekong River to the Cambodian capital. He dismissed as "not practical" an earlier plan by three U.S. senators to truck in supplies from Thailand.

The group visited an orphange with 555 children, most between 11 and 15 years of age. The visitors were told that among the known cases, 37 percent of the parents of the children had died of hunger and almost 50 percent were killed during Pol Pot's rule.

He said the children's diet—five pounds of rice and corn per child per month and virtually no protein—was inadequate.

Some of the youngsters instinctively held the hands of the American women as they passed through. One young girl performed a traditional dance and sang a song:

"Where is my mother?

"I want to hold her but she is not here.

"Pol Pot killed her."

The delegation also visited a primary school where, they were told, children could only attend classes for four hours a day because of a shortage of teachers.

At the Jan. 7, Hospital, Dr. Nouth Savoeun said there were only eight doctors and 577 beds for the 600 to 800 patients normally receiving treatment.

The official talks dealt with how to speed more international aid to this war-ravaged Southeast Asian nation. But the focus of the whirlwind, eight-hour tour was to impress on the visitor that the Vietnam-backed Phnom Penh leadership is doing its best but still needs outside help.

"Phnom Penh looks like a child who had a temper tantrum with its toys. Everything is topsy-turvy. There's nothing logical, rational," said Rep. Olympia Snowe (R-Maine).

Guides said Phnom Penh—once a ghost town when its residents were forced into the countryside by Pol Pot—now has about 70,000 inhabitants in the inner city and another 200,000 on its periphery.

Deputy Prime Minister Hor Naim Hong told the Americans:

"What you have seen is left over from the destructive heritage of Pol Pot: 3 million people killed, 90 percent of the intellectuals killed, 70 to 75 percent of the women widowed."

Special correspondent John Burgess added from Bangkok:

Upon returning to Thailand, Rep. Barbara Mikulski (D-Md.) said she was impressed with the sincerity of officials and medical workers in Phnom Penh, and cited "their willingness to talk about what specfic needs were."

Mikulski stressed that conditions in Cambodia could not be compared with anything in the United States. Patients in the hospital they visited "were two on a bed . . . They have no diagnostic equipment, no X-ray equipment."

Indochina observers in Bangkok suggested that the Vietnamese supported Heng Samrin government, which is recognized by only a handful of Soviet Bloc nations, is seeking international standing by entertaining such official U.S. delegations.

[From the New York Times, Nov. 2, 1979]

HANOI IS SAID TO PLACE POLITICS BEFORE LIVES OF CAMBODIANS

(By Henry Kamm)

BANGKOK, THAILAND, November 1.—The Cambodia Government has not only rejected a proposal by three American Senators to receive food for its starving people by road from Thailand, but also continues to delay open and full acceptance of a relief program by two international agencies that are acting in effect on behalf of the Western world.

Asian and Western officials can find only one explanation for Phnom Penh's position, which will result in the deaths of great numbers of Cambodians whose lives might be saved by a more receptive attitude. It is that political and military concerns are viewed with such urgency that they override such matters as the life or death of Cambodians.

The officials use the words Phnom Penh and Hanoi interchangeably because they share a general belief, buttressed by observations of visitors to the Cambodian capital, that Vietnam's role goes beyond the usual master-client relationship to approach full power of decision in anything of importance.

The political and military issues that dominate Vietnamese decisions are the continued activity of forces loyal to the deposed Prime Minister, Pol Pot; the appearance along Cambodia's western border of military units opposed to the Vietnamese occupation but not linked to Mr. Pol Pot, and Hanoi's failure to gain international acceptance of its actions in Cambodia and recognition for the regime of President Heng Samrin.

All these concerns are focused on international relief efforts along the Thai-Cambodian border. To Hanoi and Phnom Penh, the efforts challenge their claim that the Heng Samrin Government is legitimate and controls all of Cambodia, because the aid is given directly to Cambodians and not to the Phnom Penh authorities. Moreover, such assistance goes to Cambodians living under the control of Mr. Pol Pot and other anti-Vietnamese factions and thus helps to keep their military forces in the field.

What the world views as humanitarian aid without political strings is regarded by Hanoi and its dependents as a political fact that is harmful to them and helpful to their enemies. Conversely, what the world, as exemplified by the Senators who visited Phnom Penh last week to offer huge food shipments by road, considers an inhuman sacrifice of countless Cambodians is represented by Hanoi as an intolerable interference in the affairs of its client government. The three Senators were Jim Sasser of Tennessee and Max Baucus of Montana, both Democrats, and John C. Danforth, Republican of Missouri.

The International Committee of the Red Cross and the United Nations Children's Fund, which have been negotiating in Phnom Penh and Hanoi for months for acceptance of a large-scale relief program, believe that the principal obstacle is the opposition of Hanoi and Phnom Penh to the agencies' role in feeding and giving medical care to Cambodians not under Vietnamese control.

RELIEF OFFICIALS ARE WARY

In order not to jeopardize the limited aid that Cambodia allows the two groups to deliver by air to Phnom Penh and by sea to Kompong Som, Red Cross officials here do not disclose how much food is being delivered to the border. The International Red Cross coordinates all border relief operations, in which charitable groups from many countries participate.

The hard Vietnamese attitude also leads the two organizations to accept highly restrictive conditions on their operations within Cambodia. The agencies communicate with their 11 representatives, who were admitted to Cambodia after difficult negotiations, by commercial telegrams sent via Vietnam, which take two to three days each way. The radio that the Red Cross installed on one of its Phnom Penh flights to help communications was impounded.

Informed sources report that the international officials have only limited use of the vehicles they imported to monitor aid distribution, and that they are limited in the details of the work they are allowed to communicate to their organizations.

The Cambodian authorities have banned the agencies from allowing journalists to accompany flights to report on the relief operations.

FULL-SCALE AID EFFORT OPPOSED

But the principal restriction on the relief effort, according to informed officials, is the unwillingness of Hanoi and Phnom Penh to agree to a full-scale program. Experts of the two organizations have drawn up a list of minimal food needs that amounts to 165,000 tons over six months.

The Phnom Penh authorities have refused to commit themselves to accepting this. At the moment, a transport plane flies a daily cargo of 15 tons to Phnom Penh, but there is never any assurance that the next day's flight will be admitted.

Vietnamese and Cambodian officials also allow some relief shipments by sea. But the combined air and sea total since shipments began late in August is about 2,500 tons, which includes trucks, other vehicles, fuel and unloading equipment.

Mr. JAVITS. Mr. President, I ask unanimous consent that the remaining time of the Senator from Idaho (Mr. CHURCH), which I understand to be 10 minutes, may be reserved so that the debate may continue immediately before the vote, which, by unanimous consent, will be at 1 o'clock, with the time equally divided between Senator CHURCH and myself.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, may I say I have not obtained the authority of the majority leader and, if he should have any objection, I will move to dissolve the unanimous-consent agreement.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

VISITORS FROM MINNESOTA

Mr. BOSCHWITZ. Mr. President, I wish to make a statement today about a number of people visiting from Minnesota who are here in the Chamber with us now. They are women associated with the Avon Co. They are independent businesswomen. They are people who have a great and strong belief in the free enterprise system, Mr. President, as we do, and who are very fine representatives of it.

They are visiting here in Washington for 3 days. They are in our Nation's Capital to see the operation of the legislative process, and to get a sense of the history of this great Nation that is so wonderfully depicted, not only in this Chamber, but also in our Capital City.

They bring with them a great tradition of the Middle West, a great tradition of Minnesota. And it is my great privilege to meet them and to greet them here in the Senate Chamber.

I spoke with the group this morning about the problems we are having in Cambodia, Mr. President, the problems of the world and, most particularly, about the free enterprise system which they so strongly support.

I warmly welcome them, Mr. President, and it is a pleasure to have them in the Chamber. I am pleased to greet them, particularly, because they give such great support and great succor to the American system of which we are all a part.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 3919, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed the consideration of the bill.

HOME ENERGY ASSISTANCE—S. 1724 UP AMENDMENT NO. 827

Mr. LONG. Mr. President, as the floor manager of the bill and chairman of the Committee on Finance I modify the committee amendment to correspond to the bill which the Senate voted last night with regard to the assistance of individuals for heating and bearing high energy expenses.

I send the modification to the desk, Mr. President.

The PRESIDING OFFICER. The amendment will be so modified.

The modification (UP amendment No. 827) follows:

Strike out beginning with page 160, line 9, through page 175, line 21, and insert in lieu thereof the following:

SEC. 321. This part may be cited as the "Home Energy Assistance Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 322. (a) The Congress finds that—

(1) recent dramatic increases in the cost of primary energy sources have caused corresponding sharp increases in the cost of home energy;

(2) reliable data projections show that the cost of home energy will continue to climb at excessive rates;

(3) the cost of essential home energy imposes a disproportionately larger burden on fixed-income, lower income, and lower middle income households and the rising cost of such energy is beyond the control of such households;

(4) fixed-income, lower-income, and lower-middle-income households should be protected from disproportionately adverse effects on their incomes resulting from national energy policy;

(5) adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life, health, or safety:

(6) adequate home cooling is necessary for certain individuals to avoid a threat to life, health or safety;

(7) low-income households often lack access to energy supplies because of the structure of home energy distribution systems and prevailing credit practices; and

(8) assistance to households in meeting the burden of rising energy costs is insufficient from existing State and Federal sources.

(b) It is the purpose of this part to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

DEFINITIONS

SEC. 323. As used in this part—

(1) "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent;

(2) "home energy" means electricity, oil, gas, coal or any other fuel for use as the principal source of heating or cooling in residential dwellings;

(3) "lower living standard income level" means the income level (adjusted for regional, metropolitan, nonmetropolitan differences and family size) determined annually by the Secretary of Labor based upon the most recent "lower living standard family budget" issued by the Secretary of Labor;

(4) "Secretary" means the Secretary of Health, Education, and Welfare; and

(5) "State" means each of the several States and the District of Columbia.

HOME ENEGRY GRANTS AUTHORIZED

SEC. 324. (a) The Secretary is authorized to make grants, in accordance with the provisions of this part, to States on behalf of eligible households to assist such households to meet the rising costs of home energy.

(b) There are authorized to be appropriated from the Low Income Energy Assistance Trust Fund established under section 103 of the Crude Oil Windfall Profit Tax Act of 1979, $3,000,000,000 for the fiscal year 1981, and $4,000,000,000 for the fiscal year 1982, to carry out the provisions of this part.

(c)(1) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year of the authorization of appropriations for the program authorized by this part either—

(A) has passed or has formally rejected legislation which would have the effect of extending the authorization of that program; or

(B) by action of either the House of Representatives or the Senate, approves a resolution stating that the provisions of this subsection shall no longer apply to such program;

such authorization is hereby automatically extended for one additional fiscal year. The amount appropriated for such additional year shall not exceed the amount which the Congress could, under the terms of the law for which the appropriation is made, have appropriated for such program during such terminal year.

(2)(A) For the purposes of clause (A) of paragraph (1) of this subsection, the Congress shall not have been deemed to have passed legislation unless such legislation becomes law.

(B) In any case in which the Secretary is required under this part to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this part, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which that part of paragraph (1) of this subsection which follows clause (B) thereof is in operation.

(d) For the purpose of affording adequate notice of assistance available under this part, appropriations under this part are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. Funds appropriated under subsection (b) of this section shall remain available until expended.

ELIGIBLE HOUSEHOLDS

SEC. 325. (a) Eligible household means any household which the State determines is—

(1) eligible for (A) aid to families with dependent children under part A of title IV of the Social Security Act, (B) supplemental security income payments under title XVI of the Social Security Act, (C) food stamps under the Food Stamp Act of 1977, or (D) payments under section 415, 521, 541, or 542 of title 38, United States Code (relating to certain veterans' benefits); and

(2) any other household with an income equal to or less than the lower living standard income level as determined pursuant to subsection (c) of this section.

(b) Notwithstanding clause (1) of subsection (a), a household which is eligible for supplemental security income payments under title XVI of the Social Security Act shall not be considered eligible for home energy assistance under this part if the eligibility of a household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual.

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or

(3) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent).

(c) In determining income eligibility for the purpose of clause (2) of subsection (a), the State shall apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act.

ALLOTMENTS

SEC. 326. (a) From 95 per centum of the sums appropriated pursuant to section 324(b) for the fiscal year 1981 and for each fiscal year thereafter the Secretary shall—

(1) allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the aggregate residential energy expenditure in such State bears to the aggregate residential energy expenditure for all States; and

(2) allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the total number of heating degree days in such State squared, multiplied by the number of households in such State having incomes equal to or less than the lower living standard income level bears to the sum of such products for all States.

(3) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is less than $100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection, be the greater of its allotment as so determined under such paragraphs or the product of the total amount available for allotment under this subsection and such State's alternative allotment percentage.

(4) The alternative allotment percentage for any State shall equal (a) the percentage of 95 per centum of the total amount appropriated for the fiscal year pursuant to section 324(b) which the State would receive if its allotment were increased from the $25 million authorized under this subsection to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120 or, unless the percentage determined under subparagraph (A) would be higher, (B) the percentage of 90 per centum of the total amount authorized to be appropriated for

fiscal year 1981 under section 324(b) which would be allotted to such State if—

(i) of such 90 per centum (1) one-half was allotted to each State according to the ratios determined under paragraph (1) of subsection (A) of this section and (II) one-half was allotted to each State according to the ratios which would be determined under paragraph (2) of such subsection (A) if, for purposes of such paragraph, the word "squared" were deleted and the term "lower living standard" were defined as 125 per centum of the poverty level as determined in accordance with the criteria established by the Office of Management and Budget; and

(ii) the allotment of each State as determined under subparagraph (i) were increased to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120. There are authorized to be appropriated from this Low Income Energy Assistance Trust Fund established under section 103 of the Crude Oil Windfall Profit Tax Act of 1979, $25,000,000 for each of the fiscal years 1981 and 1982 for the additional amounts to be allocated to States pursuant to the application of paragraph (A) of this subsection. In the event that the aggregate of such additional amounts would exceed the amount appropriated under the preceding sentence, the additional amount applicable to each State shall be reduced on a pro rata basis.

(5) For purposes of this subsection, the term "recipient household" means—

(A) a household that is an eligible household under section 3(I) of the Food Stamp Act of 1977 and participates in the food stamp program, but which is not a recipient household under subparagraph (B) or (C) of this paragraph;

(B) a household that contains any individual who receives aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, but which is not a recipient household under subparagraph (C); and

(C) a household that contains an individual who is an eligible individual or eligible spouse receiving supplemental security income benefits under title XVI of the Social Security Act, or an individual receiving payments from the Secretary under an agreement entered into by the Secretary under section 1616 of such Act or section 212 of Public Law 93-66.

For purposes of subparagraphs (B) and (C) the term "household" shall be defined by the Secretary, and shall not include an institution.

(6) The allotment of any State shall be increased under paragraphs (3) and (4) of this subsection only if the increase is attributable in whole or part to the provisions of subparagraphs (A) or (B)(ii) of paragraph (4).

(7) If the allotment for any State determined under paragraphs (1) and (2) of this subsection (without the application of paragraph (8)) is less than the lower of—

(A) the amount which would be allotted to such State if "one-half" in paragraph (1) of this subsection were replaced by "one-quarter" and "one-half" in paragraph (2) of this subsection were replaced by "three-quarters"; or

(B) the amount which would be allotted to such State if the word "squared" in paragraph (2) of this subsection were deleted,

then the allotment of such State shall, subject to paragraph (8) of this subsection be increased to the lower of the allotment it would receive under subparagraph (A) or (B).

(8) The allotments for any fiscal year determined under paragraphs (1) and (2) of this subsection which are not increased pursuant to paragraphs (3), (4), and (7) of this subsection shall be adjusted to the extent necessary and on a pro rata basis to assure that the total of such allotments when added to the allotments which are increased pursuant to paragraphs (3), (4), and (7) of this subsection do not exceed the sum of (A) 95 per centum of the sums appropriated for such fiscal year pursuant to section 4(B) plus (B) the amount appropriated pursuant to the authorization in paragraph (4).

(b)(1) From the remainder of the sums appropriated pursuant to section 324(b) for each fiscal year, the Secretary shall—

(A) first reserve $2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and Northern Mariana Islands and the Trust Territory of the Pacific Islands, and

(B) then transfer to the Director of the Community Services Administration $100,000,000, subject to the provisions of the second sentence of this paragraph for carrying out energy crisis related activities under section 222(a)(5) of the Economic Opportunity Act of 1964.

The percentage of the amount transferred under subparagraph (B) of this paragraph and available for use to each State shall be the same percentage as the percentage allotted to such State under this section for the total amounts available for allotment to States under subsection (a) of this section.

(C) per centum of the total amount transferred under subparagraph (B) may be utilized without regard to the requirements of the sentence following the first sentence of such subparagraph.

(2) Each jurisdiction to which subparagraph (1)(A) applies may receive grants under this part upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this part, and which are consistent with the requirements of section 8(b) of this part.

(3)(A)(i) The remainder of the sums appropriated pursuant to section 324(b) shall be distributed for home energy assistance programs in accordance with the provisions of this subparagraph. The Secretary shall make incentive grants to States to pay a Federal share of incentive fuel assistance programs for residential energy costs established by any State to serve the same population as the population eligible under this Part.

(ii) No grant may be made under this subparagraph of this paragraph unless the State makes an application to the Secretary containing such provisions which the Secretary deems necessary and which describes the State program for which assistance is sought under this subparagraph.

(iii) The Federal share for any fiscal year for Federal assistance under this subparagraph shall not exceed 25 per centum.

(B) The remainder of the sums appropriated pursuant to section 324(b) not required to carry out the provisions of subparagraph (A) of this paragraph shall be distributed by the Secretary in accordance with the allocation formula contained in subsection (a) of this section.

(4)(A) From the sums appropriated pursuant to section 324(b) and made available under subsection (b)(1)(A) of this section, the Director shall reserve a sum not to exceed $3,000,000 in each fiscal year for outreach activities designed to assure that eligible households with elderly members are made aware of the assistance available under this Part. The Director shall enter into agreements with national aging organizations to carry out the provisions of this subparagraph.

(B) No payment may be made by the Director under this paragraph to any national aging organization unless the Director determines that such outreach activities will be coordinated with State outreach activities required under section 328(b)(16).

(c) The portion of any State's allotment under subsection (a) for a fiscal year, which the Secretary determines will not be required for the period such allotment is available for carrying out the purposes of this part, shall be available for reallotment from time to time, on such dates during such period as the Secretary may fix, to other States based on need and ability to expend the funds consistent with the provisions of this part and taking into account the proportion of the original allotments made available to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this part, and the total reduction shall be similarly realloted among the States whose proportionate amounts are not so reduced. In carrying out the requirements of this subsection the Secretary shall take into account the climatic conditions and such other relevant factors as may be necessary to assure that no State loses funds necessary to carry out the purposes of this part. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(d)(1) Any allocations to a State may be reallocated only if the Secretary has provided thirty days advance notice to the chief executive and to the general public. During such period comments may be submitted to the Secretary.

(2) After considering any comments submitted during such period, the Secretary shall notify the chief executive of any decision to reallocate funds, and shall publish such decision in the Federal Register.

(e) The aggregate residential energy expenditure for each State and for all States shall be determined by the Secretary after consulting with the Secretary of Energy.

(f) The allotments made under this section shall be made on the basis of the latest reliable data available to the Secretary.

(g)(1) In any State in which the Secretary determines (after having taken into account the amount of funds available to the State) that the members of an Indian tribe are not receiving benefits under this part that are equivalent to benefits provided to other households in the State, and if the Secretary further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, the Secretary shall reserve from sums that would otherwise be allotted to such State not less than 100 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(2) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide assistance pursuant to this part.

(3) I order for a tribal organization or other entity to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such

fiscal year which meets such criteria as the Secretary may prescribe by regulation.

USES OF HOME ENERGY GRANTS

SEC. 327. Grants for fiscal year 1981 and thereafter under this Act may be used for home energy assistance in accordance with plans approved under section 328.

STATE PLANS

SEC. 328. (a) Each State desiring to receive a home energy grant under this part shall submit a State plan to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

(b) Each such State plan shall—

(1) be submitted in accordance with the procedures, timetables and standards established by the Secretary pursuant to subsection (d) (3) of this section;

(2) designate an agency of the State to be determined by the chief executive to administer the program authorized by this part and describe local administrative arrangements;

(3) provide for a State program for furnishing home energy asstance to eligible households through payments (which without limitation, may be made in the form of a duly issued coupon, stamp or certificate) made in accordance with the provisions of the plan, to—

(A) (i) home energy suppliers,

(ii) eligible households whenever the chief executive determines such payments to be feasible, or when the eligible household is making undesignated payments for rising energy costs in the form of rent increases, or

(iii) any combination of home energy supplier and eligible household whenever the chief executive determines such payments to be feasible, and

(B) building operators, in housing projects established under sections 221 (d) (3) and 236 of the National Housing Act of 1968, section 202 of the Housing Act of 1959, section 515 of the Housing Act of 1949, low rent housing established by the United States Housing Act of 1937, and section 8 of the Housing Act of 1974, and State and local government-operated projects in an aggregate monthly amount computed on the basis of the number of eligible tenants making undesignated energy payments in the form of rent divided by the exact costs of primary residential fuel costs paid as an undesignated part of rent up to a ceiling amount per eligible tenant as determined under regulations by the Secretary annually to be comparable to the amount established for other eligible households;

(4) describe with particularity the procedures by which eligible households in the State are identified and certified as participants;

(5) describe energy usage and the average cost of home energy in the State identified by the type of fuel and by region of the State;

(6) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly individual or one individual with a severe handicap as defined in section 7(13) of The Rehabilitation Act of 1973, as amended, and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income, taking into account—

(A) the average home energy expenditure by type of energy,

(B) the proportional burden of energy costs in relation to income,

(C) the variation in degree days in regions of the State in any State where appropriate, and

(D) any other relevant consideration selected by the chief executive including provisions for payment levels for households making undesignated payments in the form of rent;

(7) provide, in accordance with clause (3) (A), for agreements with home energy suppliers under which—

(A) the State will pay on a timely basis by way of regular installments, as reimbursements or a line of credit, to the supplier designated by each participating household the amount of assistance determined in accordance with clause (6);

(B) the home energy supplier will charge the household specified in subclause (A), in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this Part;

(C) the home energy supplier will provide assurances that the home energy supplier will not discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery and price; and

(D) subject to subsection (f) of this section the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this clause will contain provisions to assure that no household receiving assistance under this Part will have home energy terminated unless—

(i) the household has failed to pay the amount charged to such household in accordance with subclause (B) for at least two months,

(ii) the household receives a written termination notice not less than thirty days prior to the termination, and

(iii) the household is afforded, in a timely fashion before termination, an opportunity for a hearing by an agency designated by the State;

unless the supplier is located in a State in which the termination policy contains provisions for a longer grace period, or notification period, than that described in this clause;

(8) provide for the direct payment to households to which subclauses (A) (ii) and (iii) of clause (3) applies;

(9) provide for public participation in the development of the plan;

(10) provide assurances that the State will treat owners and renters equitably under the program assisted under this Part;

(11) provides that (A) of the funds the State receives for each fiscal year, the State may use for administration of the plan an amount not to exceed 10 per centum of the cost of carrying out the plan, and for the purpose of this clause the Federal share of the cost of administration for any fiscal year shall be 50 per centum and (B) the State will pay from non-Federal sources the remaining costs of administration with respect to carrying out the plan required by the preceding clause and will not use Federal funds to carry out the provisions of this subclause: *Provided, however,* That upon proof of unusual circumstances and upon application to the Secretary, the Secretary may allow any State an additional amount for administration under the conditions of this subsection but not exceeding an additional 5 per centum of the cost of carrying out the plan.

(12) describe the administrative procedures to be used in carrying out the plan;

(13) provide an opportunity for a fair hearing before the State agency designated under clause (2) to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

(14) provide that, of the funds the State receives for each fiscal year, the State may reserve 3 per centum of the funds to be available for weather related and supply shortage emergencies, and if the State reserves such funds, the plan shall identify—

(A) the procedures for planning for such emergencies,

(B) the administrative procedures designating the emergency and implementing an emergency plan,

(C) the procedures for determining the assistance to be provided in such emergencies, and

(D) the procedures for the use of the funds under this clause for the purposes of this Part in the event that there are no emergencies;

(15) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with, existing Federal, State, and local weatherization and energy conservation efforts;

(16) provide for outreach activities designed to assure that all eligible households, particularly households with elderly or handicapped individuals, households with individuals who are unable to leave their residences, households with migrants, households with individuals with limited English proficiency, households with working poor individuals, households with children, and households in remote areas, are aware of the assistance available under this part by using community action agencies, area agencies on aging, State welfare agencies, volunteer programs carried out under the Domestic Volunteer Service Act of 1973, and other appropriate agencies and organizations within the State including home energy suppliers together with provisions for the reimbursement of such agencies, from administrative funds, for outreach and certification activities;

(17) establish procedures for monitoring the assistance provided under the plan including monitoring and auditing any agreements entered into under clause (7) of this subsection and describe the documentation to be required of energy suppliers concerning energy supplied to eligible households;

(18) provide assurances that the State will maintain regular benefit levels in existing federally assisted cash assistance programs, except that in a State which increases such programs solely for the purpose of energy assistance, such increase shall not be considered a part of the regular program;

(19) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper dispersal of and accounting for Federal funds paid to the State under this part;

(20) provide that reports will be furnished in such form and contain such information as the Secretary may reasonably require, particularly for the carrying out of provisions of section 329; and

(21) provide assurances that the State will not establish any standards of eligibility under this part based on an assets test which counts cars, household and personal belongings or primary residences.

(c) The State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need pursuant to standards established by the Secretary.

(d) (1) The Secretary shall approve any State plan, or modification thereof, that meets the requirements of subsections (b) and (c) and shall not finally disapprove, in whole or in part, any plan, or any notification thereof, for assistance under this Part without first affording the State reasonable notice and opportunity for a hearing within the State. Whenever the Secretary disapproves a plan the Secretary shall, on a timely basis, assist the State to overcome the deficiencies in the plan.

(2) The Secretary shall carry out the functions of the Secretary under this section promptly.

(3) The Secretary, as soon as possible after the date of enactment of this Part, shall establish criteria and standards for the State plan requirements under subsections (b) and (c) of this section, together with timetables for carrying out the plan.

(e) Any State which makes advances available for activities under this part in substan-

tial compliance with an approved State plan may be reimbursed for such advances from the allocation made to that State under section 6(a) when funds are appropriated to carry out the provisions of this Part.

(f) A State agency may exempt small home energy suppliers from the requirements of subsection (b)(7)(D), of this section if the State agency determines that compliance with clause (7)(D), will seriously jeopardize the ability of the small home energy supplier to conduct such business.

(g) A State may use funds available under this Part for purpose of providing credits against State tax energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits: *Provided*, That timely delivery of benefits to eligible households and suppliers shall not be impeded by the implementation of such plan.

(h) At the option of the State, any portion of such State's allotment may be reserved by the Secretary for the purpose of making direct payments to eligible households containing a recipient of supplemental security income benefits under title XVI of the Social Security Act for home energy assistance in accordance with guidelines issued by the Secretary.

UNIFORM DATA COLLECTION

SEC. 329. (a) The Secretary, after consultation with the Secretary of Energy, shall establish uniform standards for data collection which shall be used by States in all reports required under this Part.

(b)(1) The standards established by the Secretary under this section shall apply to (A) information concerning home energy consumption, (B) the cost and type of fuels used, (C) the type of fuel used by various income groups, (D) the number and income levels of households assisted by this Part and (E) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this Part.

(2) In carrying out this section, the Secretary shall gather and analyze information on the price structure of various types of fuel, particularly the increases in such price structure, if any, attributable to the financial assistance provided under this Part.

(c) The Secretary shall report annually to Congress concerning data collected under subsection (b).

PAYMENTS

SEC. 330. (a) From the amount allotted to each State pursuant to section 326, the Secretary shall pay to the State which has an application approved under section 329 an amount equal to the amount needed for the purposes set forth in the State plan.

(b) Payments under this Part may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

WITHHOLDING

SEC. 331. Whenever the Secretary, after reasonable notice and opportunity for hearing within the State to any State, finds that there has been a failure to comply with any provision set forth in the State plan of that State approved under section 328, the Secretary shall notify the State that further payments will not be made under this Part until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this Part.

CRIMINAL PENALTIES

SEC. 332. Whoever violates provisions of this Part or who knowingly provides false information in any report required under this Part shall be fined not more than $10,000 or imprisoned not more than five years or both.

ADMINISTRATION

SEC. 323. (a)(1) The Secretary may delegate any functions under this Part except the making of regulations, to any officer or employee of the Department of Health, Education, and Welfare.

(2) The Secretary shall issue regulations under this Part, within sixty days after the date of enactment of this Part.

(b) In administering the provisions of this part, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution, to the extent such services and facilities are otherwise authorized to be made available for such purpose, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(c)(1) Notwithstanding any other provision of law, the amount of any fuel assistance payments provided to an eligible household under this part shall not be considered income or resources for any purpose under any Federal or State law, including any law relating to taxation, public assistance or welfare program.

(2) Section 5(d) of the Food Stamp Act of 1977 amended by striking out "and (10)" and inserting in lieu thereof the following: "(10) any income attributable to an increase in State public assistance grants which is intended primarily to meet the increased cost of home energy, and (11)".

(d) The Secretary shall establish procedures for Federal monitoring of State administration of programs assisted under this part.

(e) The Secretary shall coordinate the administration of the program established under this part with appropriate programs authorized by the Economic Opportunity Act of 1964 and any other existing Federal energy programs which provide related assistance programs.

(f) The Secretary, after consultation with the Secretary of the Department of Energy, the Director of the Community Services Administration, the Secretary of Housing and Urban Development and the Secretary of Agriculture, shall establish procedures for referrals for participation in Federal weatherization programs under section 328(b)(15).

(g) The Secretary, in cooperation with such other agencies as may be appropriate, shall develop and implement the capacity for estimating total annual energy expenditures of low-income households in each State. The Secretary shall submit to the Congress his estimates pursuant to this subsection together with a description of the manner in which they were determined prior to the beginning of each calendar year starting with 1981.

On page 92, line 11, delete "December 31" and insert in lieu thereof "September 30".

Mr. LONG. Mr. President, this matter was discussed on yesterday evening. The Senator from Alaska wanted to be sure he would have the right to offer an amendment to the committee amendment.

Of course, that is his right and it will be in order to consider it if he wishes to offer it, although I hope very much the Senate will make very few changes in what it did yesterday. Because, having worked diligently on the matter for 3 days and considered all aspects of it, one would think the Senate would not want to reopen the compromise that was made except to correct some obvious unintended hardship which it failed to cover.

Mr. President, last April the President announced his program to remove price controls from domestic crude oil. This decision will end more than 8 years of complex regulation of the one industry which is doing more than any other industry to solve the Nation's energy problem. Decontrol will end the Government program of allocations which caused long gasoline lines last summer. It will end the system of arbitrarily low prices that has discouraged oil exploration and development and encouraged wasteful consumption habits.

The recent price increase of the OPEC cartel, however, mean that decontrol will result in large increases in oil industry profits. If the entire rise in oil prices resulting from decontrol is allowed to remain with the oil producers, the American public may not accept decontrol. The President, therefore, as part of his decontrol program, proposed a windfall profit tax on oil producers to recapture some of these revenues. Because decontrol is so absolutely necessary to achieve greater domestic oil production, and to encourage conservation, I have supported the President's tax proposal.

Any such windfall profit tax must be a compromise between revenue considerations and the need to provide the proper production incentives. It should have a low tax on those kinds of oil whose production will increase in response to a lower tax rate and a higher tax on oil whose production is less likely to respond. Greater concern with production is a major difference between the Finance Committee substitute and the House bill.

Achieving the proper balance between revenue needs and production incentives requires some difficult decisions. Reasonable people will differ about how best to create such a balance. What the Nation desperately needs, however, is a consensus that will appeal to a broad spectrum of opinion and, thereby, end the divisive argument over oil pricing. The fact that this bill was ordered reported by a vote of 15 to 1 is evidence that the committee has succeeded in reaching a good compromise.

Also, a windfall profit tax should be part of an overall package that deals with the energy problem—by encouraging conservation and production of alternate energy sources and by helping lower-income people cope with high energy prices. The Finance Committee substitute, unlike the House bill, is such an overall package.

OVERVIEW

The committee substiute is a 5-part response to our energy challenges. First, the windfall profit tax will allow the President to go forward with decontrol. Under the substitute, however, part of the revenue that would have been raised by the House bill is used to encourage the maximum development and recovery of domestic crude oil. This is accomplished by exemptions for newly discovered oil, incremental tertiary production, heavy oil, and certain stripper oil produced by independent producers. Production of oil in these categories will be significantly increased by these exemptions.

The second part of the committee substitute is a program of tax incentives for residential energy conservation. These include tax credits for heat pumps, wood stoves, and energy saving furnaces. There is also a substantial increase in the tax credit for solar energy investments.

The third part of the committee substitute is a package of tax incentives for businesses to encourage energy conservation and production of a broad range of alternative energy sources. These incentives include investment credits, production credits, and tax exemption for certain energy-related industrial development bonds.

The fourth part of the committee's energy program addresses the economic hardships caused by high energy prices. The committee substitute provides for payments to low-income persons and for tax credits to individuals based on home heating costs. One-half of the net revenue raised by the windfall profit tax is set aside for this purpose.

The fifth part of the program establishes a trust fund to finance spending or energy efficient transportation.

Taken together, these five initiatives form the basis of a comprehensive, sound energy policy for the Nation. The committee substitute addresses the need to increase domestic oil production, to decrease fuel consumption, to stimulate alternate forms of energy production, and to relieve the burden of high energy costs on the poor.

The committee substitute also includes two significant general tax provisions. It repeals carryover basis, and it sets aside funds in a taxpayer trust fund to finance a payroll tax freeze in 1981.

The windfall profit tax, after allowing for the production-related exemptions and other changes made to the House bill, will raise $138.2 billion between 1980 and 1990. This will include $4.6 billion in calendar year 1980 and $2.3 billion in fiscal year 1980. Those who criticize the committee substitute for being too weak should realize that this is the largest tax increase ever levied on a single American industry.

Changes in the residential energy credits provided by the committee substitute will cost $8.3 billion between 1980 and 1990. This will include $408 million in calendar year 1980 and $131 million in fiscal year 1980. The business energy incentives will cost $15 billion over the next 11 years, $174 million in calendar year 1980, and $131 million in fiscal year 1980.

Budget outlays and heating fuel tax credits provided in the committee substitute to assist lower income users of residential energy will cost $2.4 billion in fiscal year 1980, $4.9 billion in fiscal year 1981, and $4.7 billion in fiscal year 1982.

Repeal of carryover basis will reduce revenues $4.3 billion between 1980 and 1990.

Let me review the major features of the committee substitute.

WINDFALL PROFIT TAX

The windfall profit tax is an excise, or severance, tax on domestically produced crude oil. The burden falls almost entirely on the producer.

Taxable oil is taxed in one of three tiers. For each tier the taxable windfall profit is the difference between the selling price of the oil and a base price; however, there is a deduction for the State severance tax on the windfall profit amount. The base price averages $6 a barrel for tier 1, $13 for tier 2, and $15.30 for tier 3, adjusted for inflation in each case.

The tax rate applied to the windfall profit is 75 percent for tier 1 and 60 percent for tiers 2 and 3. Tier 1 consists of oil that would have been lower tier, or "old," oil had previous price controls been continued, and it gradually phases into tier 2. Tier 2 consists of oil that would have been upper tier, or "new," oil under the old price control regulations, plus some special categories like marginal and high water-cut oil. Tier 3 is stripper oil.

There are exemptions from the tax for newly discovered oil, incremental tertiary oil, heavy oil, up to 1,000 barrels per day of stripper oil produced by independent producers, and oil owned by State and local governments, Indian tribes, schools, and medical institutions.

Three basic principles underlie the structure of the windfall profit tax in the committee substitute. First, the committee has attempted to impose a lighter tax burden on categories of oil whose production will increase significantly in response to the tax reduction and a heavier tax burden on categories where the response is not likely to be as great. Second, the tax burden is higher on those categories of oil where the windfall price increase from decontrol is greatest. Third, there are exemptions for cases where income from oil production is dedicated to public purposes.

The committee substitute has been criticized for raising less revenue than the house bill. I think, however, that a careful analysis will justify the committee's decisions. Over the period 1980 to 1990, the House bill would raise $277 billion, compared to $138 billion in the committee substitute. Of the $139 billion difference, $71 billion, more than half, results from the exemption for newly discovered oil—a category from which there can be no windfall because the oil has not yet been discovered.

Another $18 billion of the difference comes from changes in the treatment of Alaskan oil and heavy oil, which were recommended by President Carter because he felt they would encourage production, and I believe he was correct. Sixteen billion dollars of the difference is for the exemption for stripper oil owned by independent producers, which has not been under price controls and receives absolutely no windfall from decontrol. Twenty-seven billion dollars results from the exemption for tertiary oil, a category where costs and risks are extremely high.

These provisions should be examined on their merits, not simply by looking at the revenue estimates.

For previously discovered oil, the committee substitute is tougher than the administration's proposal. The tax rate on old oil—tier 1—is 75 percent. The tier 2 tax rate is 60 percent. In contrast, President Carter proposed only a 50-percent tax rate. The Finance Committee's policy of raising the tax on the old oil and loosening the tax on new oil and other areas where costs are high, is equitable and is also good economics.

RESIDENTIAL ENERGY TAX CREDITS

To encourage greater conservation in the home, the committee substitute makes several adjustments to the residential conservation and solar energy tax credits enacted last year. Key among these changes are elimination of the principal residence test and extension of the credits to landlords. This will assure that any residence that can be economically retrofitted because of the credit will be given the tax incentive.

The other major change is an increase in the solar energy credit to 50 percent and extension of that credit through 1999. This provision should be a significant stimulus to the infant solar, wind, and geothermal industries of this country. These sources offer one of our best long-range hopes for a clean, economical alternative to foreign oil.

The committee substitute also amends existing law to correct omissions in last year's Energy Tax Act. For example, the committee substitute makes heat pumps, wood stoves, and certain furnaces eligible for the conservation credit.

BUSINESS TAX INCENTIVES

The principal business energy tax incentives in the committee substitute include provisions to encourage production of energy from renewable sources, development of alternative fuels and energy conservation.

Development of renewable energy sources is encouraged by an increase from 10 to 20 percent in the energy credit for solar, wind, and geothermal equipment, and equipment to burn or process nonwood biomass, as well as extension of these credits through 1990. Ocean thermal equipment and solar process heat equipment will also be eligible for this 20-percent credit. Hydroelectric energy production is encouraged by a 10-percent energy credit for small facilities, liberalized depreciation allowances, and approval of tax exempt industrial development bonds for hydroelectric property.

Production of energy from alternate fuel sources is encouraged by a $3 per barrel production tax credit for coal liquefaction and gasification, unconventional natural gas, oil shale, tar sands, gas produced from biomass, steam produced from solid agricultural byproducts and processed wood fuel.

In addition, the excise tax exemption for gasohol is replaced with a 40-cents-per-gallon refundable income tax credit for domestically produced alcohol, and a 10-cents-per-gallon credit for alcohol made from coal, if the alcohol is used or sold for use in gasohol. These changes in the gasohol tax incentive permits the incentive to be limited to domestic producers in a manner consistent with our trade agreements and remove the existing bias in favor of a 90-10 gasoline-alcohol mixture.

Last year's business energy credits are modified by extending certain of the credits to public utility property, and by providing a 10-percent energy credit for nonoil cogeneration equipment, indus-

trial heat pumps, alumina electrolytic cells, and petroleum coke and pitch equipment. A transition rule for credits that expire in 1982 is also provided. The regular investment credit is also modified to make all property eligible for the energy credit also eligible for the regular investment credit.

The committee has also modified its substitute to add an amendment to provide the 10-percent energy credit for intercity buses acquired to increase an operator's passenger capacity.

LOWER INCOME ASSISTANCE

An essential element of the committee's program is aid to lower income persons to help them cope with higher energy prices. Those of us who favor decontrol have a special obligation to limit adverse impacts on the poor.

Mr. President, a great deal has been said on that subject during the past few days. I will say merely that this bill provides slightly more than $3 billion in cash payments to SSI, AFDC, food stamp recipients, and other low-income people. The other is a $2 billion tax credit for individuals based on home heating costs.

Since the Senate has now acted on low-income energy assistance, I will be offering the Senate's position as a substitute for the Finance Committee provision for cash grants to low-income persons.

TRUST FUNDS

One-half of the net revenue from the windfall profit tax is to be put in a low-income energy assistance trust fund. This fund will finance the energy assistance programs in the committee substitute.

One-fourth of the net revenues from the tax, up to a maximum of $15 billion, is to be put in a transportation trust fund to finance programs for energy efficient transit.

In addition, general revenues from oil price decontrol are to be put in a taxpayer trust fund to finance a social security payroll tax freeze in 1981 at 1980 rate and wage base levels.

CARRYOVER BASIS

Under present law, people who inherit appreciated property will have to carryover the cost basis of the decedent. This rule is excessively complicated and should not take effect. To say the least, Mr. President, I believe this rule to be extremely unpopular with taxpayers. As a result, heirs will continue to use as their cost basis the value of the property when they inherit it.

CONCLUSION

In conclusion, Mr. President, the Finance Committee substitute is a balanced package that enables the President to go forward with decontrol while preserving the incentives to find and produce more oil. It also provides for greater conservation, and production of alternate fuels. It gives assistance to the low- and middle-income persons on whom high energy prices place a severe burden. I urge the Senate to adopt the Finance Committee substitute.

CORRECTION OF OMISSION IN FINANCE COMMITTEE REPORT

Mr. President, on page 135 of the Finance Committee report on the windfall profit tax bill, at the end of the additional views of a number of committee members, there should have appeared the following note, inadvertently omitted in the printing of the report:

NOTE.—Senators RIBICOFF, NELSON, MOYNIHAN, BAUCUS, BRADLEY, ROTH, DANFORTH, CHAFEE, HEINZ, and DURENBERGER have separate, additional views which go beyond the above statement.

Mr. DOLE and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I listened with interest to the distinguished chairman of the committee. I say to those who have not had the opportunity—I guess that is the correct word—to attend any of the 28 days we had in executive session on this bill, 80-some hours as I recall, it might be easy to find flaws and find fault, but I just say having been there all but 2 of those 80-some hours and having gone up and down the hill several times, as we all do in our own committees, the Senator from Kansas will just indicate that I believe the Finance Committee, despite the differences we have had on the Republican side and the Democratic side, both sides have come up with a good product, maybe not perfect in the eyes of some. I say to those, including Governor Reagan who cannot seem to come down on this particular issue, that there will be a tax. There should be a tax. I believe the industry in this country will accept a tax. I believe the Finance Committee has structured a tax that will properly address the needs as far as energy is concerned and also properly provide some incentive for the industry so we could go out and produce some more oil and gas and alternate fuels.

The Senator from Kansas will just suggest that everyone on the committee, Republicans and Democrats, have had a lot of input in the final product. There was total agreement in many areas. There was less agreement in other areas. And there was always the question of who came from producing States and who came from nonproducing States.

I am proud to come from a producing State where the average well produces 3.4 barrels a day, not very much, but we are happy to have it in the State of Kansas. It employs 15,000 to 20,000 people. It pales by comparison to Alaska wells that produce about 10,000 barrels per day. But in the State of Kansas we produce on an annual basis about 56 million barrels, which is enough to supply this country's import needs for about 1 week, not very much, but enough that we want to preserve it. We do not want to destroy the independent producer in my State and other States even though the amount of production is very, very small.

I am certain we are all going to have plenty of time to debate all the different issues, and I know there will be efforts to double the tax, triple the tax, take away all the profits, maybe even nationalize the industry. Who knows what may be dreamed up on this floor in the next 2 weeks?

I suggest that the recent crisis in Iran certainly adds to the importance of our serious consideration, positive consideration, and objective consideration of this or any other measure.

But I say to my fellow Republicans, I know there is a tendency to indicate that there should not be any tax, that there are not any windfalls, that we ought to speak for big oil. Not many have that view but some. I do not know what big oil is but it must be bigger than we have in Kansas. I just happened to read this story in the Post that Governor Reagan was trying to decide on how to come down on the windfall profit tax.

First, I suggest he read the committee report because it is an excellent job done by the combined efforts of the Tax Committee and the Finance Committee staffs. It would be very helpful for anyone to read that report.

I do not know of a bigger revenue-producing bill that has come to this floor in history. We are talking about a bill that may produce well over $500 billion. Now the Senator from Louisiana has been here longer than I have and is chairman of the committee. I do not know of any other bill that will produce this much revenue. Does the Senator from Louisiana?

Mr. LONG. I would put it this way: this is the biggest tax ever imposed on any industry.

Mr. DOLE. Right. I say to all those who write the stories, and some never showed up at the hearings, we are not talking about a small tax. We are talking about a $500 billion increase in tax on one industry and I used this House bill provision that says in no event shall the tax exceed 100 percent of net income. It is not how it works, but it is a pretty good line in a speech because many people in business sort of wake up when you mention 100 percent of net income. That is a pretty heavy tax.

But the Senator from Kansas understands that the easiest target in town next to Congress is the oil industry and they are an easy target, and you can just bleed them by the barrel.

We can tax and tax and tax the industry right out of existence, and then we can be more dependent on Iran and other stable countries for our supply. [Laughter.]

What may be happening in Iran today could be happening somewhere else next week or next month or next year. So I would just caution my colleagues in an effort to—I do not say—intentionally destroy the industry—that is not anyones purpose—but in the effort to increase the tax or double the tax or triple the tax we ought to keep this in mind.

There are some politics in this, not Republican or Democrat, but a lot of Presidential politics in this. I assume Senator KENNEDY will be visiting the floor from time to time with amendments. My minority leader may be visiting the floor from time to time with

amendments, and I will be here to see that they are properly considered.

I would be happy to entertain any amendments from Governor Connally, from Gov. Jerry Brown, from Governor Reagan, and Harold Stassen, because I am certain everyone is focusing on this with a great deal of interest, because everyone can imagine being in the White House with all this money, which might happen if you are in the White House in the eighties, if you are fortunate or unfortunate enough to be the winner.

So it just seems to me there never has been a bill that deserves more serious consideration.

I believe, and I think the chairman would agree, that on balance the Senate Committee on Finance did very well. It has been almost 3 years since the energy crisis was declared by the administration to be the moral equivalent of war. Since that time, the country has failed to come to grips with our energy problems. We are doing a lot of things now in Congress. We are talking about an $88 billion corporation. That is $88 billion, $20 billion in the first phase and $68 billion in the second phase.

We are talking about billions and billions of dollars in this proposal for tax credits to stimulate production, to stimulate conservation. So it seems to me it is fair to say that Congress is really moving.

I hope the final product will mean more energy at lower prices, and more conservation in America. But there is no guarantee of that. There is no guarantee of that with the heavy tax imposed by the Senate Committee on Finance or with the heavier tax imposed by the House itself or the House Ways and Means Committee or some final product that may come out of the conference committee.

There is no question but that we have a problem, we have an energy shortfall. Much of it is due to Government policies of price control and excessive regulation. I guess the best political stance is to be for tight controls and low prices. We do not have the product, but if you have the product you could buy it at a low cost. That may make some political sense but I am not certain it really solves the energy problem.

We have foreign political instability and excess domestic demand that continue to threaten the very economic and social fiber of the country. The most recent developments in Iran are certainly disturbing. It does remain clear that we have no comprehensive policy.

I indicate, as the chairman has indicated, and I confess at the outset, that anybody who has any production in his State is somehow suspect. It does not have to be very much, but if we have any at all we should not be dealing with these issues because we are protecting an interest in our State.

Mr. LONG addressed the Chair.

(Mr. JOHNSTON assumed the chair.)

Mr. DOLE. Mr. President, I would be happy to yield to the Senator from Louisiana.

Mr. LONG. Along the lines the Senator was discussing, I have a chart here that was prepared by the Joint Tax Committee staff, and I believe the Treasury agrees with these figures.

What they show is that under the House-passed bill, estimated gross additional income to the industry by virtue of decontrol would be $994 billion—and this is over the 1980–90 period. The House bill would leave the industry $166.3 billion after taxes. That would be roughly 17 percent. So the Government takes 83 percent. Eighty-three percent, leaving 17 percent of this money to go back into producing more energy.

Since the regulations and gas lines of 1973, the Government policy has been to tax, tax, tax; regulate, regulate, regulate; talk, talk, talk.

All right. So here is the House-passed bill, where you begin to move away from some of the regulation and toward decontrol, but the tax would take 83 percent for tax, tax, tax; regulate, regulate, regulate; talk, talk, talk.

Under the committee bill the chart shows that out of a gross revenue estimated to be $1.025 trillion by 1990, the industry would be permitted to keep $313 billion or about 30 percent.

So when people talk about the profits of the industry, one should keep in mind that even under the committee bill the Government is going to take 70 percent. It would spend it in social welfare programs, and it would spend it in transportation and other areas the Government might think wise. But all this money is being taken away from production. Even under the committee bill, 70 percent of this money is taken away from production and put into Government spending programs.

One perceptive young man told someone who was doing a fine job for me as a press aide that he hoped the windfall tax would be defeated. This press man working for me—I am pleased to say a very able, talented man—said, "Why would you say that? You do not have any interest in oil." He said, "Because if those companies get the money they are going to spend it on producing more oil." He said, "If the Government takes it, the Government is going to fritter that money away in social welfare programs." Some of these programs are like what we just got through working on yesterday and have in the bill, programs to help people pay their heating costs. That is a noble program. The Senator voted for it, and so did I. The Senator played a very major part, he led the way to resolve the differences between the contending sides.

But, as he knows, worthy as that program is, it is going to increase the consumption of energy, it is not going to decrease it. It is not going to encourage conservation; it is going to pay money to low-income people so that they can buy more energy. I am for that. I am for easing the burden, spreading the burden evenly among the people to the extent we can. I voted for that and I am proud I did.

But a major priority should be on producing more energy. The independents, for example, testified they are putting back into production, into getting more oil, 103 percent of their gross revenue. They presented their facts and figures to back that up, and I have yet to see that challenged, even though it was discussed many times in the open committee meetings.

The Senator, I am sure, feels pretty much the way I feel, that when we take 70 percent of the money for the Government to use, for whatever purpose the Government finds in the national interest—largely we are thinking in terms of social welfare programs—and take 70 percent away from the producers, and only leave them 30 percent to put into protection, that itself is a heavy burden on the producers, those who go out and find more oil.

I ask unanimous consent to have printed in the RECORD at the conclusion of the Senator's statement this chart showing how the money, what percent the industry is permitted to keep, be printed in the RECORD.

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

(See exhibit 1.)

Mr. DOLE. I think that is an excellent suggestion.

I think the Senator from Louisiana knows that the headlines will be in favor of those who want to double and treble the tax, because that is progress, I guess, if we really want to destroy an industry. I believe there are enough Senators on this floor, on both sides of the aisle, who will resist the efforts of some Senator, or the administration, to improve new taxes on newly discovered oil, or undiscovered oil. I ask the Senator, how can you have a windfall profit tax on oil you have not already discovered?

But from what I read, there may be a special administration tax proposed on new oil, on incremental tertiary oil, or even on stripper wells.

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

Mr. DOLE. Yes.

Mr. LONG. My understanding is that before oil was discovered in the North Sea, there were more than 400 wells drilled out there by people trying to find something and only after 400 wells did they find something worth developing. Now they have found a little gas in the Atlantic, but for all we know there may be the most fabulous fields in the world to be discovered beneath the Atlantic Ocean. We have not drilled any 400 wells out there yet. We have drilled some wells, at great expense, but no 400 wells.

So far, with what little has been discovered there, selling it at $1,000 a barrel, or if what little gas is being discovered were selling at $250 a thousand cubic feet, 100 times what we are now paying, those oil producers still would not get their money back. It would take some very fabulous discoveries out there, even with the high prices we experience at this moment, to justify the risk that has been taken; and those of us who believe in the American free market system believe that if all we are paying someone is what we would pay Iran for their oil, if they would sell it, or Saudi Arabia, or someone like Nigeria, Libya, or whoever, it serves a purpose to provide adequate incentive, so that under a free market system one would be encouraged to find more oil.

EXHIBIT 1

INCREASE IN OIL RECEIPTS AND TAXES UNDER DECONTROL WITH THE HOUSE-PASSED WINDFALL PROFIT TAX COMPARED TO THE FINANCE COMMITTEE SUBSTITUTE

[Calendar years 1979-90; billions of dollars]

	House-passed bill	Committee substitute
Gross increase in oil receipts	994.4	1,025.1
Costs of production induced by decontrol	−79.6	−87.4
Net increase in oil receipts before tax	914.7	937.7
Taxes and royalties on receipts before windfall profit tax:		
Increase in Federal royalties	17.5	18.1
Increase in State royalties	32.5	33.1
Increase in State income and severance taxes	101.2	103.7
Increase in Federal income tax	332.0	340.2
Net increase in oil receipts after taxes	431.7	442.6
Windfall profit tax:		
Net windfall profit tax	276.8	138.2
Decrease in State income tax due to deductibility	19.5	9.2
Decrease in Federal tax receipts due to reduced production	8.1	
Net increase in oil receipts after windfall profit tax	166.3	313.6

Mr. DOLE. I thank the distinguished chairman of the Finance Committee. Following along the line of what the Chairman suggested, if there were no windfall profit tax, the Federal Government would receive from an incremental $100, $45.02 in revenue from noncorporate producers and $39.37 from corporate producers. The State would receive on new revenue $13.16 from noncorporate producers and $14.42 from corporate producers. Therefore, with no windfall tax, $40.56 would be left for the corporate producers, and $47.47 for the noncorporate producers. With a 60-percent windfall profit tax on old oil, noting that the Finance Committee increased the tax rate to 75 percent, I hope that the Senate will roll back the 60 percent on the Senate floor. From the noncorporate producer, the Federal Government would receive $76.56 out of the $100, and the corporate producer would pay $68.25 to the Federal Government. Noncorporate and corporate producers would each pay about $13 to the State. Thus, even with the 60-percent rate, which is lower than the rate of 75 percent which the committee recommended, $20.61 would be left to the noncorporate producer, and $18.14 to the corporate producer.

If the Senate is going to discuss a so-called windfall profit tax, which will raise, under the committee bill, about $140 billion in the next 10 years in net windfall profits tax we will add a great deal of money to the Treasury. This is in addition to new money from the corporate income tax. There will be a tax. I say to my friends on both sides who do not want any tax, who are going to filibuster any tax that I do not think it is practical. I do not think there is any chance of achieving a filibuster. Even though the industry would prefer no tax, there is some justification for imposing a tax.

But our obligation is to leave some incentive for more energy production. That is why new oil was exempted from the tax by the Finance Committee. That is why, in an effort to preserve the small producing stripper wells, the committee reported an amendment, that protects the stripper wells producing 10 barrels of oil or less a day, where an independent is the operator. Such wells account for about 14 percent of our production.

The administration itself suggested the exemption of heavy oil, so it is not just a member on the committee who suggested that exemption from the tax. Incremental tertiary is exempt. I have no quarrel with some tax on so-called tier 1 oil and so-called tier 2 oil, but it seems to me that in the committee we may have gone a little far on so-called tier 1 or old oil.

The bill presented to the Senate today represents many weeks of work by the Senate Finance Committee. The committee held 28 days of executive sessions. As the ranking member of the committee, I wish to thank the distinguished chairman for all the courtesies extended to the Republican members of the committee and compliment him on the substance contained in the committee substitute. The committee version is one which the Senator from Kansas can and will support. Any major deviation from the committee bill will cause me to reconsider my position.

ENERGY CRISIS

Mr. President, no issue has been more confusing to Congress than energy.

It has been almost 3 years since the energy crisis was declared by the administration to be the moral equivalent of war. Since that time, the country has failed to come to grips with our energy problem. Instead, national energy policy has vacillated between leaderless drift and misguided emotionalism.

There is no question that the United States is facing a serious energy shortfall. Domestic crude production has been sluggish in recent years, much of it due to Government policies of price control and excessive regulation. Foreign political instability and excess domestic demand have and continue to threaten the very economic and social fiber of the country; the most recent developments in Iran are certainly disturbing. It remains clear that the United States has no comprehensive energy program and what program it does have is based on Government regulation, Government control, and Government manipulation.

NOT A PROFITS TAX

The administration has proposed a so-called windfall profit tax on the energy industry. The Senator from Kansas wants to be very clear that the committee substitute is not a tax on profits. Nowhere is the term, nor even the concept, of profits mentioned. Rather, the tax is an extremely complicated excise tax imposed at the wellhead on crude oil.

Even though domestic oil is under a phased price decontrol program, it is misleading to talk about "total price decontrol" of domestically produced petroleum. The windfall profit tax will perpetuate domestic controls through the tax system.

FEDERAL WINDFALL

Mr. President, the magnitude of this bill must not be underestimated. If one thing is certain, the crude oil tax of 1979 will generate enormous revenues for the Federal Government. This is clearly the largest tax bill which has ever been considered by Congress. Its impact will change the course of economic and social events of the country for decades to come. In the next 10 years, at least $138 billion will accrue to the Federal Government from the net windfall profit tax. This is in addition to the almost $400 billion that will be added to the Treasury because of the Federal income tax and increased royalty payments. Thus, the Federal Government will be the greatest beneficiary of any windfall profits that might be generated.

HOUSE BILL

The bill approved by the House of Representatives is harsh. It is more or less a rubber stamp of the administration's ill-conceived program, which will needlessly reduce domestic production. The action taken by the Finance Committee to reshape the bill makes it barely acceptable.

FINANCE COMMITTEE

Mr. President, the Finance Committee retained the basic structure of the House bill. However, the committee recognized, unlike the House, the need to minimize disincentives to produce more energy.

The committee took the following action which must be preserved:

Exempted from the tax newly discovered oil. In my opinion, this is the most significant provision in the bill. It is inconceivable there could be tax on oil not yet discovered. An exemption for newly discovered will maximize the incentive to explore and develop oil production. A tax on newly discovered is inconsistent with the decontrol of oil. A tax on it will deny to the American public reserves that could be produced at a free market price.

Exempted incremental tertiary production: Oil produced from tertiary or enhanced oil recovery projects should play a vital role in our total domestic energy picture. With the proper economic incentives, it is possible to double our current domestic reserves within a short period of time. The production-oriented action taken by the committee will help foster these infant recovery techniques and help produce oil that has been locked in the ground for years because primary recovery methods are proving inadequate.

Exempted from the tax the first 1,000 barrels of stripper oil produced by an independent: Many stripper wells are operated by the small independent producers, not major oil companies. These small producers tend to operate on tiny profit margins and, hence, these wells are quick to react to adverse economics. The so-called windfall profit tax would result in the plugging and abandoning of thousands of wells with producible oil forever locked within them. Since these

wells serve as the principal resources for future potential enhanced recovery, this domestic crude oil source for the U.S. consumer will dry up rapidly if incentives are taxed away.

Mr. President, the committee has taken a position with regard to the tier 1 tax rate which I did not support. I hope the 75-percent tax rate on old oil could be modified.

Although my State of Kansas is a producing State, it has little old oil. Nevertheless, old oil is the backbone of our domestic production. Lower tier oil constitutes approximately one-third of our daily supply. Production of primary and secondary recovery oil in old oil fields has in many cases reached a point where the expenses of producing the oil are extremely high when compared with the revenues received from the market price. A heavy tax on old oil will cause premature abandonment of important oil production. At the very least, I hope the 75 percent tax rate will not be extended to other portions of the bill. It would be a mistake and a step backwards. A higher tax rate means that the American consumer will pay higher prices but can expect no more energy.

Mr. President, the Finance Committee's bill is complicated. It is, however, one of the most important domestic pieces of legislation ever considered by Congress. I hope we will turn toward private enterprise and away from more Government regulation.

I know there will be a lot of opportunities to speak on this floor for weeks; I assume it could take that long. I hope not, but it could.

I would also say, as I started to say earlier, that anyone who has production in his State, is suspect. There are some who think we have no right to stand up and defend an economic interest in our States.

Even in the State of Kansas, where the production is less than 3 barrels per well, and around 56 million barrels a year—it is in the interest of Kansas, and in the interest of the Nation, to preserve that production. The State of Kansas does not have much old oil, so I guess I could say, "Why not just tax old oil? We do not have any old oil in Kansas."

But old oil, or lower tier oil, constitutes about one-third of our daily supply. Production of primary and secondary recovery oil in old fields has in many cases reached a point where the expenses of producing the oil are extremely high when compared with the revenues received from the market price. A heavy tax on old oil will cause premature abandonment of important oil production. I am certain that no one wants that, and that no one will argue that that is what they seek to do when they seek to increase the taxes, but that will happen. I would hope that we could reduce the 75-percent tax rate, or change the declining curve on tier 1, to make that a little bit more equitable.

I would also suggest there will be numerous amendments to this bill perhaps, 50, 100, 200 offered during the course of the consideration of this legislation.

I also wish to touch briefly on the repeal of carryover basis which is contained in the committee bill. Carryover basis was added without any hearings in the 1976 Tax Reform Act. However because of the effect of carryover basis, the committee adopted an amendment sponsored by the Senator from Kansas and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) to repeal the carryover basis. The repeal of carryover basis has been discussed before and referred to by some, such as the distinguished Senator from Massachusetts (Mr. KENNEDY), as the "ripoff for the rich." Nothing is further from the truth.

But it would seem to me that carryover basis is an area that will be addressed.

I would ask that a description of carryover basis and what an adverse impact it has be printed in the RECORD at this point.

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

CARRYOVER BASIS

1. Recordkeeping.—Carryover basis will impose severe recordkeeping responsibilities and proof of basis problems on taxpayers. Certainly it is easier to reconstruct the basis of an asset with an individual alive to assist.

2. Liquidity.—Many estates do not have ample cash to pay the estate tax. Because of the effect of carryover, once an estate has to sell assets in order to pay the estate tax, a compounding tax liability is created.

3. Levels of taxation.—Under stepped-up basis there is no income tax liability upon the sale or other dispositions of the assets by the estate or the beneficiaries of the estate. Carryover creates an additional income tax. In some cases the tax liability can be characterized as ordinary income rather than capital gains.

4. Fiduciary responsibility.—There are too many unanswered questions on how carryover basis will affect fiduciaries. For example, how does the fiduciary dispose of an asset that has differing basis and thus differing tax liabilities?

5. Economic lock-in.—Carryover perpetuates rather than solves the economic lock-in problem. Economic lock-in is caused by a taxpayer holding an asset until death to avoid tax on the appreciation. The Revenue Act of 1978, which lowered capital gains tax, has greatly diminished the lock-in effect. Carryover basis provides an incentive for the beneficiaries of an estate to hold it because under stepped-up, death purges all lock-in because the assets receive a new basis.

6. Equity.—Treasury has complained that the stepped-up system creates an inequitable tax result because decedents who hold assets are not required to pay income tax, whereas dispositions during lifetime are subject to tax. Of course, lifetime transfers are a voluntary effort. It is more of a problem to be discussed in law review articles.

7. Inflation.—Carryover basis is no more than an attempt to tax inflationary gains. It should be noted that the full value of the asset is included in the gross estate for estate purposes. There are some that feel that stepped-up basis is a way to equalize increase in value of assets due to inflation. This is particularly important to small businesses and farms that are held for long periods of time and subject to large inflationary increases.

8. Revenue.—The Treasury has stated in testimony that revenue considerations are not important.

9. Burden of change.—Congress should put the burden on Treasury to change stepped-up basis. Carryover basis was a mistake and should be repealed.

AMENDMENT NO. 627

Mr. DOLE. There is also another matter that I think can be resolved—dealing with the so-called independent contractor issue. I send to the desk an amendment and ask that it be printed. There is an effort, again by the Treasury Department, to make all those engaged in direct selling, insurance business, realtors, book salesmen, and others, to classify them employees for employment tax purposes, even though the workers have been independent contractors for years and years.

Again, many of us on the committee and in the Senate believe that is not the direction to go and we hoped to extend the moratorium contained in the 1978 Revenue Act for 1 more year.

I ask unanimous consent that that amendment be printed in the RECORD and I will be offering that amendment at the appropriate time.

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

AMENDMENT NO. 627

At the appropriate place in the bill insert new section ——; IN GENERAL.— Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980) is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

Prohibition against regulations and rulings on employment status.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

● Mr. DOMENICI. Mr. President, one of the dilemma's of a period of high inflation such as we are experiencing today is similar to that experienced by the doughnut maker. If you try to skimp by making the hole larger, it takes more dough to get around it.

In the average household, the same problem surfaces in regard to savings accounts. With double-digit inflation there is no incentive for a family to have a savings account. Such an account, including the interest paid by the bank, diminishes in real dollar terms a percentage which is determined by subtracting the percent of interest from the extent of inflation.

In terms of debt credit the opposite incentive exists. Buy now and pay back later with cheaper dollars. And because of inflation whatever you purchase today will cost more tomorrow anyway. It almost seems prudent to withdraw all liquid assets and invest them in debt.

Statistics show these two trends to be happening today. Americans are deeper

in debt in large numbers than ever before. Savings accounts in America also average $1,500 per person less than in European countries.

Mr. President, this amendment would provide a sound reason for maintaining a savings account.

This will allow the average family the opportunity to have a savings account—always a prudent investment to fall back on—and will also increase the capital available to banks.

Mr. President, every American family should have a small nest egg. It is a practical necessity and economically desirable.●

AMENDMENT NO. 628

Mr. DOLE. In addition, the Senator from Kansas has thought for sometime there was a way to satisfy the great majority of those who want to produce more energy. No one, at least as far as I know, believes that you do not have a right to make a profit in this country.

It seems to the Senator from Kansas that one way to address the issue would have been to require a plowback of revenues above a certain level of profits, if you are in the oil business to insure more production. This was an idea that the industry supported 2 years ago, but, for some reason, they no longer feel that it has a great deal of merit.

The Senator from Kansas believes the great majority of Americans might find this concept acceptable if they, in fact, understood and knew if industry profits reached a certain level, excess would be reinvested into the exploration for oil, gas, or some alternate source of energy.

I ask unanimous consent that that amendment be printed at this point in the RECORD. My amendment provides a production incentive credit against the tax for reinvestment along with an explanation of the amendment. There is still a very good chance that when the Senate completes this bill the conference could come out with some plowback provisions.

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

AMENDMENT NO. 628

On page 70, between lines 14 and 15, insert the following:

"SEC. 4994. PRODUCTION INCENTIVE CREDIT.

"(a) There shall be allowed to each person liable for the tax imposed by section 4986 for any taxable period, as a credit against such tax, an amount equal to one-third of the excess of the qualified development costs of such person for the taxable period over the production base of such person for such taxable period.

"(b) LIMITATION ON AND CARRYOVER OF CREDIT.—

"(1) LIMITATION.—The amount of the credit allowed under subsection (a) for any taxable period shall not exceed the amount of the tax imposed under section 4986 for such taxable period.

"(2) CARRYOVER OF EXCESS CREDIT.—If the amount of the credit determined under subsection (a) for any taxable period exceeds the limitation provided by paragraph (1) for such taxable period, 50 percent of the amount of such excess shall be carried to the succeeding taxable period and added to the credit allowed under subsection (a) for such succeeding taxable period.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED DEVELOPMENT COSTS.—The term 'qualified development costs' means the amount paid or incurred by the first seller during the taxable period (with respect to areas within the United States or a possession of the United States) for exploration for, and development of, oil and gas, including, but not limited to—

"(A) intangible drilling and development costs (within the meaning of section 263 (c)),

"(B) geological and geophysical costs,

"(C) expenditures for the construction, erection, and reconstruction of depreciable assets used for the development of oil (including oil shale and tar sands),

"(D) expenditures for lease equipment, and

"(L) other costs for the drilling and equipping of wells,

but does not include costs for lease or land acquisition.

"(2) PRODUCTION BASE.—The term 'production base' means an amount equal to the excess of—

"(A) the average of the qualified development costs during the highest 12 out of the 20 taxable periods preceding the taxable period for which the determination is being made, over

"(B) one-half of the qualified development costs during such taxable period for exploration for, and development of—

"(i) certain Alaskan oil, and

"(ii) crude oil from Continental Shelf areas (within the meaning of section 638).

For purposes of determining under subparagraph (A) the qualified development costs for any period before January 1, 1980, each calendar quarter shall be treated as a taxable period.

On page 79, line 15, strike out "4994" and insert "4995".

On page 80, line 3, strike out "4995" and insert "4996".

On page 88, line 16, strike out "or 4992 (f), (g), or (h)" and insert in lieu thereof "4992 (f), (g), or (h), or 4994".

On page 89, lines 7 and 8, strike out "or 4992 (f), (g), or (h)" and insert in lieu thereof "4992 (f), (g), or (h), or 4994".

Mr. DOLE. The Senator from Kansas knows President Carter has indicated his opposition to plowback—I do not recall the exact term he used. However, I remember that he did not like it.

Everyone who is engaged in the political arena—and certainly everybody has that right and privilege to speak his mind, but I hope we could stick to the facts. Again, the way to get a reaction in America is to say there is not any shortage of energy and then condemn everybody who produces energy. Somehow make it appear to the voters of this country that if it were not for big oil or little oil, we would not have any problem. That may be good politics, but it is not very good energy policy. The temptation is great. The temptation is great for all of those, particularly those who seek the Presidency.

But it would seem to me that in our discussion of this legislation, which is probably going to have a far-reaching effect, more than any bill that this Senator can recall in my 19 years in the Congress, that we should approach the problem as objectively as we can, understanding that some people come from regions where there is no oil or gas products. However, remembering the States still have people who are concerned about keeping warm in the wintertime, concerned about energy independence, and concerned about domestic energy production.

If we can approach the debate on that basis and talk about the problem and address it with facts, then perhaps this body can move rather quickly on this legislation.

Mr. President, on another matter, I would like to add the distinguished Senator from Delaware (Mr. ROTH) as a cosponsor of printed amendment No. 620, the so-called savings amendment.

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

Mr. DOLE. It is an amendment which provides a tax incentive for the people to save. This was introduced yesterday by four Republican Senators: Senators JAVITS, BAKER, DANFORTH, and the Senator from Kansas (Senator DOLE).

Under the amendment the interest earned on a savings account would be excluded from gross income up to a certain amount.

The amount excluded would be $100 per person and $200 per return—the same as the existing exclusion on dividends. In addition, up to $400 additional would be excluded for interest and dividends if the amounts are reinvested. Not only will people have more option in making use of their disposable income, but they will be encouraged to maintain part of their income in a form that will help provide for their future, and for our future as a nation. The amendment will channel funds into savings and investments, thereby providing the capital base we need for the future.

It seems to me that we have borrowed enough from the future. Now we have a chance to provide for the future and to give every American a good reason to invest in our economic development as a nation.

We all recognize that double-digit inflation is destroying the value of our citizens' savings and encouraging them to "buy now" rather than save. Recently, we acknowledged this problem by passing legislation that would phase out the limitation on the rate of interest that financial institutions can pay on savings accounts. Nevertheless, we continue to tax that interest in full, even though the rate of interest paid is usually far below the rate of inflation. It is no wonder that the savings rate in this country is one of the lowest in the world. Americans save only 6.5 percent of disposable income, compared to 25 percent for the Japanese, 15 percent for the west Gerans, and 13 percent for the British.

This low rate of savings means that industry does not have access to sufficient capital for modernization and expansion. Our industry suffers in international competition. The amendment we offer today addresses this problem. I am glad to say that the amendment is cosponsored by the distinguished minority leader, Senator BAKER, and by the distinguished Senator from Missouri (Mr. DANFORTH), and the senior Senator from New York (Mr. JAVITS), and the Senator from Delaware (Mr. ROTH).

The amendment we propose provides a tax incentive for people to save. Interest earned on a savings account would be

excluded from income, up to a certain amount. The amount excluded would be $100 per person and $200 per return—the same as the existing exclusion on dividends. In addition, up to $400 additional would be excluded for interest and dividends if the amounts are reinvested. Not only will people have more options in making use of their disposable income, but they will be encouraged to maintain part of their income in a form that will help provide for their future, and for our future as a nation. The amendment will channel funds into savings and investment, thereby providing the capital base we need for the future. We have borrowed enough from the future—now we have a chance to provide for the future, and to give every American a good reason to invest in our economic development as a nation.

This amendment will aid our taxpayers and aid our Nation. It is an idea we need now, when the wornout economic policies of the past are being discarded. It is innovative, but not radical. It is also a measure of fairness to our taxpayers, and I am pleased to present this amendment for the consideration of my colleagues.

I might add, as an aside, that this would be another way to address the present crisis in the housing industry, if we can encourage more people to save and make that money available for that industry.

The amendment would allow an incentive credit to offset the windfall profits tax if the increased revenues were put back into production. Essentially, a "production incentive credit" for qualified domestic exploration and development of oil and gas may be used to offset the amount of the energy tax. The production incentive credit is an amount equal to one-third of the "qualified development costs" over the "production base." This is to discourage the drilling of dry holes simply to reduce the tax liability. Qualified development costs include intangible drilling expenses, geological and geophysical costs, expenditures for the construction of depreciable assets used from the development of oil and oil shale, expenditures for lease equipment and other costs for the drilling and equipping wells. The production base is the average of the highest 3 out of the last 5 taxable years preceding the year for which the base determination is being made. The taxpayer in calculating the production base shall include only one-half of his qualified development costs for exploration and development of certain Alaskan oil and crude oil from the Continental Shelf areas.

Mr. DOLE. Mr. President, I am not certain what the schedule may be as far as whether there will be any action at all before Thanksgiving on this particular legislation. I have not discussed that with the chairman of the committee. But it would seem to me that, even if we did take up some amendments before Tuesday evening, we are looking at some time in December before the Senate can pass this bill. I do not know how anything else might be brought up on the Senate floor this year. This is not a responsibility of this Senator, but I would just suggest that it may mean that SALT II and other things might be delayed, because I just do not believe that we can conclude the debate and all the amendments on this legislation this soon.

Before I yield the floor I wish to say that the distinguished Senator from Delaware (Mr. ROTH) will continue his efforts to deal with the social security tax. He was successful in the Senate Finance Committee in establishing a trust fund. It would seem the responsibility is clear and the initiative is there. It has been provided by the distinguished Senator from Delaware (Mr. ROTH).

There are other Senators on both sides who have had a great deal of input in this legislation. I would hope that those members of the Senate Finance Committee who are on the floor and prepared to speak will be given the opportunity to do so, unless that meets with violent objection.

Mr. PACKWOOD. Would the Senator yield?

Mr. DOLE. I yield to the distinguished Senator from Oregon.

Mr. METZENBAUM. Mr. President, will the Senator——

Mr. DOLE. Does the Senator from Ohio have any problems with members of the Finance Committee speaking briefly before we yield the floor?

Mr. METZENBAUM. As a matter of fact, I think under the rules one Member may yield to another Member. I was on my feet prior to the recognition of the Senator from Kansas and the Senator from Kansas was recognized as the ranking member of the Finance Committee. However, I would like to be able to address myself to this subject. I think if all members of the Finance Committee are heard, I may not be able to be heard until much later.

Mr. DOLE. Well, I will only say that I believe Senator PACKWOOD would only want about 10 minutes and Senator ROTH, a member of the committee, wanted about 5 minutes.

Mr. PACKWOOD. I assure the Senator 7 minutes would be sufficient.

Mr. METZENBAUM. Is the Senator suggesting 6 or 7 minutes for Senator PACKWOOD and 5 minutes for Senator ROTH?

Mr. DOLE. I think that would be enough, though Senator ROTH is not in the Chamber. I ask that Senator PERCY be made a cosponsor of amendment No. 620. I ask unanimous consent that that be done.

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

Mr. DOLE. Mr. President, I will yield the floor at this time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. As we consider this bill, Mr. President, it is important to remember that what we are dealing with is an energy bill, not just an oil bill. What the Finance Committee was trying to do in the balancing of the taxes and the balancing of the credits was to find a way to produce the most energy possible, or to conserve the most energy possible.

In doing that, we had to make some long-term projections and estimates. We had to try to foresee how many people might put in solar hot water heaters in 1987 or 1988 if there was a 50-percent tax credit. Mr. President, that is a very speculative figure. There is no one who can exactly, with any assurance, tell us what the answer to that question is based upon a 50-percent credit.

Equally, there is no one who can tell you, Mr. President, how much more oil we will produce if we have a 3,000-barrel-a-day small producer exemption or a 1,000-barrel-a-day small producer exemption. No one can tell you how much additional oil will be produced because of that in 1987 or 1988.

All we can do is make the best estimates possible.

The interesting thing to note in many of the oil production estimates is the relatively slight difference in total production, varying all the way from continued controls on oil to the other end of no windfall profit tax and no controls.

In the area of old oil, there is almost no difference in the projections of how much oil will be produced under those circumstances.

In the area of new oil, tertiary oil, there are wider projections.

In many cases, however, in this bill, in considering some of the tax credits for alternative energy sources which would cause a loss of revenues to the Treasury, we had to weigh paying for those losses by a tax on oil, and we had to weigh how much the tax on oil might depress production as opposed to how much additional conservation or alternative energy might be produced by using the revenues from the tax on oil to offset the loss of revenues from the tax credits for solar or wind or geothermal. Admittedly the decision is not only speculative but it cuts across geographic lines.

If you are from a State that produces a great deal of oil, Mr. President, and the Finance Committee and perhaps subsequently the floor of the Senate decides to levy a tax higher than what you think desirable on the type of oil produced in your State, you are inclined to argue if that tax was not there we would produce 200,000 more barrels a day in this country.

That may be true. As I said earlier, no one can be sure but it may be true.

On the other hand, if the tax on that oil raises several billion dollars, and those revenues can be used to offset solar energy tax credits so that the same amount of money might produce, through solar energy, the equivalent of 400,000 barrels of oil a day, we have made a net increase in energy.

That is the balance that this committee had to try to strike all of the time.

There was, of course, one additional factor in our mind. People talk about the free market price of oil. We are not dealing with a free market. We are dealing with a monopoly market, a controlled price set basically by the OPEC countries. We are all fully aware that the bulk of the OPEC countries could make a very handsome profit on oil selling it at $5 a barrel.

So when in this debate you hear people talk about a market price, Mr. President, or a free market price, let us not confuse a competitive price in a free market with the kind of price that we now pay for oil.

Lastly, always keep in your mind, Mr. President, that even if we have a tax on oil or increase the tax on oil, and that might temporarily decrease production from certain kinds of oil fields, if we can produce more energy from other sources with that revenue that is a step in the right direction, and most importantly, it is a step that must be taken. One day, someday, oil will run out, and if we do not take the step now toward encouraging wind, solar, geothermal, and a variety of what are now called esoteric energy sources but which in a generation will be common energy sources, if we do not start that step today, it will be 1 day longer at the other end because sooner or later we have to start it.

I will conclude, Mr. President, by saying once again this bill was a balancing of interests. To those who are from oil-producing States and look at this bill solely as an oil bill, the taxes may seem higher on their constituents than they think justified. They may argue that it will depress the production of oil. On the other hand, that was not the only consideration that this committee could consider in trying to fashion this bill. Our estimates may not be right, they may not be exact, but I think in fairness we can say that no one else on this Senate floor has any better estimates of energy saved or production of oil increased or decreased than the facts that will be presented during this debate.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, as the Senate debates the windfall profit tax bill, I urge all of my colleagues to consider carefully the following points.

To date the debate has focused on those who want to "kick hell" out of big oil or those who want to "get in bed" with them. I fear we are being reduced to being either for big oil or against them. This is regrettable.

Unfortunately, the temptation to point with alarm and dismay is greater than the desire to consider and to act.

Taking a tough stand involves more than attacking big oil or defending the need for more production.

The question of whether it reduces our dependence on foreign oil should be the standard by which we measure a good program—not whether it will play in Iowa.

The next weeks should be less a platform for launching a Presidential campaign and more an opportunity to have a reasoned and responsible debate.

Simply put we need less rhetoric and more energy.

Mr. President, I regret that, 4 year ago, we had the opportunity to deal constructively with the problem of trying to make this Nation less reliant on foreign oil, but Presidential politics and the heat of the debate prevented Congress from coming up with a positive program.

Mr. President, I am not an energy expert but I am convinced that in developing a program, we have to recognize that we are running out of oil and gas. Having said this, it is nevertheless true that, for the next 10 to 15 years, we are going to be forced to rely essentially on domestic oil and gas and to develop policies that will strongly promote conservation. We are going to have to use this 10- to 15-year period and you can argue the number of years, to develop alternate sources of supply.

I, for one, am not willing to put all my eggs in one basket. I think, as we develop programs, we have to consider all alternatives—synfuel; other types of energy such as solar and gasohol; make our cars more efficient. I do not think any one approach can be said with certainty to be the correct one.

But I do hope that, as we move forward in the debate, the criterion on whether one votes for or against will be, as I said earlier, whether or not it helps this Nation become less dependent on foreign sources of oil and gas.

Mr. President, we have done a great deal in this legislation for all groups. We have exempted newly discovered oil from the tax, but we have raised the tax on old oil to 75 percent. We have provided incentives to develop alternate sources of energy such as shale, solar, and coal gasification. We have set up trust funds to promote mass transportation, to help the elderly and the poor. One of my principal concerns is that, until the closing days of consideration of this legislation in the Committee on Finance, very little was done to help the working people of America.

It is the working people of America who, frankly, are paying the higher price of oil and gas, who are paying the higher prices of inflation, who are paying the higher taxes resulting from social security increases and inflation. It seems to me imperative that we do something to recognize and help the middle class. It was for this reason that I proposed an amendment that would freeze, for 1 year the very substantial social security increases that are scheduled to go into effect in 1981.

I proposed that the way to do it was to use the increased revenue, windfall to the Federal Government, that was resulting from the decontrol of oil. I proposed that this extra income from taxes going to the Federal Government through decontrol should be used to freeze, in 1981, the higher payroll taxes that are now set to go into effect. I lost that amendment by a 10 to 10 vote, even though there was substantial agreement in the committee that my proposal had great merit.

As a result, I proposed that we create a taxpayer trust fund to pave the way to provide such relief to the working people. I am happy to say that that proposal was unanimously adopted by all Republicans and Democrats of the Committee on Finance.

Mr. President, I think this is one of the most important proposals in this legislation. Such diverse economists as Alan Greenspan, who was the chief economist for President Ford, to Walter Heller, who had the same function for President Kennedy, have agreed that we need some tax relief now; that a payroll tax freeze would be anti-inflationary in nature; it will help the working people who are going to struggle to pay for their home heating fuel bills and other energy costs; and that it is a most expeditious way of providing relief to all working Americans.

Mr. President, I shall have some other tax proposals during the consideration of this legislation to provide relief to the working people, but I just want to emphasize and underscore that I consider this taxpayer trust fund to be of critical importance as a means of paving the way for a rollback of the scheduled payroll tax increase.

I point out to those who are critics of trust funds that this is a matter strictly within the jurisdiction of the Senate Committee on Finance. We have jurisdiction over raising revenue, as well as the social security program. I intend to see that this language is continued or that, in some form, tax relief, payroll tax relief, will be given to American workers as part of this legislation.

Mr. President, I yield the floor.

Mr. METZENBAUM. Mr. President, in behalf of Senator KENNEDY, I ask unanimous consent that the following members of his staff have floor privileges during this debate: David Moulton, Paul McDaniel and Thomas Sussman.

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

(Mr. MORGAN assumed the chair.)

Mr. METZENBAUM. Mr. President, I have heard a good deal of discussion this morning about the length of time the Finance Committee spent on this bill and I have heard a good many suggestions as to the amendments that are going to be offered to the bill. I have heard discussions as to how much the oil companies are going to be paying and how much they should be paying. I have heard about some of the Presidential candidates and their views with respect to this pending measure. The fact is, Mr. President, that we should not have any windfall tax bill because we should not have any windfall. The fact is that none of us would be standing here today, next week, and maybe the following week, debating windfall profits taxes if there were no windfall profits.

Those windfall profits come about by reason of one single stroke of the pen made by the President of the United States. By that one stroke of the pen decontrolling the price of oil, we find ourselves debating windfall profits and what should be done with those proceeds and how large those windfall profits taxes should be.

Mr. President, there is no logic, there is no reason, that this body should be present here today debating this issue.

As a matter of fact, if we were to have come to the floor to debate the question of a windfall profit tax, and if the administration had the strong commitment to an effective windfall profits tax bill that it talks about, then the President had within his hand the total power, the total leverage, to see to it that the Finance Committee would deliver to the floor of the Senate and the Congress, would deliver to him, a wind-

fall profit tax measure that truly was an effective one.

As a matter of fact, on September 26 of this year I wrote to the President. I said:

DEAR MR. PRESIDENT: It is becoming more and more evident that enactment of a strong windfall profits tax is in deep trouble in the Senate Finance Committee. As many of us had predicted, it now appears that a much watered-down version of the bill will emerge from the Committee.

Later in the letter I said:

I would urge you to reconsider your decision to decontrol oil prices and reinstitute those controls as soon as possible. As you know, I do not agree with you on the issue of decontrol. But even assuming your position is unchanged, you could publicly announce that if and when an acceptable windfall profits tax is sent to you, you would put back in place your original order on decontrol. Unless you have the leverage which such a course of action would provide you, I feel certain that there is little hope that Congress will pass an effective and fair windfall profits tax.

Mr. President, I ask unanimous consent the entire letter be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., September 26, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It is becoming more and more evident that enactment of a strong windfall profits tax is in deep trouble in the Senate Finance Committee. As many of us had predicted, it now appears that a much watered-down version of the bill will emerge from the Committee.

I am in total agreement with your contention that enactment of a strong windfall profits tax is absolutely necessary. Otherwise the oil industry will reap astronomical profits by reason of oil price decontrol.

However, the course of events in recent days in the Finance Committee does not bode well for the tax. Many of us fear the impact that decontrol combined with a weak windfall profits tax would have on the economy. (See the enclosed articles from the Wall Street Journal and the Washington Post.)

At the moment, we are seeing the tremendous effect that decontrol of heating oil and jet fuel has had on the prices of those products and the subsequent impact on the rate of inflation. Now, according to an article in the September 25th edition of the Washington Star, Energy Department figures show that some decontrolled domestic oil prices are rising significantly faster than the cost of imports. Instead of rising to the OPEC level, as was predicted, domestic prices in some cases are far above that level. (See the enclosed article from the Washington Star.)

In light of these developments, it is obvious that more and more funds will be drained from the American consumer and siphoned into oil company treasuries as decontrol becomes more total.

I would urge you to reconsider your decision to decontrol oil prices and reinstitute those controls as soon as possible. As you know, I do not agree with you on the issue of decontrol. But even assuming your position is unchanged, you could publicly announce that if and when an acceptable windfall profits tax is sent to you, you would put back in place your original order on decontrol. Unless you have the leverage which such a course of action would provide you, I feel certain that there is little hope that Congress will pass an effective and fair windfall profits tax.

Mr. President, I am convinced that this is the proper course to pursue and again urge you to take the necessary steps to relieve this burden on the American people.

Warm regards,
HOWARD M. METZENBAUM,
U.S. Senator.

Mr. METZENBAUM. Mr. President, no matter how we slice it, the bill before us today is legislation that never should have been. It is a bill to recover from the oil industry a part of the enormous unearned profit that the industry should never have been granted in the first place.

It is not a bill to tax the oil companies on their presently exceedingly high profits. It is a bill having to do only with the effect of decontrolling the price of oil.

Unquestionably, decontrolling the price of oil is, by far, the biggest giveaway in American history.

I heard discussion here this morning about the fact that this is the biggest tax bill in American history, but decontrolling the price of oil is unbelievably tremendous, gargantuan unbelievably large in size.

What we are talking about today, Mr. President, is the effect of crude oil decontrol, which is by far the biggest giveaway in American history.

What we are talking about with decontrol is a policy that uses price and price alone to allegedly conserve energy.

We are talking about a policy that once again requires the average family in this country to pay for the mistakes of government and industry. Under decontrol, the lower your income, the greater the impact of soaring prices on your family budget.

Decontrol, in other words, is the same thing as a regressive tax.

It is a policy that says to the poor and to the elderly that energy is something they can no longer afford. It says to the weakest and the most vulnerable members of our society that the main thrust of this Nation's effort to save energy is to price them out of the market.

And, Mr. President, we have in decontrol a policy that will depress—not increase—oil production in this country.

What holder of large oil reserves in this country will rush out to produce now—when he knows that OPEC, aided and abetted and assisted and encouraged by the oil companies of this country, will soon drive prices higher?

Every time the OPEC nations are increasing their prices $1 a barrel, American oil producers will reap in, rake in, that extra $1.

What incentive is there to produce when oil left in the ground is appreciating faster than any other conceivable investment?

I say that there is no incentive to produce. And I say that phased decontrol is a message loud and clear to our own producers to hold back, to wait, to do as little as possible until controls are completely off.

As a matter of fact, Mr. President, for those oil companies who are in a financial position to do so, even with passage of the windfall profits tax bill, they could very well understand that if they just hold back long enough, not too many years, until there is $127 billion in the Federal Treasury from the windfall profits tax, then there would be no further windfall profits tax, and it would be totally eliminated 34 months after that had occurred.

Right now, without full decontrol, the oil industry is enjoying record prices and startling profits. Yet in the first 9 months of this year—in the first 9 months of this year—oil and gas drilling declined by more than 5 percent from last year's level.

Who is there to say that the oil companies could not be producing more?

A report made by Sellman Brothers in the testimony before the House Ways and Means Committee indicated that even today the price of drilling and producing is between $3.75 and $5 a barrel. In 1978, the average cost to produce a barrel of oil in this country was $1.83.

So the oil companies have plenty of incentive to go out and drill and look for more oil. But the fact is that oil drilling was down in the first 9 months of this year and gas drilling was also down 5 percent.

As a production incentive, decontrol is a dead end street.

It is bad energy policy. And as economic policy, it is far worse.

We cannot solve the problem by just going around making speeches and having the administration make speeches and say, "Tax the hell out of oil firms."

As Mr. Alfred Kahn said the other day in a speech at the National Press Club that the question is not a matter of taxing the hell out of the oil firms. The question is, Why are we making it possible for the oil companies of this country to receive billions of dollars that will not produce any new oil, to receive billions of dollars that they are not entitled to, to obtain billions of dollars that they do not need?

Decontrol, Mr. President, is a policy that threatens to make double-digit inflation a permanent feature of American life.

According to the Treasury Department, decontrol will by 1990 cost the consumers of this country at least $1.1 trillion in new energy costs.

Mr. President, we deal in big numbers around here and when we talk about the American economy, we are always talking about big numbers.

But in spite of that, a trillion dollars, Mr. President, is an unimaginable sum.

With that amount of money, you could buy up all the assets of the Fortune 500, build the MX missile, and still have enough money left over to cover the first year of national health insurance.

You could pay off the entire public debt of the United States and with your change, you could fund the National Cancer Institute for more than a century.

You could build nearly 17 million $60,000 homes.

Or you could give a $5,000 check to every man, woman, and child in this country.

But, in fact, what decontrol will do is to extract $5,000 from each and every American over the next decade.

The little baby who first came to life this morning, who first let out its cry—maybe that little child should have been crying louder; because decontrol means that that little child, during the next 10 years, will be assessed $5,000 as the price of decontrol.

It means $500 a year for every elderly man or woman trying to get by on social security.

For a family of four, decontrol in the next 10 years will cost the equivalent of a college education.

No matter where that money goes—to the oil companies, to the Treasury, or to some combination of the two—there is no question at all about where it will come from.

It will come directly from the pockets of the American people. If they pray and if they hope and if they dream, and if circumstances make it possible, maybe some little portion of that trillion dollars might come back to them indirectly.

Today, we will begin consideration of how to dispose of that trillion dollars that has been given to the oil industry by one swipe of the pen by the President of the United States.

Senator BUMPERS, Senator KENNEDY, I, and other Senators will propose alternative ways to collect and spend these dollars, these taxes. A number of other Senators will have amendments pending. There will be much discussion and much debate and much crying for the oil companies, and there will be much crying for the consumers of this country. There will be discussion of what is fair and what is equitable.

But I repeat, Mr. President, that it is a tragedy that we have this bill before us today.

Decontrol is a fact of life that never should have happened.

The President of the United States should never have permitted it to happen, much less encouraged it, much less caused it to happen.

The Congress of the United States never should have accepted it. The Congress of the United States is too concerned about the oil industry of this country and not that much concerned about the American people and the American economy, or we would not have permitted it to occur.

All of us in this country will regret the day when this outrage, this abomination, this policy of decontrol, became our Nation's policy.

Mr. President, in connection with this matter, we have been talking about oil company profits, what they mean, and where they go. A very interesting and informative report has been prepared by the Citizen/Labor Energy Coalition, the Energy Action Educational Foundation, Tax Reform Research Group, and I ask unanimous consent to have it printed in the RECORD.

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

OIL COMPANY PROFITS: WHAT THEY MEAN AND WHERE THEY GO

SUMMARY

This report examines the reported earnings of the major oil companies for 1978 and 1979, with special emphasis on the third quarter of 1979, as it reflects the recent OPEC price hikes. The report concludes that the major oil companies:

(1) Understate their actual earnings substantially;

(2) Are able to use their integrated international operations to show as "foreign earnings" profits which are derived from the sale of imported oil into the United States—and which therefore are paid for by American consumers;

(3) Invest less than half of their cash flow in new oil and gas exploration and development;

(4) Have a return on shareholders' equity substantially above the average for other U.S. industries; and

(5) Spend an increasing amount of their cash flow to acquire competing firms as well as non-energy producing companies.

The information collected and presented in this report is designed to provide the public with a clearer, more comprehensible, and more accurate grasp of the oil company profits.

HOW PROFITS ARE UNDERSTATED

The $6 billion in profits reported by the 18 largest oil companies for the third quarter represents a 103 percent jump from the third quarter of 1978, and the $15 billion reported by these companies for the first nine months of 1979 is up 71 percent compared to the same period last year. In comparison, profits for the 833 non-energy corporations analyzed by Business Week are up less than 9 percent for the third quarter, and 17 percent for the first nine months.

But these enormous jumps in earnings do not tell the whole story. In dollar terms, the record profits reported by the oil companies are actually understated very substantially. In fact, were the oil companies to report as expenses only the taxes they actually paid and were they to measure their earnings by less conservative accounting techniques, reported profits could be at least 50 percent higher.

PHANTOM TAXES

One of the major ways in which the oil companies understate profits is to report as expenses "phantom" taxes—i.e., taxes which are actually not paid due to tax loopholes.[1] In 1978, for example, the profits of 13 of the largest companies were understated by $2.4 billion in such "deferred" taxes. Had these non-payments not been deducted in computing net earnings, the reported profits would have been 22 percent higher. Similarly, Mobil Corp.'s reported profits for the first 9 months of 1979 would have been $316 million above the $1.4 billion it announced if unpaid taxes had not been deducted.

EXPENSED COSTS

A second means by which the major oil companies reduce their reported profits is by writing off exploratory and development costs immediately for unsuccessful wells. For example, if a company drills ten exploratory wells before finding oil, the cost of nine of the wells will be expensed, and the cost of only the tenth (successful) well capitalized. This "successful efforts" method is used by all the major oil companies. In contrast, many independent oil producers capitalize all their drilling costs and write them off over the life of their successful wells (the "full cost" method). They treat the cost of the nine dry holes as part of the expense of finding the successful well.

The reason for the difference in accounting techniques is rather simple. The independents have chosen a method which keeps reported profits high enough to attract outside capital. The majors, with virtually no need for outside funds, prefer to minimize their reported profits, in order to mitigate the political repercussions.

Because the "successful efforts" method of bookkeeping is more conservative, it is favored by most accountants. Many economists, on the other hand, believe that the "full cost" method results in a more accurate reflection of income.[2] The point is that, were the less conservative "full cost" method used, the reported profits of the major oil companies could be some 34 percent higher (based on 1978 data).

INVENTORY ACCOUNTING

Another way in which the oil companies are able to reduce their reported earnings is through an inventory accounting technique called LIFO—for "last-in—first-out."

The issue in inventory accounting involves how to compute the cost of goods sold. Until the early 1970's, most businesses used a common sense method called FIFO—for "first-in—first-out." In essence, this accounting convention assumed that a business draws on the products in its inventory in the order it acquired them. For example if a retailer buys 10 widgets for $1 each, later buys 10 more for $1.50 each, and then sells 10 widgets for $2 each, the FIFO assumption is that the first 10 widgets were the ones sold—yielding a profit of $1 each, or $10. Some companies used an alternative, under which the average cost is deducted. In the example, this method would yield a profit of 75 cents per widget, or $7.50 in total.

As inflation crept up in the 70's, many businessmen and accountants argued that FIFO and averaging led to overstatements of income because the deduction for the cost of goods sold did not keep pace with inflated prices. So a large number of businesses—including oil companies—began switching to the LIFO system. This convention assumes that the most recently acquired or produced goods are the first to be sold. In the widget example above, LIFO would result in a reported profit of only 50 cents per widget sold, or $5.00.

LIFO is defensible as an inflation offset, but it can lead to substantial understatements of income when the price of an inventory item jumps sharply ahead of the general inflation rate. For example, in 1973 the SuCrest Corporation, a sugar processor, would have had embarrassing record profits due to skyrocketing sugar prices. By switching to LIFO, however, the company was able to mitigate consumer ire (and eliminate its tax bill) by actually reporting a loss. The use of LIFO also results in significantly lower taxes for the oil companies.

The same thing has happened this year in the case of oil prices. When the world price of oil jumped from $14.50 a barrel to $18–22 a barrel, the value of the oil companies' inventories also increased dramatically. But much of this inventory gain did not show up in profits when the oil was marketed because the LIFO convention allowed the companies to treat the cost of replenishing their inventories as the cost of the oil sold.

For example Texaco, which just switched to LIFO this year, notes in its 3rd quarter report that its profits for the first nine months of 1979 were $401 million less because of LIFO—a 26 percent decrease. Overall, Texaco profits are understated by 33 percent (see chart).

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[1] Recently, Mobil attacked the Citizen/Labor Energy Coalition for mentioning that Mobil's 1977 tax rate on its domestic income was only 11 percent. In a nationally syndicated ad, Mobil claimed that its tax bill on its billion dollars in U.S. earnings was over 40 percent. The problem with Mobil's arithmetic as CLEC responded in a letter to the *New York Times*, is that the oil company added to the $108 million it did pay in taxes some $327 million in taxes it didn't pay because of various loopholes.

[2] See, e.g. Congressional Research Service, Library of Congress, Tax Provisions and Effective Tax Rates in the Oil and Gas Industry, 11–15 (1977).

An example of Texaco's profit understatement

	Million
Net income for 9 months ending Sept. 30, 1979*	$1,149.6
Dry hole expenses**	132.7
"Deferred" Income Taxes**	82.1
Switch from FIFC to LIFO for inventories outsde U.S.*	401.1
Total understatement	615.8
Total actual profit (Increase of 54%)	1,865.4

*Obtained from October 26, 1979, press release.

**Inferred from Texaco's 10Q for 6 months ending June 30, 1979.

FOREIGN VERSUS DOMESTIC EARNINGS

Reporting on their 3rd quarter 1979 profits, the major multinational oil companies claimed that most of the increase was due to higher foreign earnings—Exxon's foreign earnings up 145 percent; Texaco's up 230 percent; SoCal's up 69 percent; Mobil's up 286 percent; Gulf's up 87 percent. But, these statements are misleading on three grounds. In the first place, a significant portion of "foreign earnings" is derived from sales of petroleum in the U.S. Secondly, by diverting the public's attention to their foreign earnings, the companies were trying to downplay their substantial increases in their domestic earnings. Thirdly, the companies' overall earnings are indicative of the huge profits that they will reap from the decontrol of domestic crude oil prices. Just looking at a few of the larger companies, here is what happened to oil profits domestically:

[In millions]

Company	3Q 1979	3Q 1978	Percent increase
Exxon	$447	$377	18.6
Texaco	506	289	75.3
Mobil	209	158	32.0
Socal	225	138	63.0
Gulf	260	129	102.0
Total	1,647	1,091	51.0

These increases occurred while Exxon experienced "production volume declines . . . in the lower 48 states," while Texaco had "a 10.4-percent decline in gross liquids production; decreased natural gas sales volumes . . .," while Mobil's "U.S. gross crude oil and natural gas liquids production was flat . . .," while Socal's "crude oil and natural gas liquids production in the United States declined from 396,000 barrels per day last year to 383,000 barrels per day this year," and while Gulf's "U.S. production of crude oil and natural gas liquids continued to trail the year-ago level, declining 4.7 percent to 383,00 barrels per day from 402,000 a year earlier." In other words, with the possible exception of Exxon (because of Alaskan production), the companies produced the same or less oil domestically, while getting higher prices and profits.

That multinational companies have foreign earnings cannot be denied. But that all those foreign earnings are generated from foreign consumers is inaccurate. In the first place, between 25 percent and 30 percent of the oil entering world trade is imported into the United States. Of the oil imported into the United States approximately 25 percent enters as product and 75 percent as crude oil. About 45 percent of the nation's oil is imported, and the major importers are the major multinational companies. These companies import crude, most of which they buy under favorable long-term contracts and under arrangements where they benefit from the foreign tax credit. In addition, they all ship their oil in tankers which they own through subsidiaries based in tax havens like Panama and Liberia. And many of the companies, specifically, Exxon, Texaco and Socal, own and operate refineries in Caribbean tax haven countries.[3]

Finally, the substantial profit increases for the third quarter are but a taste of what is likely to occur under the President's decision to control U.S. crude oil prices. Oil companies whose average price in 1978 was $9.00 per barrel will see their price increase to anywhere between $25.00 to $30.00 per barrel—a total of $48 billion to $63 billion annually, most of which is profit.

REINVESTMENT LEVELS

In their newspaper ads, oil companies make the claim that a very high percentage of their net income is reinvested in energy exploration and production. These contentions are deceptive and misleading.

1. Expensed costs do not come out of net income.

A typical oil company claim in this area would be something like that recently put forward by Amoco: "We earned $603 million from petroleum domestically (in 1979). But we spent $938 million just for U.S. petroleum exploration and development."

By this reasoning, General Motors could say it spent more on wages than it earned last year. Would that seem unusual? Of course not, because the amount spent on wages is deducted from gross income in computing net earnings. The same is true for much of the oil companies' exploration and development (E&D) expenses. For 13 companies last year, some 27 percent of E&D were immediately written off. So the income reported was income after these very expenses were already deducted.

2. Even for capitalized expenditures, comparing investment levels to net income is not meaningful.

It is true that, in 1978, 13 of the major oil companies invested an amount equal to 93 percent of their reported profits in energy production. It is equally true, however, that an amount equal to 88 percent of reported profits went to dividends and non-energy investments. The reason that spending can total over 100 percent of profits is that net income is not equivalent to the funds available for reinvestment remaining after expenses.

What is available—after all expenses and taxes are paid—is called "cash flow." It consists of net income, plus depreciation, depletion, and amortization of capital assets, plus "deferred" taxes, plus net new debt, plus some miscellaneous items—all of which add to the revenues of the company. Or looked at another way: What a company has left after actual out-of-pocket expenses is "cash flow." To compute net income, the company then subtracts "book" items, such as depreciation and deferred taxes, and eliminates funds obtained from new borrowing.

[3] In 1974, with the help of internal Socal financial documents, the Senate Subcommittee on Multinational Corporations showed how the major multinational oil companies could manipulate the foreign tax credit to minimize U.S. tax liability and could through internal transfer pricing charge themselves higher prices for foreign crude. This had the dual result of increasing the profit margin in the foreign subsidiary and increasing the "cost" to the U.S. subsidiary. (See Multinational Oil Corporations and U.S. Foreign Policy, Report to the Committee on Foreign Relations, 2 January 1975, pp. 165–172). While there have been changes in the foreign tax credit and other tax loopholes, the basic structure and operations of the major multinational oil companies remains the same, and to the extent integrated companies do not engage in arms-length negotiations in the sale of oil, it is only logical, on the basis of the foregoing evidence, to assume that these companies continue this method of maximizing "foreign earnings."

In 1978, net income was only 45 percent of cash flow for 13 major oil companies. Depreciation, depletion, and amortization made up 36 percent of cash flow; deferred taxes, 10 percent; and miscellaneous, 13 percent. Net borrowing was actually negative (—4 percent of cash flow) for these companies; that it, they paid off more long-term debt than they incurred.

Of the almost $24 billion in cash flow enjoyed by these 13 companies, 42 percent went into exploration and production investments; 18 percent into other energy-related investments such as refining and marketing; 20 percent into non-energy areas; and the remaining 20 percent into dividends to shareholders. As a percentage of reported net income, dividends averaged 47 percent.

For comparison purposes, other manufacturing companies have paid an average of 20–23 percent of their cash flows and 37–40 percent of their net incomes in dividends in recent years. Thus, the oil companies' reinvestment level as a percentage of cash flow has been remarkably similar to that of other industries: As a percentage of net income, oil dividends have been somewhat higher than those of other companies.

(See attached charts for cash flow break down by company)

RETURN ON EQUITY

The one measure of industry profitability which cuts through most of the distortions in income and tax measurement employed by the oil companies is after-tax return on equity—profits divided by shareholders' investment and retained earnings.[4]

By this measure, the oil companies are showing tremendous profits due to the recent increases in world oil prices. In fact, the 18 largest oil companies' third-quarter profits represent a 23.6 percent annual rate of return on equity—over 50 percent above the average for all U.S. industry (about 15.5 percent).

18 largest oil companies' annualized return on equity, 3rd quarter 1979

	Percent
Exxon	21.6
Texaco	24.7
Mobil	24.0
Socal	26.3
Gulf	20.6
Amoco	22.8
Shell	17.9
ARCO	21.8
Phillips	19.2
Conoco	28.8
Sun	21.6
Getty	22.0
Union Oil	14.9
Sohio	59.3
Citgo	16.6
Amerada Hess	30.2
Occidental	51.0
Marathon	22.0
Composite	23.6

Even this enormously high figure (equivalent to a 44 percent annual pre-tax return for someone in the 46 percent tax bracket!) understates the profits from the crude oil production segment of the integrated oil giants—the segment which is the most profitable of their investments and which will become so much more lucrative with decontrol of domestic crude oil prices.

Most of the oil companies do not want to

[4] The return on equity calculation tends to correct for income understatements in the long run because the denominator of the fraction—primarily retained earnings—will tend to be understated to about the same degree as is the numerator—current earnings. For example, a check of 14 oil companies for 1978 by the Tax Reform Research Group found that return on equity was not significantly affected by correcting earnings and shareholders' equity for "deferred" taxes.

reveal the data on their crude oil profits (just as the American Petroleum Institute, the industry's lobbying arm, will not give out return-on-equity figures for the third quarter of 1979), so the statistics are rather sparse. But Exxon's 1978 annual report does include a breakdown of profits by segment. The figures indicate that the exploration and production side of the business generated a 25 percent return on equity last year—almost double Exxon's overall 1978 return, which was dragged down by indifferent refinery profits and losses in non-oil areas.

Although Mobil's annual report is not so generous with information (it does not break down energy profits into segments, nor does it provide clear data on return on equity even in the overall energy area), the information which is provided suggests that Mobil's return on U.S. energy investments (including refining) last year was already over 20 percent.

Similarly, return-on-equity data for independent companies engaged only in the domestic production side of the oil and gas business show that this segment of the oil industry is already very profitable. Third quarter data for nine publicly-held independent producers reveal an average annual return on equity of 23 percent even under price controls on domestic crude oil.

Annualized return on equity for selected independent oil and gas production companies 3rd Quarter 1979

	Percent
Superior Oil	34
Louisiana Land & Exploration	25
Mesa Petroleum	10
Houston Oil & Minerals	24
Pogo Producing Co	19
Inexco	10
Southland Royalty	44
Apache	12
Supron	21
Composite	23

With decontrol of domestic crude oil prices, which President Carter in June 1979 began phasing-in, the returns on the production side will increase dramatically.

STOCK PRICES

Another measure of industry profitability—stock prices—also shows a dramatic jump in the oil companies' financial situations this year. Since the beginning of this year, the price of the stocks of the 18 largest oil companies has gone up by an average of 43 percent—for a total increase in the value of the stocks of over $36 billion.

18 LARGEST OIL COMPANIES' STOCK PRICES AND PERCENTAGE INCREASE

Company	Dec. 29, 1978	Nov. 9, 1979	Percent increase
Exxon	$49.13	$56.63	15.3
Texaco	23.88	28.00	17.3
Mobil	34.69	49.75	43.4
Gulf	23.38	33.25	42.2
Socal	46.88	55.00	17.3
Amoco	56.63	78.75	39.1
Shell	32.13	47.13	46.7
Arco	56.88	73.38	29.0
Phillips	31.63	44.00	39.1
Conoco	28.13	43.50	54.6
Union	28.44	42.00	47.7
Sun	42.50	61.75	45.3
Getty	37.75	65.50	73.5
Sohio	42.50	76.25	79.4
Citgo	53.88	76.00	41.1
Amerada Hess	27.44	39.38	43.5
Occidental	15.75	24.75	57.1
Marathon	27.38	43.75	59.8
Average	36.61	52.25	42.7

The 18 largest oil companies have approximately 2.325 billion shares outstanding. Multiplying by the averages results in a total value of these oil company stocks as of December 29, 1978 of $85.1 billion, and a total value as of November 9, 1979 of $121.5 billion. This year's increase in the value of the 18 largest oil companies' stock amounts to $36.4 billion.

INCREASED CASH FLOW MEANS MORE MERGERS AND ACQUISITIONS

During the third quarter of 1979:

Exxon purchased Reliance Electric for $1.087 billion in cash;

Mobil invested 37 percent of its 9-month worldwide capital budget to buy a competing oil producer, General Crude Oil Company, for $800 million;

Shell spent $3.65 billion in the largest cash takeover in American history to acquire the Belridge Oil Company;

Getty offered in October over $630 million to acquire Reserve Oil and Gas Company.

These most recent acquisitions and mergers come on the heels of Gulf's purchase of Kewanee, Mobil's acquisition of Marcor (Montgomery Wards'), ARCO's merger with Anaconda Copper, Standard of Indiana's obtaining Cyprus Mines, and attempted takeovers by Sun Oil of Becton Dickinson and by Occidental of Mead, Inc.

Because of the staggering increase in cash flow, particularly from the sale of crude oil, petroleum products, and natural gas, major oil companies—in the words of a highly-regarded financial analyst—are floating into the 1980s "on a sea of cash." With this cash, they are not simply investing in additional oil and gas exploration, but are buying up reserves of coal, uranium, oil shale, and geothermal steam resources, as well as other oil, energy-resources, and non-energy companies.

In the recent court case involving the Securities and Exchange Commission, Sun Oil, and Becton Dickinson, it was revealed that Sun had developed a so-called "beachhead" strategy as a plan by which Sun would use its "$1 billion in *excess* cash flows" (emphasis added) targeted for investments to aquire chunks of companies at about "the 30-ish (percent) kind of levels."

Such a strategy is apparently shared to varying degrees by all the major oil companies as they search for ways to dispose of their "excess cash flows."

CASH FLOW—1978

	Exxon	Texaco	Mobil	SoCal	Gulf
Sources:					
Net income	$2,763	$852	$1,126	$1,106	$791
Depreciation, etc	1,678	970	890	622	826
Deferred taxes	402	271	239	79	210
Net new debt	(121)	(137)	(22)	(236)	155
Other	1,175	212	(74)	22	229
Total	5,897	2,168	2,159	1,593	2,211
Uses:					
Energy production	2,295	863	814	788	943
Percent	(39)	(40)	(38)	(50)	(43)
Other energy	1,077	332	464	175	391
Percent	(18)	(15)	(22)	(11)	(18)
Other	998	425	425	195	506
Percent	(17)	(20)	(22)	(12)	(23)
Dividends	1,527	548	456	435	371
Percent	(26)	(25)	(21)	(27)	(17)
Total	5,897	2,168	2,159	1,593	2,211
Percent	(100)	(100)	(100)	(100)	(100)
Addendum: Expensed exploration costs	775	200	282	306	401

	Amoco	Arco	Phillips	Conoco
Sources:				
Net income	$1,076	$804	$710	$451
Depreciation, etc	912	661	460	394
Deferred taxes	229	330	75	131
Net new debt	(67)	(141)	(133)	125
Other	108	111	442	114
Total	2,258	1,765	1,554	1,215
Uses:				
Energy production	1,208	530	605	591
Percent	(54)	(30)	(39)	(49)
Other energy	293	278	191	137
Percent	(13)	(16)	(12)	(11)
Other	347	668	573	320
Percent	(15)	(38)	(37)	(26)
Dividends	410	289	185	167
Percent	(18)	(16)	(12)	(14)
Total	2,258	1,765	1,554	1,215
Percent	(100)	(100)	(100)	(100)
Addendum: Expensed exploration costs	496	250	251	81

	Getty	Sohio	Cities Service	Marathon	Totals
Sources:					
Net income	$328	$450	$118	$197	$10,772
Percent					(45)
Depreciation, etc	248	412	182	167	8,422
Percent					(36)
Deferred taxes	161	130	23	73	2,353
Percent					(10)
Net new debt	(22)	(488)	88	36	(963)
Percent					(−4)
Other	63	415	193	122	3,132
Percent					(13)
Total	778	919	604	595	23,716
Percent					(100)
Uses:					
Energy production	503	379	164	302	9,985
Percent	(65)	(41)	(27)	(51)	(42)
Other energy	170	325	241	207	4,281
Percent	(22)	(35)	(40)	(35)	(18)
Other	16	124	113	20	4,730
Percent	(2)	(14)	(19)	(3)	(20)
Dividends	89	91	86	66	4,720
Percent	(11)	(10)	(14)	(11)	(20)
Total	778	919	604	595	23,716
Percent	(100)	(100)	(100)	(100)	(100)
Addendum: expensed exploration cost	271	21	231	87	3,652

OIL COMPANY PROFITS—3D QUARTER, 1979

	1978	1979	Percent increase	Return on equity (percent)
Additional companies:				
SoCal (4th largest)	$274	$576	+110	26.3
Union Oil (13th largest)	93	106	+14	14.9
18 company composite			+103	23.6

EFFECTIVE FEDEPAL INCOME TAX RATES ON DOMESTIC INCOME FOR SOME OF THE LARGEST OIL PRODUCERS

[In percent]

	1977	1978		1977	1978
Exxon	21.8		Conoco	25.9	20.0
Standard Oil of Indiana (Amoco)	32.8		Getty	32.2	27.4
Mobil	10.8	25.1	Marathon	15.9	14.8
Arco	1.7	6.6			
Texaco	15.2	14.1	Weighted average	20.4	18.8
Gulf	20.5	5.1			

Source: All rates computed by the Tax Reform Research Group based on 1978 SEC 10-K reports, except Exxon and Amoco, which are based on the average of figures in Congressman Vanik's Corporate Tax Study for 1977 and the June 12, 1978, Tax Notes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. 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. WALLOP. Mr. President, at the outset of this debate, I express my thanks to the distinguished chairman of the Finance Committee, Senator LONG, and the ranking minority member, Senator DOLE, for the leadership and guidance they have provided through these long and difficult deliberations on this bill. They faced a difficult task, and the results of their efforts are well demonstrated in the improvement which the Finance Committee was able to make in the bill sent from the House.

Before delving into the nature of those improvements and the nature of the problems we are addressing in this measure, I shall speak to some of the misconceptions that may exist regarding the windfall profits tax legislation.

Let us first begin to recognize what this tax is and what it is not, who it will hurt and who never will pay one cent of this excise tax.

First, as will be said many times during this debate, the windfall profits tax bears no relationship to profits. As an excise tax imposed at the wellhead, the tax will be applied uniformly on a domestic oil company, whether its property is making large profits, or no profits at all.

Secondly, if we are trying to punish the international oil companies for the profits they are earning from overseas, and I trust we are not yet so jaded, this tax is totally ineffective. The tax will do nothing but perpetuate the business circumstance which makes it more profitable to explore for, produce, and import foreign oil than it is to invest in our domestic energy security.

It should be clear that the windfall profits tax will impair the profitability of domestic oil companies compared to the international oil companies. Since international firms derive a significant proportion of their profits from foreign source crude, they will have an advantage relative to domestic oil companies. Foreign production profits will not be subject to this additional tax.

This bias in favor of foreign oil will be especially defined during the time period domestic producers will continue to compete under the disadvantage of crude oil price controls while paying the tax at the same time. Such controls will not be completely phased out until October 1981. The combination of the tax and the controls will result in reducing incentives to fully produce known domestic crude oil reservoirs, which means greater dependence on imported crude oil.

Furthermore, as crude oil prices are decontrolled, the domestic refiners will be at an added disadvantage with respect to crude costs. Higher U.S. operating costs as well as environmental and transportation regulation will mean that refined product prices will be less attractive business ventures compared to those in foreign source products. This again will reduce the incentives necessary for the development of the domestic oil supplies, resulting in increased not, sadly, decreased, dependence on imported refined products.

The windfall profit tax will not be the only factor that adversely impacts the profits of our domestic oil companies relative to the internationals. Some internationals have access to contract crude oil at prices as low as $18.00 a barrel.

The United States is vulnerable even at the present time because of its dependence on the unstable foreign crude oil supply. By eroding the profitability of domestic firms relative to that of the international companies through a windfall profits tax, or other means, this vulnerability will be perpetuated. Enacting this tax will not only seriously disadvantage domestic oil companies but will also diminish the incentives necessary to achieve self-sufficiency with the most immediate prospect for relief, and that is from domestic oil.

Again, let me point out that there is a fraud being played on the American public. The windfall profits tax will not touch 1 cent of profit derived from producing or brokering oil from overseas, and that is the profit picture which has created the hysteria in the White House and the hysteria in the press.

Much of the confusion over the windfall profits tax stems from the hysteria so lovingly described in the media over the third quarter profit earnings of the major international oil companies. The announcements of third quarter earnings of the large oil companies are having an impact on national energy policy that no sensible person could have imagined, even just a few weeks ago.

The widespread assumption that the American people are somehow being ripped off is causing us to rush into legislation. We are expected to do something, do anything, and to do it in a hurry.

Meanwhile, Mr. President, hardly anyone—certainly no one in the administration—has taken an informed look at those earnings.

It is important to ask, what is the source of those profits? In most cases, profit growth came with a jump in foreign earnings. In the case of nine large oil companies that reported their earnings in considerable detail, foreign operations accounted for 85 percent of the profit growth. How does that constitute a ripoff of the American people? If ripoff is indeed there, it becomes one that is paid by the citizens of Japan, and the citizens of Europe.

Similar third quarter earnings are being reported by major international German and Japanese trading companies. Oddly enough, the Germans and Japanese do not scorn their international companies for the profits they earn in international commerce. They welcome the repatriation of overseas profits, recognizing that it helps their balance of payments and capital formation efforts. It is no coincidence, I suggest, that we are running balance-of-payments deficits against the Japanese, the Germans, and indeed worldwide.

Aside from the fact that these profits are earned largely on overseas operations, there is a need to bring the magnitude of those profits into perspective. Take a look at their profit margins. Despite the fact that the 22 largest companies recorded large profit increases, their profit margins were the same as those of leading nonoil companies.

In the first 9 months of 1979, the oil companies' and nonoil companies' net income averaged 6 cents of each dollar of revenue. In the prior year's 9-month period, the oil companies' net income was 4.4 cents per dollar of revenue, compared with 5.9 cents for nonoil companies.

Mr. President, I submit that our energy problems are not solved, but only exacerbated when we evoke images of oil profiteers controlilng our energy future. Another concept that is too often misunderstood is the definition of the oil industry. Unfortunately we have developed in the press and in our own political minds an image of the oil industry as a monolithic, single-minded diabolical force which sets monopoly prices, creates gas shortages at whim, and seeks every opportunity to rip off the American public. This simplistic conspiracy theory approach to viewing our energy industry has yet to outlive its usefulness to politicians who need a whipping boy, but it has if we are to responsibly view the nature of our problem. The mindless rhetoric about the oil industry as a monolithic force must be put to rest if we are going to look at this legislation sensibly.

We have to remember that the oil industry is more than Exxon, Mobil, the other seven sisters and major international companies. The oil industry is also composed of some 10,000 independent producers who drill over 90 percent of the exploratory wildcat wells and produce 50 percent of the Nation's oil. Even among independents, there are significant differences between incorporated and unincorporated operators, especially in the tax treatment they receive. The oil industry is also composed of oil brokers who sell to retailers who again redistribute and sell oil or oil byproducts. Unfortunately, each time a small oil wholesaler hoards his supply or cheats a retailer on price, it becomes another example of an "industry" ripoff. Again, the media takes pains to conjure up the image of a monolithic oil industry cheating and lying to the American people.

Unfortunately, we can no longer afford to live with the popular mythology that assigns blame to the oil companies for our present energy problems. Our energy problems are of our own political making. No conspiracy of oil was ever involved in the series of policy blunders that leave us in the humiliating state of dependence we face today.

Mr. President, I believe it is relevant to the legislation before us to look at the benchmarks on the road to American energy dependence. In 1960 OPEC was founded with the specific intent of controlling production levels and increasing revenues of the oil producing countries. At that time the United States was importing only 18 percent of its total oil consumption.

In 1966 oil and gas leasing was suspended on Federal lands, commencing a policy of denying access to potential domestic energy supplies and consequently started a trend of cutting our own energy supplies. In the following years domestic consumption of petroleum producing fuels exceeded U.S. petroleum producing capacity. This was the first step toward true dependence on foreign oil. The Tax Reform Act of 1969 reduced the percentage depletion for oil and gas, causing domestic exploration drilling its sharpest decline since World War II.

In 1971, price controls were placed on crude oil. At that stage of our energy history, total U.S. drilling had dropped to 27,000 wells, from a high point of 58,000 wells in 1956. Please keep in mind that in 1971, we were dependent on foreign producers for only 25 percent of our crude oil needs.

By 1972, our consumption and production situation had taken an ominous turn. For the first time since World War II the United States was producing crude oil at maximum capacity. In otner words, at this time there was no spare domestic capacity to cushion the supply impact of foreign supply cutoffs.

In 1973, we were all witness to the Yom Kippur war in the Middle East which triggered the Arab oil embargo against the Netherlands and the United States. For the first time, millions of Americans waited in gasoline lines caused by the oil cutoff. It is tragic that this last summer 6 years after the Arab oil embargo, Americans are still facing gaslines and threat of oil disruptions from overseas.

Nothing had been learned from this experience. In 1975 Congress repealed percentage depletion for about 85 percent of the oil and gas companies. Again petroleum fuels were singled out for punishment while more than 100 other extractive industries were left unscathed. In the same year, Congress passed the Energy Policy and Conservation Act, extending crude oil price controls until October 1981.

At this time, our dependence on foreign oil supplies had increased to 42 percent of our petroleum needs.

In February 1976, the Federal Energy Administration reduced domestic crude oil prices by about $1.50 a barrel; in July froze them, and in December, reduced them by another 20 cents per barrel. In the same year Congress adopted the Tax Reform Act of 1976—retroactively imposing a punitive tax on cash expenditures by domestic oil and gas producers for intangible drilling costs.

In October 1978, after almost 2 years of debate, Congress enacted the Natural Gas Policy Act (NGPA), embodying the most complex regulatory system ever imposed on an American industry, and extended regulation for the first time to the intrastate natural gas market. The act imposed Federal controls on 100 percent of U.S. gas production for the first time.

This year, we have again suffered from supply disruption, triggered by political turmoil in a Middle Eastern nation. Again we witnessed the futility of government controls, as the Federal gasoline allocation system was unable to cope with the shortages.

To his credit, President Carter announced the phased decontrol of oil prices. With decontrol, the Carter administration acknowledged that the oil industry needed increased incentives to explore for and produce domestic oil. They argued that price decontrol will provide such incentive, but that decontrol will lead to windfall profits that must be taxed away from the oil companies.

On one hand, the President insists that the oil companies need incentives to produce and that it is the private sector that can help the Nation produce its way out of this situation. In the next breath, the President attacks the same companies for profiteering and cheating the American people. Is there any reason to wonder why the American people are confused? How can they both be true?

As we enter this debate on the merits of a windfall profit tax America is importing more than 45 percent of its energy needs, and our bill for these imports will be over $65 billion.

In order to act on this legislation imposing a tax on domestic oil production it may be useful for all of us to refresh our memories about the origin of this tax and how it has developed. Back in April 1979 President Carter provided a tax the President desired and what he planned to do with the tax revenues.

Mr. President, I ask unanimous consent that at this point in the RECORD there appear a reprint of the President's April factsheet on the windfall profit tax and energy security trust fund.

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

FACT SHEET ON THE PRESIDENT'S PROPOSALS FOR THE WINDFALL PROFITS TAX AND THE ENERGY SECURITY TRUST FUND

The President today transmitted to the Congress a Message setting forth the detailed specifications for his proposed windfall profits tax and the Energy Security Trust Fund.

THE WINDFALL PROFITS TAX

In order to prevent U.S. oil producers from reaping unearned excessive profits from the phased decontrol of U.S. oil prices, the President has proposed a 50% windfall profits tax. The tax will recapture, for use in an Energy Security Trust Fund, windfall profits associated with:

Decontrol of lower tier oil (also called old oil) which now sells for just under $6 per barrel;

Decontrol of upper tier oil, which is now price-controlled at approximately $13 per barrel; and

Revenues which oil producers would receive if the world market price of oil increases in real terms.

The tax recaptures between now and October 1, 1981, $2.4 billion of windfall profits resulting from decontrol. To maximize domestic oil production, the President's decontrol program also provides significant new incentives for the nation's producers.

The tax is designed as follows:

It is an excise tax which is imposed on domestic production of crude oil. It would become effective on January 1, 1980.

It is a single tax imposed at a rate of 50% on windfall profits occurring at three levels: lower tier oil released to the upper tier; upper tier oil to the extent its selling price exceeds the current base control price plus inflation; and all other oil to the extent its selling price exceeds a market incentive base price ($16.00 as of January 1, 1980).

Lower tier level: The tax per barrel at the lower tier is equal to half of the difference in price between the current controlled price of lower tier oil and the actual sales price of that oil at the wellhead. The volume of oil taxed at this level is the amount freed to the upper tier price at a rate faster than 2% per month. The tax at this level phases out by May 1983.

Upper tier level: The tax per barrel at the upper tier level is equal to half of the difference in price between the controlled price of upper tier oil and the price at which it is sold. Beginning in November 1986, the base for this level of the tax will begin to increase in monthly increments such that by January 1990 the base is equal to the market incentive base price and this tax level will have been phased out.

Market incentive base price level: The market incentive base price on the effective date of the tax is $16 per barrel. This base price will be adjusted thereafter for inflation on a quarterly basis. The tax per barrel at this level is equal to half of the difference in price between the market incentive base price and the price at which oil is actually sold.

The tax applies to all the lower tier oil except that which qualifies as marginal under the Department of Energy's April 5, 1979 rulemaking and is released to the upper tier level, and that which is released to the upper tier level to provide financing for eligible enhanced recovery projects. There are no exceptions to the tax for any oil at the upper tier level.

With respect to oil selling at uncontrolled prices (e.g., stripper well oil, newly discovered oil, and incremental new production

from tertiary recovery projects) the tax applies to revenues above the market incentive base price level. Oil from northern Alaska will not be subject to the windfall profits tax. This exception is required since the transportation costs of bringing this oil to market are high, and the actual price received at the wellhead by northern Alaska producers is significantly below the market incentive price level.

THE ENERGY SECURITY TRUST FUND

The Energy Security Trust Fund will receive the revenues from the windfall profits tax, as well as the additional corporate income taxes paid in 1980, 81, and 82 which result from decontrol. The Administration will request an appropriation as soon as the windfall profits tax is enacted. The revenues in the Fund will be used for three basic purposes:

Up to $800 million annually for assistance to low income households to offset additional petroleum costs resulting from decontrol;

Up to $350 million annually for energy efficient mass transit purposes; and

A range of energy program initiatives designed to reduce U.S. dependence on imported oil over the longer term. Initiatives include those set forth in the White House Fact Sheet of April 5, 1979, and additional initiatives, for long-term energy R&D, conservation, and energy-related environmental R&D, which Fund revenues will support.

The Energy Security Trust Fund programs will be undertaken only if the windfall profits tax is enacted and only to the extent that the Trust Fund can finance those programs in full. Expenditures from the Trust Fund will be subject to the normal authorization and appropriations process.

PRELIMINARY ENERGY SECURITY TRUST FUND ESTIMATES [1]
(BASE CASE [2])

[In billions]

	Fiscal year—		
	1980	1981	1982
REVENUES			
Windfall profits tax revenues	$0.4	$1.8	$3.0
Additional resources [3]	1.0	2.2	3.0
Total	1.4	4.0	6.0
BUDGET AUTHORITY AND TAX EXPENDITURES			
Spending Initiatives			
Assistance to low income households	0.5	0.8	0.8
Additional assistance for mass transit	.2	.3	.3
Energy supply and conservation investments:			
Tax expenditures [4]	.1	.2	.4
Budget programs—White House Fact Sheet	.6	.2	.1
Budget programs—To be defined [5]	0	2.5	4.5
Total energy supply and conservation investments	.7	2.9	4.9
Total (budget authority and tax expenditures)	1.4	4.0	6.0

[1] All spending is contingent upon the enactment of a windfall profits tax sufficient to cover the full cost of each initiative.
[2] Base case revenue estimates are based on constant real world oil prices; the high OPEC price case assumes 3-percent annual real growth in world oil prices.
[3] Additional resources are based on estimates of the additional producer income taxes paid as a result of decontrol for fiscal year 1980–82. Estimates assume a 40-percent marginal tax rate on additional producer and royalty income (before imposition of the windfall profits tax). Increased drilling would result in lower tax rates. Average producer tax rates are now about 30 percent.
[4] Tax expenditure cost estimates are based on the President's proposals.
[5] Energy programs for the level of funding shown have not been defined in detail. It is anticipated that they would include petroleum substitutes, conservation, research and development, energy related environmental R. & D., etc.

Note: Detail may not add due to rounding.

PRELIMINARY ENERGY SECURITY TRUST FUND ESTIMATES [1]
(BASE CASE)

[In billions]

	Fiscal year—		
	1980	1981	1982
BUDGET OUTLAYS AND TAX EXPENDITURES			
Assistance to low income households	$0.5	$0.8	$0.8
Additional assistance for mass transit	0	.1	.2
Energy supply and conservation investments:			
Tax expenditures [2]	.1	.2	4
Budget programs—White House Fact Sheet	.1	.2	.2
Budget programs—To be defined [3]	0	1.2	2.4
Total energy supply and conservation investments	.2	1.6	2.9
Total spending	.8	2.5	3.9
Fund balance	.6	2.1	4.2

[1] All spending is contingent upon the enactment of a windfall profits tax sufficient to cover the full cost of each initiative.
[2] Tax expenditure cost estimates are based on the President's proposals. Reimbursement of the general fund for lost revenue associated with these tax expenditures will be accomplished by adjusting windfall profits tax revenues before they are credited to the fund.
[3] Energy programs or the level of funding shown have not been defined in detail. It is anticipated that they would include petroleum substitutes, conservation, research and development, energy related environmental R. & D., etc. Outlay estimates are illustrative.

Note: Detail may not add due to rounding.

PRELIMINARY ENERGY SECURITY TRUST FUND ESTIMATES
(HIGH OPEC PRICE CASE)

[In billions] [2]

	Fiscal year—		
	1980	1981	1982
REVENUES			
Windfall profits tax revenues	$0.4	$2.5	$4.7
Additional resources [3]	1.0	1.7	3.2
Total	1.5	4.2	7.8
BUDGET AUTHORITY AND TAX EXPENDITURES			
Spending Initiatives			
Assistance to low income households	.5	.8	.8
Additional assistance for mass transit	.2	.3	.3
Energy supply and conservation investments:			
Tax expenditures [4]	.1	.2	.4
Budget programs—White House Fact Sheet	.7	.1	.1
Budget programs—To be defined [5]	0	2.8	6.3
Total energy supply and conservation investments	0.8	3.1	6.7
Total (budget authority and tax expenditures	1.5	4.2	7.8

[1] All spending is contingent upon the enactment of a windfall profits tax sufficient to cover the full cost of each initiative.
[2] Base case revenues estimates are based on constant real world oil prices; the high OPEC price case assumes 3 percent annual real growth in world oil prices.
[3] Additional resources are based on estimates of the additional producer income taxes paid as a result of decontrol for fiscal year 1980–82. Estimates assume a 40-percent marginal tax rate on additional producer and royalty income (before imposition of the windfall profits tax). Increased drilling would result in lower tax rates. Average producer tax rates are now about 30 percent.
[4] Tax expenditure cost estimates are based on the President's proposals.
[5] Energy programs for the level of funding shown have not been defined in detail. It is anticipated that they would include petroleum substitutes, conservation, research and development, energy related environmental R. & D., etc.

Note: Detail may not add due to rounding.

PRELIMINARY ENERGY SECURITY TRUST FUND ESTIMATES [1]
(HIGH OPEC PRICE CASE)

[In billions]

	Fiscal year—		
	1980	1981	1982
BUDGET OUTLAYS AND TAX EXPENDITURES			
Assistance to low income households	$0.5	$0.8	$0.8
Additional assistance or mass transit	0	.1	.2
Energy supply and conservation investments:			
Tax expenditures [2]	.1	.2	.4
Budget programs—White House Fact Sheet	.1	.2	.2
Budget programs—To be defined [3]	0	1.3	3.2
Total energy supply and conservation investments	.2	1.7	3.8
Total spending	.8	2.6	4.8
Fund balance	.7	2.3	5.3

[1] All spending is contingent upon the enactment of a windfall profits tax sufficient to cover the full cost of each initiative.
[2] Tax expenditure cost estimates are based on the President's proposals. Reimbursement of the general fund for lost revenue associated with these tax expenditures will be accomplished by adjusting windfall profits tax revenues before they are credited to the fund.
[3] Energy programs for the level of funding shown have not been defined in detail. It is anticipated that they would include petroleum substitutes, conservation, research and development, energy related environmental R. & D., etc. Outlay estimates are illustrative.

Note: Detail may not add due to rounding.

Mr. WALLOP. Mr. President, as indicated in the White House factsheet, when the President proposed his tax in April, by the administration's own estimates the tax would have yielded only $5.2 billion over the 3-year period. This was when the admiinstration was still employing near-term revenue projections rather than engaging in the ridiculous exercise of making revenue projections over the next decade. Over the same 3-year period the Finance Committee bill raises $4.5 billion in 1980, $11.8 billion in 1981, $15.1 billion in 1982, a total of over $30 billion over the same 3-year period. Not a very proud record in this Senator's mind, but it hardly appears so stingy as the President shrilly suggests.

There can be no denying that the administration read the mood of Congress correctly when he made the next move. It recognized that Congress would not enact a tax raising funds of such large magnitudes without knowing how the revenue would be spent.

Keep in mind that the President's April energy message showed us how he would spend only $5 billion in windfall profits tax revenues. The sudden jump in OPEC prices in June meant that the President had to find some other means of explaining the need for the tax.

It became necessary to rationalize the coming Federal windfall and so the President came down from the mountain with a proposal to spend $142.2 billion. President Carter proposed to spend a billion dollars each for tax credits on unconventional natural tar and the development of oil shale, $5 billion for utility oil use reduction, $2 billion for residential and commercial conservation, $26.5 billion for transportation efficiency, $24 billion for low-income assist-

ance, and $3.5 billion for a solar bank and accompanying tax credits. The programs amounted to only some $55 billion, only a third of the windfall coming to the Treasury. Faced with the need to explain the need for even more revenue, the administration came up with the $88 billion Energy Security Corporation. All told, the President's program called for spending $142.2 billion over the next 10 years.

I might add, Mr. President, that at that time the President of the United States was counting on using some of the extraordinary windfall which will accrue to the Treasury out of the increased corporate and personal income taxes as a result of decontrol.

The House dutifully responded to the request of the President and passed a tax even more burdensome than the one originally proposed by the administration. Again, the House disregarded the arguments that the tax would reduce domestic oil production. The call from the White House was that the President needed $144 billion to address the energy needs of the Nation, and the House gave him a tax that would reduce domestic production by some 2 million barrels per day by the mid-1980's.

The President seemed pleased with the House-passed windfall bill which provided him with only $105 billion over the next 10 years. The difference between the $105 billion raised by the House tax and the $142 billion requested by the administration was to come from general corporate taxes which would be increasing as a result of decontrol. It is important to point out that at the time of its passage the House bill, which was met with words of praise by the President, raised $105 billion in net windfall revenues. They thought they passed a tax of $105 billion; they know they passed a tax of $105 billion and they were satisfied with a tax of $105 billion.

The Finance Committee bill, on the other hand, consciously will raise $138.2 billion in net windfall taxes, which is $135 billion more than the House thought it would pass, and boasted that it would pass, yet it is characterized by the President in scornful and undignified tantrums.

The end result of the Finance Committee bill is that it raises enough revenue to meet the funding requirements of the programs requested by the President. Now the President is charging that we have "stolen" the revenue he needs to fund his energy programs. The fact is that the Finance Committee bill provides more revenue than the President's original plan. The revenue from the Finance Committee bill also exceeds the revenue estimates of the House bill when it was passed in June of this year.

I acknowledge the fact that the Finance Committee bill has achieved its revenue target by assuming a more realistic assumption of world oil prices. A $30-per-barrel estimate for imported oil is far more realistic than the $22 base used by the Ways and Means Committee. But allow me to take you one step further into the arithmetic of the windfall tax. Assuming a $30 base price for imported oil, it is true that the House bill would raise a net $276.8 billion in windfall profits taxes compared to the $138 billion in the Senate Finance Committee bill. This cannot be denied. But I pose the question to the Senate: Can anyone tell me how the administration plans to spend $276 billion over the next decade? In April the President was able to rationalize the spending of $5 billion to meet our domestic energy needs. When the President came down from the mountain at Camp David he was able to tell us how he plans to spend $142 billion. But what does this administration or future administrations plan to do with the rest of the money raised if the House version of the windfall profits tax were enacted?

The President has failed to tell us how he plans to spend the other $135 billion that would be earned by the House bill. And he has yet to describe plans for the $300-plus billion he will reap in addition to his windfall tax under corporate and individual income taxes.

By any stretch of the imagination, $276 billion in 10 years is an awesome amount of money. And I might add that even with inflation fighter Mr. Kahn at work, the increase in the inflationary figures from $5.2 billion to $278 billion from April to November is a pretty impressive record.

As serious legislators, how can we contemplate handing over $276 billion to this administration or any administration without having any idea how half of the funds are going to be spent? Can anyone tell me why the Government deserves to reap this embarrassing windfall if they cannot even explain how it is to be spent? If anyone is going to ask for a heavier tax on domestic oil than the tax provided in the committee bill, I must ask him how he plans to spend the funds.

The administration's insistence that it needs the total revenue from the House windfall tax demonstrates that the program is not intended to address our energy transition needs but more sinister plans are afoot. This tax, like all tax increases or new tax proposals, is designed to help the administration increase spending, not just for energy development, but for the variety of spending programs that neither they nor we in Congress want to control.

One of the reasons why the administration has trouble with the Finance Committee bill is that it has a structured phase out of the tax.

The committee bill commits the Nation to a windfall profit tax with a limited revenue goal and a specific policy purpose. The bill is designed to raise funds to be used to encourage energy conservation, mass transit, synfuels production, and help Americans make the transition from an era of low-cost energy. The phaseout provision provides a guarantee that the tax will raise adequate revenues while avoiding the consequences of establishing a permanent tax.

There is no reason to establish a tax that raises more revenue than is actually needed to address these identified problems of the Nation. If we need revenue to fund other programs, unrelated to our energy problems, Congress can consider raising taxes, establishing a new tax or reimposing an oil excise tax. The windfall tax should not be established to fund an expanding Federal Government or shelter future administrations from the national cry for greater fiscal responsibility.

The criticism directed at the Finance Committee bill is an indulgence in reckless rhetoric or a profound failure to understand our Nation's energy problems. The $138 billion in revenue generated by the Finance Committee windfall tax proposal is in line with the President's requests for his energy program, yet the President has characterized the finance bill as a ripoff.

I might add, Mr. President, that a permanent tax designed to ease the Nation's transition from a subsidized energy economy to a true cost energy economy cannot syntactically ever be justified. You cannot be in transition forever.

I suggest a greater ripoff would be an additional and unnecessary $134 billion tax on the domestic oil industry which will only yield less domestic oil production and more imports of tax-free foreign oil.

What are the results of this legislation? First, we must recognize that this tax ends any hope of doing away with the maddening complexities that were created by crude oil price controls. After the enactment of the windfall profit tax, the oil industry will still be faced with multiple categories of oil, decline curves, different base prices, and variable tax rates. In other words, the mindboggling complexity of the crude oil price control system will continue under the new tax we are placing on domestic oil. There should be no one who thinks that we are actually decontrolling oil.

All we are doing through phased decontrol and the imposition of a windfall profits tax is replace price controls with a tax mechanism that limits returns and controls prices of producers. The same complexities are present in the new proposal, and we continue to provide the same disincentive to domestic production. All we are doing is changing agencies—instead of imposing price controls through the Department of Energy we are imposing controls on the returns to producers through a tax administered by the Internal Revenue Service. In the long run they are undoubtedly even more cussedly ignorant of energy needs than is the Department of Energy.

Secondly, a windfall profit tax exposes America to still more dependence on foreign oil over the next 5 years. It is crucial to understand the time frames involved in developing oil. By exempting newly discovered oil, the Finance Committee has taken an important step toward reducing our dependence on foreign oil in the mid- to late-1980's. But even under the best circumstances, new oil reservoirs cannot be discovered, developed, and flow to refineries for 5 or more years.

The new oil exemption is needed to help our supply situation in the late 1980's. But it will do nothing to help us in the near term. Wishing will not make it so.

One of the most disheartening aspects of the committee's action, and, indeed, the President's and House versions, is that they somehow leapt over the energy production and supply problems of the early 1980's without so much as a backward glance. And a glance in any direction would display most of the near-term solution right here within our shores.

In the immediate future, domestic oil production can only be increased by allowing properties to realize the benefits of decontrol. Lower and upper tier properties could provide the most immediate response to improved prices. Imposing a 60-percent tax on upper tier oil, a harsher levy than the one originally proposed by the President, will reduce the incentive to develop these properties to their full potential. Penalizing lower tier oil with the 75-percent tax and a 1.5-percent decline curve will only end hopes for increased production from these properties, but will also cause the premature abandonment of oil wells. How painfully shortsighted. In fact, it is stupid to sacrifice relief on the altar of political masochism.

Lower tier oil represents the properties discovered prior to 1973, and has the highest production decline rates among the major categories of oil. The production objectives for this category are similar to those for stripper wells. Investments must be made to arrest or slow the production decline in each well. The adoption of a 75-percent tax and a 1.5-percent decline curve on tier I oil will give producers virtually no incentive to reduce the declining oil production.

The Congressional Budget Office has prepared a report comparing the House and Finance Committee windfall profit tax bills. The study states:

> The Senate Finance Committee bill results in no more lower tier oil over the 1980–1990 period than would have resulted under continued controls.

The consumer is the one who reaps that bitter harvest.

How is it that the administration can promise more production from decontrol, and then endorse a tax that assures no more oil production? How is it that an administration can propose decontrol, and then endorse amendments to increase the tax on tier II oil? Does the administration want to see all the production effects of decontrol destroyed by a higher tax? I puzzle when the administration professes an interest or concern for our energy problems then supports a level of taxation to remove all incentive for domestic oil production.

I am forced to ask, if the administration decontrols oil but places a punitive tax on that oil which removes the production incentives, what good does it do? The answer of course is that it does a great deal of good for the U.S. Treasury. It is the U.S. Treasury and the agencies that benefit from increases in Government spending that will reap the windfall from crude oil decontrol. But the poor public is once again brutally deceived by men seeking to appear tough.

Under the Senate bill, the Federal government reaps $138 billion in windfall revenues, $478 billion in increased corporate and personal income taxes resulting from decontrol, and its share of the $51 billion of Federal and State royalties. All told, the combined effects of decontrol and the finance windfall profits tax bill will reap over $650 billion during the next 10 years. Is there any wonder why this administration, faltering so miserably on its promise to balance the budget, is now proposing decontrol and the windfall tax. In the name of heaven how much is enough for this Government hog? Can anyone fill it?

The most tragic part of this tax is the cruel hoax that has been played on the American people. The American public was told that it must put up with the price increases resulting from decontrol. They were told by their President that decontrol would result in increased production. The combined impact of decontrol and a heavy windfall profit tax will mean that the consumer will pay more for energy and get less of his own country's God-given supplies.

If the American people feel that they have been deceived, it is because they have been.

The PRESIDING OFFICER. Under the previous order, the Senate must at this time return to the consideration of Senate Resolution 277.

Mr. WALLOP. Mr. President, I appreciate the Chair's reminding me of that fact.

The PRESIDING OFFICER. The Chair would point out to the Senator from Wyoming that this debate is limited to 10 minutes. If the Senator wishes to continue immediately after the debate, the Chair will be happy to recognize him.

Mr. WALLOP. I appreciate the Chair's thoughtfulness, but I have completed my statement.

CAMBODIA RELIEF

The Senate resumed the consideration of Senate Resolution 277 relating to the commitment to ease the human suffering in Cambodia.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, I yield 4 minutes to the Senator from Tennessee (Mr. SASSER).

Mr. SASSER. I thank the distinguished Senator from New York for yielding to me.

Mr. President, this is an important moment in the worldwide effort to provide humanitarian relief and assistance to the famine and disease-ridden people of Cambodia. Today, the United States will express unified support, in my judgment, of the drive to allow food, medical supplies, and deliver equipment to a dying race, and we will seek to overcome political barriers, indeed, to ignore political differences, in an effort to achieve what I think is a very humane goal. This is the most appropriate aim for modern civilization.

Many of us said years ago, in reviewing the terrible human atrocities and tragedies that took place in Europe during the Second World War, that this would never happen again. On this floor, we said, "Never again." And, Mr. President, this is an opportunity for us to prove that we, indeed, did mean that. Because, inside Cambodia and on the borders of Cambodia, a race of people is dying. The Khmer people who populated Cambodia in 1969 were numbered at 8 million. Today, their number stands at no more than 4 million. And of the 4 million remaining, hundreds of thousands are teetering on the very edge of starvation. Every day tens of thousands perish—men, women, and children—from starvation, from the ravages of malaria, amebic dysentery, and tuberculosis.

I have spoken many times here on the Senate floor since my return from Southeast Asia. The distinguished Senator from Missouri (Mr. DANFORTH), my able colleague from Montana, Senator BAUCUS, and myself will continue to speak out on the horrors that we witnessed, and we will continue to work toward the removal of the roadblocks that are preventing international assistance from being delivered to this desperate and dying people.

The citizens of this country all across this great land—public officials and citizens alike—have seen the grotesque photographs and have heard the horrible stories of human deprivation. It is incumbent upon us in this Congress and in the administration to keep the momentum moving, and to help bring the weight of the world opinion to bear on this crisis. And this is important. For we must let others know that, we must let the authorities who presently control Phnom Penh, control Cambodia, know that what is happening there will not happen in the dark, it will not happen in a closet; that the full glare and the full spotlight of world public opinion will be brought to bear and we will be watching.

So, Mr. President, I am honored to be a cosponsor of the sense of the Senate resolution. It is a vital factor in the reaffirmation of our determination to succeed. People and governments worldwide will join with us in this commitment.

I wish to pay tribute, Mr. President, to the distinguished Senator and able ranking minority member of the Foreign Relations Committee for the interest that he has taken in this very, very important matter.

Mr. JAVITS. I thank the Senator from Tennessee (Mr. SASSER).

Mr. President, I yield out of the time of Senator CHURCH 4 minutes to the Senator from Rhode Island (Mr. PELL).

Mr. PELL. I thank my friend from New York.

Mr. President, as a cosponsor of this resolution, I wish to add my voice to those urging its passage. Since 1975, millions of people have been uprooted and displaced by the political and military turmoil in Indochina. In human terms, individuals in Vietnam, Laos, and Cambodia have been cruelly driven from their homes, separated from their families and loved ones, and senselessly persecuted and starved by their governments. In political terms, the influx of

hundreds of thousands of refugees into neighboring countries of first asylum has had a serious destabilizing effect throughout the region.

In Cambodia, there has been a catastrophe of unfathomable proportions. Indeed, what has happened to that gentle and peaceful people is comparable only to the wholesale elimination of the Jewish population of Europe by the Nazis. In 1975, the population of Cambodia was 8 million. Today, it is approximately 4 million. Without an effective and massive relief effort, the population could conceivably be reduced to less than 1 million. Not since plague, war, and pestilence scourged Europe during the 14th century has any country sustained a death toll comparable to that of Cambodia.

Mr. President, this catastrophe—this holocaust—cannot be recounted just in these mind-numbing, almost unbelievable statistics. It must also be told in direct human terms. There is hardly a family in Cambodia today that has not suffered the loss of one or more of its members. In many families, there are no survivors. The catastrophe must also be told in terms of the vignettes of horror of the 4 years of Khmer Rouge rule and of starvation along the Thai border. This is a land whose government chained small children together and buried them alive with bulldozers. This is a land where the survivors—those who have made it to the relative safety of Thailand—are often too weak to continue. None of us, I think, can escape the haunting images of hollow-eyed children with bloated stomachs and matchstick limbs. This human catastrophe is all the more tragic because it is so avoidable. The food for the children of Cambodia is there. The facilities to transport the food are there. The will to deliver the food is there. The people of Cambodia are dying for one reason, and one reason alone—the unwillingness of certain governments and certain parties to allow in the necessary food and medicine.

In this context, the sentiments expressed in Senate Resolution 277 are extremely important. It is imperative that all levers of international pressure be applied to the various parties within and without Cambodia to permit unrestricted assistance to the suffering people of Cambodia. Humanitarian efforts should not fall victim to Sino-Vietnam policies.

My own view is, as I stated on the floor of the Senate on October 30, that if the Cambodian Governments do not cooperate in the proposed relief efforts, the United States should organize a massive airdrop reminiscent of the Berlin airlift.

No matter how the assistance gets in, the various parties in Cambodia must understand that the world will not allow any government to starve to death an entire nation. That is the purpose of this resolution and I strongly urge my colleagues to vote for its passage.

Mr. JAVITS. Mr. President, in concluding the argument for the resolution, on the part of Senator CHURCH, myself, and the cosponsors. I wish to again pay tribute to the three Senators, whom I again call our heroes, who have seen the hollow eyes, bloated bellies, and matchstick limbs of these very, very unfortunate people whom we are trying to help save.

Mr. President, I point, again, at the responsible party, which is very heavily the other superpower, the Soviet Union. I do not wish to in any way castigate it or denounce it. I only say that it can be of very material help. And it should be very clear to the world when it does what it is very capable of doing, to wit, opening up the channels. The world is ready to supply the food, the money, the personnel, the trucks, the airplanes, the ships. Open the doors of Cambodia is my message to the Soviet Union, if you want to earn—not just have, but earn—the title of the other superpower on Earth.

Mr. President, I hope the Senate will pass this resolution unanimously.

● Mr. HATFIELD. Mr. President, the immense scope of the suffering now confronting hundreds of thousands of Cambodians tears at the soul of us all. At times like these, when confronted with the imminent starvation of a generation of a nation's people, political considerations pale before the humanitarian challenge awaiting our action.

I therefore urge, along with other Members of the Senate, that every possible effort be made to help meet food and medical needs desperately required at this moment in Cambodia. Furthermore, every international effort must be encouraged to arrange for the ultimate delivery of these supplies to the center of this growing tide of human misery and suffering.

Mr. President, I believe it is essential that we not only respond to the immediate crisis with the formidable humanitarian capability that we as a nation possess, but that we also recognize that the tragedy now engulfing Cambodia is itself a reflection of the most serious worldwide problem we face. The political convulsions in Cambodia have caused a visible, stark panorama of human suffering. But in more quiet corners of the world, the daily struggle against imminent death is as constant and as flushed with torment as the terror that now grips the people of Cambodia. It is not only essential that we fully respond to the immediate crisis, but recommit the substantial technological, medical, and agricultural power of this Nation to attack the growing problem of hunger on a worldwide scale.

Mr. President, I am delighted and moved to convey to my colleagues some of the individual and group efforts that have been initiated in Oregon to respond to both the immediate Cambodian crisis and the longer term problem of Indochinese refugees.

Mr. Ron Post, a Portland businessman, founded a volunteer effort called the "Northwest Medical Team" to aid in refugee relief. Many skilled medical people from the Northwest have volunteered to serve in the refugee camps in Thailand and Cambodia. The first 20 of the volunteers have been selected and will be leaving within 2 weeks from Travis Air Base under the auspices of World Vision. Each medical team will consist of two doctors, four nurses and two paramedics. Each lab team will be staffed by four technicians. I want to personally commend this strictly volunteer effort as an example of the compassion and sacrifice of American people who are driven only by a desire to see the furtherance of human life and the lessening of human suffering. Many more medical volunteers will be traveling to Indochina through this newly formed group to bring effective aid in the camps of Cambodia and Thailand.

Mr. President, the political upheaval on the Southeast Asia continent has also spawned problems which require long-term solutions of refugee resettlement, education, and retraining. Just last week, Gov. Vic Atiyeh of Oregon proclaimed Thanksgiving week, November 18–24, as "Indo-Chinese Refugee Week in Oregon." I will read into the RECORD the text of that proclamation which again reflects the selfless, humanitarian impulse of the citizens of Oregon and the Nation toward this continuing crisis.

PROCLAMATION

I commend Oregonians for taking an active role in sponsoring Indo-Chinese refugee families into our state these past few years.

The warmth and hospitality our state's citizens have shown by opening their hearts and homes to these refugees is to be commended.

All other considerations pale before the supreme value of human life. The suffering and life-endangering situations faced by the Indo-Chinese refugees have not ceased to exist.

Physical survival, on a daily basis is, in itself, a gigantic struggle. Our response, as Americans to this situation, has been heartfelt and truly commendable.

Therefore, as Governor of Oregon, I hereby proclaim November 18–24, 1979, as "Indo-Chinese Refugee Week in Oregon."

I call upon my fellow Oregonians to consider in their hearts the true spirit and meaning of Thanksgiving in America and to continue their efforts to welcome and sponsor Indo-Chinese refugees.

VIC ATIYEH,
Governor of Oregon.

Mr. President, individuals and private, voluntary organizations throughout Oregon have again made vital contributions to the problems associated with the resettling of refugees in this country. These efforts have my support and admiration. Of particular note have been the efforts of Shalom Oregon, Inc., which recently helped organize a meeting of religious, professional and political leaders to address the problems of Indochinese refugees. They had a great deal to do with the proclamation I have just read into the RECORD. I would urge my colleagues to bring this proclamation to the attention of the citizens of their States, and encourage the adoption of such language across the Nation. I know that Oregonians will continue to respond to the vast and humanitarian challenge posed by the starvation in Cambodia and Thailand, and the ongoing problems of regugees from Indochina.●

CAMBODIA RELIEF

● Mr. DOLE. Mr. President, the Senator from Kansas has been concerned about the situation in Cambodia, which unfor-

tunately has steadily deteriorated, for the past several years. In recent months political events have compounded the crisis into the ultimate tragedy: near-extinction of a race of people. Numerous resolutions have been introduced in both Houses of Congress, including one by the Senator from Kansas and several which I cosponsored, in an effort to stimulate and maximize the relief efforts the United States could make to alleviate the situation. At last, with this measure, we hope to go a long way toward accomplishing that goal.

Now that some degree of relief is assured for the hapless, remaining victims of the misery in Cambodia, let us turn some attention to the cause of this holocaust. This is not some horrible accident of nature that occurred here, the result of a disastrous earthquake, relentless drought, or inundating floods. Let us take note here of the perpetrators of this crime against all mankind, for it is useful to assess blame for the present and for what it portends for the future. The Communist masters of Vietnam, who let avarice and powerlust rule their ambitions, will have forever the spirits of the million ghosts of Cambodia to haunt them. After recklessly indulging in a war for power and imperium, the Vietnamese now face the prospect of becoming lords of a land racked by hopeless poverty disease, and famine. Rape, loot, and pillage are not the bywords of a new utopian order, but it seems to be the only legacy that all will inherit from the nefarious Pol Pot regime, and the internecine conflict that saw his ouster as an excuse for invasion.

SPECTER OF STARVATION

The barren fruit of this sad travesty, the specter of starvation, is the battle that has occupied the Cambodians, the "boat people," the countries of first refuge and the civilized peoples of the world in the last few months. This has prompted many calls for international relief efforts, calls directed at the national conscience of our own country as well. These distress calls should not be seen as obligations derived from our past involvement in the Vietnam war, as some would suggest. One of the greatest tragedies of that war was our failure to stem the tide of a rapacious striving for dominion by the various Communist insurgents. Now the results of that failure stimulate the guilt of antiwar liberals who failed to heed our warnings, dismissing them as so much propaganda. We cannot let their guilt cloud our feelings about the present situation in Indochina, or obscure our motivations in the aid we tender.

Our motivation is much more direct than that. It comes from our basic concerns for the well-being of all peoples, from the basic ideals and traditional commitments of our spiritual and national heritages. For we are witnessing one of the potentially greatest tragedies of our time: The possible death of an entire people. To the inevitable effects that wars—all wars—have on the people who are unfortunate victims (victims of political conflicts in which they are caught up without necessarily comprehending them) is added the failure of this year's poor rice crop. A famine of such magnitude stretches before these hopeless victims of history that it threatens to extinguish the total population of Cambodia.

It is the hope of the Senator from Kansas that this legislation marks the turning point, the time when disease and famine will begin to come under man's control and lose its dominance over Southeast Asia. But we must hope for and pray for and work toward the only true solution to the tragedy of Cambodia: Liberty and peace.●

MR. JEFFERSON'S UNIVERSITY FASTS FOR FOOD FOR CAMBODIA

Mr. WARNER. Mr. President, it was not too long ago that our college campuses were the scene of activities considered counterproductive by the mainstream of America. However, Mr. President, an event took place yesterday at my alma mater, the University of Virginia, that leads me to believe that we have come a long way since 1972.

Mr. President, yesterday in Charlottesville, Va., on the campus of the University of Virginia, the student council sponsored a 24-hour fast in sympathy with the millions of starving people in Cambodia.

From midnight to midnight, students were asked to do without any food. They were further asked to donate the amount of money usually spent on meals to a fund which would be donated to the Red Cross to send food to Cambodia.

The university food service, for its part, agreed to donate the amount saved by students subscribing to its service, $5,000. Fraternities and sororities as well as the entire student body and town merchants have combined to raise another $10,000.

So, Mr. President, this was an activity in which the entire university community was able and willing to participate.

As we are preparing to vote on a resolution stating our commitment to easing the suffering in Cambodia, it is reassuring to see this type of activity by citizens on a local level.

Programs such as this are not just words, but proof of the commitment of the people of the United States to see that everything possible is being done to put an end to this terrible suffering and starvation in Southeast Asia.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, under the previous order a vote will be taken on the resolution offered by the Senator from New York (Mr. JAVITS). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. TALMADGE), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I also announce that the Senator from Iowa (Mr. CULVER) is absent because of illness.

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

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER (Mr. STEWART). Is there any Senator in the Chamber who desires to vote who has not done so?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 414 Leg.]

YEAS—89

Armstrong	Gravel	Muskie
Baker	Hart	Nelson
Baucus	Hatch	Nunn
Bayh	Hatfield	Packwood
Bellmon	Hayakawa	Pell
Bentsen	Heflin	Percy
Boren	Heinz	Proxmire
Boschwitz	Helms	Pryor
Bradley	Hollings	Randolph
Burdick	Huddleston	Riegle
Byrd, Harry F., Jr.	Humphrey	Roth
	Inouye	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schmitt
Chafee	Jepsen	Schweiker
Church	Johnston	Simpson
Cochran	Kassebaum	Stafford
Cohen	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Stevenson
Dole	Levin	Stewart
Domenici	Long	Stone
Durenberger	Lugar	Thurmond
Durkin	Magnuson	Tower
Eagleton	Matsunaga	Wallop
Exon	McGovern	Warner
Ford	Melcher	Weicker
Garn	Metzenbaum	Williams
Glenn	Morgan	Young
Goldwater	Moynihan	Zorinsky

NAYS—0

NOT VOTING—11

Biden	Culver	Ribicoff
Bumpers	Mathias	Talmadge
Chiles	McClure	Tsongas
Cranston	Pressler	

So the resolution (S. Res. 277) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 277

Whereas inside Cambodia today, and in refugee camps located in Thailand near the Cambodia border, there is a tragedy of enormous and appalling proportions in which hundreds of thousands of Cambodians face imminent death by starvation and disease; and

Whereas up to two million other Cambodians face serious food shortages; and

Whereas the very survival of the Khmer race is threatened by a genocide greater than the world has seen in thirty-five years; and

Whereas the international intergovernmental and voluntary organizations should be highly commended for their persistent efforts to reach agreements with the authorities in Phnom Penh on the supply of food, medicine, and other needed provisions for the Cambodian people; and

Whereas political obstacles have hampered

these organizations in their efforts to launch the massive relief effort required to save the Cambodian people; and

Whereas the needs of the Cambodian people are estimated to be thirty thousand tons of food and medical supplies each month; and

Whereas the current means of supply via sea and air cannot meet these needs; and

Whereas most of the nations of the world, at the special United Nations November 5 pledging conference, have promised support for the relief efforts; and

Whereas every day of delay in providing the needed assistance will mean the death of thousands of Cambodians: Now, therefore, be it

Resolved, That it is the sense of the Senate that all countries and all people be urged to respond generously to the international and intergovernmental and voluntary relief efforts for the people of Cambodia; and be it further

Resolved, That the authorities in Cambodia be encouraged on humanitarian grounds to allow all possible avenues for delivering food and medical supplies to be used by the international agencies in these efforts; and be it further

Resolved, That the United States and the United Nations should express to the great power supporters of the factions in Cambodia, in the strongest terms possible, our concern and expectation that they will use their good offices to ensure that one of the great human tragedies of the century does not occur and that they share in the international responsibility for averting a famine.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, for several years, knowledgeable observers have warned that reliance upon foreign sources for vital energy supplies could seriously threaten our Nation's security. Warnings intensified after the embargo of 1973 when we were dependent upon foreign sources for 26 percent of our oil needs. Novels were written in which fictional Middle Eastern nations manipulated large holdings of American dollars and bank balances earned through oil sales in ways which threatened international economic stability.

We were warned that this dependence potentially subjected our Nation to blackmail, threatening our independence as a sovereign nation to make decisions on foreign policy matters on the merits.

Yet, we have drifted along down the same perilous path, not heeding the warnings. We have collectively laughed at those who have said that national independence and energy independence are closely intertwined.

For too long we have played politics with our Nation's security. The people have been told that we can have all the energy they want without having to pay for it.

Suddenly, the tragic events in Iran tumbled down upon us. Our citizens are held hostage. Our Embassy is captured. Our flag is burned. Chapters in novels about attempts to move bank balances read like today's newspaper headlines. Our diplomatic representatives are not even given the treatment afforded by hostile nations at war. Attempts are made to use oil supplies to blackmail this country into making foreign policy concessions.

Mr. President, surely no one in this Senate and indeed no one in this Nation can doubt the validity of the warnings any longer.

Now comes the ironic twist. In the midst of a crisis which should convince us all that our No. 1 goal as a nation must be to conserve and produce more energy here at home, we are beginning debate on a bill which everyone on both sides of the issue admits will reduce our energy supply.

President Carter, in decontrolling the domestic price of oil, made a very strong case for his action. It was estimated that price incentives and additional available capital resulting from decontrol would increase the production of oil in this country by as much as 4 million barrels per day in the shortrun. Even conservative estimates ran in the range of 2 to 3 million barrels per day in increased production.

Then, however, the administration set out to partially undo the good which it had done. A tax was proposed to reduce the incentives and the capital for the private sector. Instead of 4 million barrels of additional production, it was estimated by industry experts with the original bill proposed by the President that the gain would be reduced to 1 million barrels per day, or less.

The House of Representatives changed the bill and it was estimated that increases would reach 2 million barrels a day. The Senate Finance Committee further improved the bill so that it is now estimated that it will encourage 3 million barrels of additional production.

Yet, Mr. President, there are those who say that the Senate committee weakened the bill. They advise a return to the House version.

Did the Senate committee weaken the bill? The answer to that question depends upon the goal that one has in mind. If our goal is to heap more taxes on the productive side of the American economy, then the bill was weakened because the taxes were reduced.

Even without this bill, the Government will reap the biggest windfall of all from oil decontrol. Income taxes and State taxes will already take 62 percent of every dollar resulting from decontrol. Estimates now range as high as $400 billion in additional revenues without the so-called windfall tax.

Perhaps to some our first goal is to raise more taxes. That is a sad mistake. Taxes will not produce another drop of oil. I am reminded of a cartoon which I saw which had a shivering Valley Forge soldier speaking to General Washington. "Sir, we have a shortage of firewood and the troops are freezing," said the soldier. "What shall we do?" "Tax the firewood," answered the mythical General Washington in the cartoon. We never would have won our independence had the real General Washington not had more sense than that.

Our goal must be to produce more energy, not more taxes. If that is the goal, then the Finance Committee bill is far better than the bill which came over from the House. If our goal is to produce more energy, then surely the Senate committee has strengthened, not weakened this bill.

Industry experts say the Senate committee version will produce 1 million more barrels of oil per day than the House version. A conservative estimate by the Congressional Budget Office projects one-half million barrels per day more under the Senate committee version.

This Nation obtains about 700,000 barrels of oil per day from Iran. The average of the two estimates for increased production under the Senate committee version is almost exactly that amount—750,000 barrels of additional production under the Senate version. How can anyone seriously believe that we should change this bill to produce less energy at this time of crisis?

How can anyone suggest that we turn our backs on an opportunity to produce, under this bill, the additional oil that would exactly, or more than exactly, offset the loss of Iranian oil?

This Nation cannot afford to throw away opportunities to produce more energy. Time is running out.

Our current energy crisis in this country is not primarily economic. It is certainly not a shortage of energy resources. We have enough coal, for example, to last for more than 100 years. Our problem is political.

It is obvious that we produce too little energy within the United States and that we consume too much, yet we continue to follow a policy of taxing production while subsidizing consumption. It makes no sense economically even though it plays well politically.

It is always popular to tell people what they want to hear. Many wish to believe that we can have more energy by paying less for it. Unfortunately, the only way that we can free ourselves from dependence upon OPEC is to invest more money to produce energy here at home. Oil wells cannot be drilled, or coal mined, or solar panels built for free. Someone must pay the bill.

The truth is that the public will pay the bill. New energy production must be financed either by the profits of private companies or by the Government through money collected in taxes.

History clearly shows that the free enterprise system produces goods and services much more cheaply than the Government. Private companies can move a barrel of oil through pipelines from the Gulf of Mexico to New York City for a fraction of the cost to the U.S. Postal System for delivering a letter from Houston or New Orleans to New York.

In the long run, the only way to bring down the high cost of energy is to in-

vest now to produce more here within the United States.

Regional rhetoric also will not do the job. All Americans should favor more oil production whether that oil lies beneath Texas or Oklahoma or Massachusetts or Connecticut. We should all be for mining more coal whether it comes from Rhode Island or West Virginia or Wyoming. We should all be for developing mass transit where it is feasible, even those of us from areas where population density makes it unlikely that we will receive mass transit funds. We must pull together to help ease the burdens for the elderly who cannot protect themselves against the rapidly rising costs of heating oil, even if heating oil is not used in our States.

In short, Americans must stand together and have the will to face the truth and meet it head on. The "windfall" tax is a retreat from that goal. As I have said, the Government will already reap hundreds of billions of dollars, over 60 percent of every dollar generated in profits as a result of decontrol without "windfall" tax. It will already have enough to adequately pay for aid to the poor, proper conservation programs, and the development of alternate energy sources.

If our job is to produce more energy and to reduce the wasteful consumption of energy, the windfall tax has no economic justification. Politically, it may have its short-term benefits, but economically the best that can be said of the bill as reported by the committee is that it is not as destructive of the national interest as it was before the committee amended it.

We must resist the temptation to make knee jerk political reactions to the current energy shortage. Those who want to play politics have had plenty of opportunities.

The most recent profit reports by oil companies have given those who do not want to face our real problems a rhetorical field day. With headlines reporting 80- or 90-percent increases in profits for some oil companies over the previous years, cries for punitive action have become louder.

But let us look at the facts.

First, oil company profits are up this year, but they are up compared to a year in which they were below the national average for all manufacturing. If a business had a $1 profit in 1978 on $1 billion invested and a $2 profit in 1979, the company profits would be up 100 percent. Obviously, however, the company would be doing very poorly. In 1978, the return on equity for the 25 top oil companies was 13.3 percent compared to 16.1 percent for the 77 leading nonoil companies.

Second, over the past decade the profits for the 25 leading oil companies have averaged almost exactly the same as nonoil companies. The average return on stockholder's equity has been 13.9 percent for oil companies and 13.7 percent for nonoil companies. For the last 5 years, oil company profits have been below the average for nonoil companies. It seems strange that there were no headlines about other industries which had a higher composite profit ratio than oil companies. In 1978, the following had at least 40 percent higher return on equity than oil companies: Soft drinks, office equipment computers, building, heating and plumbing equipment, drugs and medicines, soaps and cosmetics, tobacco products, photographic goods, lumber and wood products, and aerospace.

It is interesting to note that the media, which has emphasized oil company profits, were far above the industry in profits in 1978. Percentage return on equity for broadcasting and television was more than twice as high and newspapers 50 percent higher than for oil companies.

Third, an analysis of the growth of oil industry profits this year shows that 80 percent of the increase is due to foreign operations. Clearly, the increase in profits should form no basis for attacking domestic energy producers. Independent operators have no pipelines, refineries, retail outlets or overseas operations. Yet, they drill 89 percent of the wildcat wells, and find 75 percent of the new fields and 54 percent of the oil and gas discovered. While the attack on profit statements is unfair in general, it is obvious that it is totally unfair to blame smaller domestic producers because international companies increased their profits on overseas operations.

Fourth, before profits are condemned, we should examine how they are used. If our purpose is to get more energy for Americans, higher profits if they are used to find more energy should be welcomed. It is not the amount of profit but how the profits are used that should be the issue.

From 1973 to 1977, independent producers took in $33.3 billion in gross revenues and spent $45.9 billion on drilling, exploration and production. When a group is spending 105 percent of its revenue to produce more energy, obviously when revenues go up, domestic energy production will go up.

This year, the major oil companies have also had capital and exploration expenditures in excess of their net income. A study by Chase Manhattan Bank also indicates that less than 6 percent of total capital expenditures by the 27 leading oil companies were made in nonoil business.

I cite the record on profits because I think the Senate should operate from the facts. No one feels more strongly than I that the companies should put their profits back into producing more energy for this country. No one is more critical than I when companies buy other kinds of enterprises or simply pocket the profits instead of putting them to work to meet our energy needs. However, these kinds of actions are the exception, and not the rule.

We must also remember that in our free enterprise system, we operate using market place incentives. If we want to attract more investors to the energy field—and we do—then profits and the certainty of the future regulatory climate must be sufficiently inviting to get them to invest their money. One of the reasons why companies have been tempted to invest in other nonenergy operations has been the chance to make more profit in nonenergy fields and uncertainty about the attitude of Congress toward the industry.

The Finance Committee's windfall profit tax bill is a significant improvement over the House-passed bill. The committee bill provides greater incentives for conventional oil production while offering new incentives for development of synthetic fuels and the conservation of energy.

Most of the changes made by the Senate Finance Committee are in the best interest of American consumers. They will result in the production of more energy at a far lower per unit cost than OPEC oil or synthetic fuels produced with Government inducements.

One of the most positive steps taken by the Finance Committee was the exemption of newly discovered oil from the tax. It will help to reduce our dependence upon foreign sources of energy. It is expected that this exemption will increase oil production by as much as 1½ million barrels per day by 1990.

More positive action was taken with the exemption of incremental tertiary oil from this excise tax. An exemption of this kind is necessary to provide maximum incentives for producers to make the large investments required for tertiary projects. The Department of Energy has testified that with proper inducement over 2 million barrels of oil production per day could be recovered by 1990.

To practice these enhanced recovery methods and to recover the large amounts of oil which remain in the ground after primary production, there must be special incentives to keep these wells in production. If they are prematurely abandoned, the resource may be lost forever. It was with this thought in mind that the Finance Committee provided for the exemption of stripper oil owned by independent producers. There is well documented proof that special treatment for stripper wells produces constructive conservation results. Since the price for stripper oil was decontrolled in 1975, the abandonment rate on stripper wells has decreased by 500 percent.

The committee also recognized the importance of keeping marginal properties on line by expanding the definition of marginal wells to include properties which produce a high ratio of water to oil. These properties are operated at a very high cost and are often prematurely plugged, resulting in a loss of production.

Percentage depletion was also reinstated on the oil taxed by the windfall profit tax. Independent producers are the only producers entitled to the use of this deduction. They are already facing a 32 percent increase in their tax burden over the next 4 years resulting from the scheduled reduction in the depletion rate from 22 percent to 15 percent. It is estimated that this action by the committee will encourage the drilling of over 630 new wells a year.

The tax was also made subject to a phaseout once 90 percent of the revenue from the tax is raised. The phaseout of

the tax would begin at a rate of 3 percent per month over a 10-year period. The committee decided that it made no sense to structure a tax which takes into the Government coffers more money than is actually needed to provide revenue for conservation and alternative energy programs.

While the committee improved the bill and provided a much more balanced approach, there are still other changes which were not made by the committee which would have benefited all Americans.

It was a mistake for the committee to reject the exemption for the first 3,000 barrels per day of production owned by the independent producer. The windfall tax will have a greater impact upon independent producers than on the large oil corporations. Because the independent producer derives his income from a single activity, the discovery and production of oil and gas, any capital loss resulting from increased taxes will mean that fewer wells can be drilled. During the 5-year period from 1969 through 1973 independent producers accounted for 89.2 percent of the wildcat wells drilled, 75 percent of the new fields found, and 54 percent of the total oil and gas discovered. These producers plow back 105 percent of their wellhead revenues from both crude oil and natural gas production into more exploration, drilling, and production activities.

An exemption for these producers would also have helped to reduce the heavy administrative burdens under which independents must operate. These smaller producers are not equipped, as are large international corporations, to deal with complex regulations.

Another major flaw in the bill as reported is the failure to exempt all stripper oil from the windfall tax. The United States needs to maintain and increase stripper production. The soundest conservation policy of all is the preservation of a resource which we now have.

Although the language in the bill exempts about 50 percent of the stripper wells (those owned by independent producers) the remaining stripper wells are facing what is in effect a rollback in price from the world price of $23 a barrel to the tier III base price of $16. In addition, the provision against avoiding a net loss on a property (the net income limitation) will not provide enough help to stripper wells. Individual stripper wells which are losing money will be shut down even if the total property is not losing money. In addition, stripper wells periodically must be shut down for workovers. On the average, workovers cost $3,000 for a 3,000-foot well. Costs may run much higher. A new surface pump costs $17,500, for example. Even if a well is doing better than breaking even, it still might not justify a major workover because the payout period would be too long and uncertain. Without proper pricing and tax incentives, it may be plugged prematurely in this situation.

The greatest shortcoming of the committee bill was the outright refusal to address the near term supply problems facing America. The committee should be commended for recognizing the contribution that energy conservation can make to reducing our dependence on imported oil over the next few years. Unfortunately, the committee abandoned support for measures that would increase energy production in the near term, thereby losing an increasingly rare opportunity to affect the national energy supply picture in a coordinated manner.

The bill reflects a tragic misunderstanding of how various categories of oil respond to price and incentives over time. A commonly held belief is that the exemption for newly discovered oil is a panacea, creating abundant new energy sources immediately. The exemption for newly discovered oil is perhaps the most significant production oriented provision in the committee bill, but the benefits of this action will not accrue to the Nation until the mid 1980's. Bringing production on line from newly discovered properties is a process of several years, even under the most favorable conditions.

In the immediate future, domestic oil production can only be increased by allowing producing properties to realize the benefits of decontrol. Lower and upper tier properties could provide the most immediate response to improved prices. Imposing a 60-percent tax on upper tier oil, a harsher levy than the one originally proposed by the President, will reduce the incentive to develop these properties to their full potential. Penalizing lower tier oil with the 75-percent tax and a 1.5 percent decline curve, will not only end the hope of increased production from these properties, but will also cause the premature abandonment of old oil wells. How painfully shortsighted.

In conclusion, Mr. President, the Senate committee bill is a great improvement over the House bill and the original administration proposal. It still falls far short of meeting the Nation's needs, however. At this critical period it is time for the Congress to do what is economically right for this country without regard to whether or not it brings short-term political advantage. Mark Twain once wrote, "Always do right, it will gratify some people and astonish the rest." It is time for the Congress to astonish the cynics and do what is right for the country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, it is worthwhile to put in the RECORD supply response estimates from the Congressional Budget Office. It is information which may not be considered but should be considered in this debate.

The Congressional Budget Office model uses a cash flow method to estimate incremental supply under different assumptions. The estimates for all categories combined are 1.2 million barrels per day incremental production by 1990 for decontrol with no windfall tax, 900,000 barrels per day under the Finance Committee bill and 400,000 barrels per day under the House bill. The Finance Committee bill leads to a 25-percent reduction and the House bill a 66-percent reduction in supply by 1990 compared to decontrol with no tax. That is the very point the distinguished Senator from Oklahoma was making. The House version yields 500,000 barrels per day less supply by 1990 when compared to the Finance Committee bill.

If we are considering energy production and energy supplies, I hope all those who rant and rave against the so-called oil industry, whether big or small, will take a look at the Congressional Budget Office study. It is a nonpartisan body. It is a creature of Congress. It was designated to help Congress in making better judgments.

A point in favor of the CBO estimates of supply response is that all categories of crude production are responsive to incentives.

Table 5 of the study states that the Finance Committee bill would reduce lower tier production by 700 million barrels over the period 1980 through 1990 when compared to a case of decontrol with no crude oil tax. Again, that is a lot of oil; 700 million barrels of oil is a lot of oil. But there are some in the Chamber who contend we should increase the tax rather than lower the tax. On the other hand, the Senate version would produce 500 million barrels less lower tier oil than the House version over the next decade. This is because the tax was increased to 75 percent.

Upper tier production shows a similar response. The decontrol with no tax case produces cumulative supplies of 5,665 million barrels from 1980 through 1990, 750 million barrels greater than the Finance Committee bill. The Finance Committee bill would produce almost the same supply of upper tier oil as the House bill.

If, however, the tax is increased on upper tier oil, and I do not believe it should be 75 percent, there is going to be a substantial loss of supply.

The strongest supply response occurs in the newly discovered category. The CBO report estimates that decontrol with no tax would increase production of newly discovered oil by 2.8 billion barrels over the case of continued controls. The Senate version would increase production by 840 billion barrels over the House bill over the 1980–90 period.

Mr. President, there will be a lot of discussion over whether or not there should be any tax at all. There will be a lot of discussion on whether there should be more tax. There will also be rhetoric spewn in the Chamber about why we should increase the tax and what a terrible bill the Finance Committee reported.

We have to answer the basic question. If we are looking for more tax money, then we should increase the tax. If we are looking for some way to solve the energy problems for America's consumer,

then we should look at the supply response.

One way to increase supply response is through incentives, and one way to decrease supply response is through higher taxes.

As was indicated this morning, this is probably the largest tax bill that has ever been considered and maybe passed, that will ever go through this Congress.

The Senator from Kansas believes we should be addressing supply response. We should be addressing ways to conserve. We are addressing in the Senate Committee on Finance bill a number of ways through tax credits to give incentives to those who conserve, whether by wood-burning stoves, insulation, weatherization. In addition, there are incentives through tax credits for increasing alternate sources of energy. We should not turn right around and do the opposite when it comes to known sources of energy by increasing the tax and, in effect, destroying incentives.

I hope everyone who is concerned about this legislation will take a look at the report of the Congressional Budget Office. As I indicated, they are not owned by the oil companies they are not particularly partisan. They have done considerable work in trying to figure out how do we get the best supply response to deal with the problem at hand.

I will not put the entire study in the RECORD, it is far too long, but it is available to any Senator. I merely suggest if we are concerned about an energy response that we do one thing. If we just want to increase taxes and beat the oil companies over their heads, we do something else.

The oil companies may not be perfect, but they do produce energy. As I have indicated this morning, the companies will be taxed. They may not particularly like the tax, but I think most of them would be willing to accept a tax as long as Congress leaves some small incentive for future production.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. DOLE. The Senator from Kansas mentioned earlier the Congressional Budget Office study, and indicated that because of its length it probably would not be practical to include the entire study in the RECORD.

There is, however, a very good summary. I ask unanimous consent that the summary be made a part of the RECORD. I think it is something that everyone in this body should consider because it talks about the impact of the Senate bill, the impact of the House bill, the impact of decontrol, the impact of taxes and, as the Senator from Kansas was indicating a few moments ago, also the supply response under the various provisions. I think it would be helpful to our colleagues to have that information.

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

SUMMARY

Two bills establishing a "windfall profits tax" on domestically produced crude oil are currently before the Congress. The House of Representatives passed its bill in late June 1979, and the Senate Finance Committee recently reported a substantially different bill which the full Senate is expected to consider soon. The President had proposed such a tax, properly an excise tax, last April when he announced his decision to phase out price controls which have restrained the price of domestic crude oil since 1971. Decontrol will allow the price of domestic oil to rise to the world price, which will stimulate domestic production and decrease demand, thereby reducing U.S. dependence on imported oil. The price increases will, however, generate large new revenues for U.S. oil producers, with much of the gain attributable to oil that would have been produced even if price controls had been continued. The windfall profits tax would capture for public use a larger portion of these new revenues than would be collected by the existing corporate income tax.

The rationale for a windfall profits tax is that the additional producer revenues may represent unanticipated profits arising from decontrol or increases in world oil prices, which are set by the Organization of Petroleum Exporting Countries (OPEC), an international cartel. It has also been argued that a windfall profits tax could divert a large portion of the new producer revenues to the public sector. Increased public spending has been advocated to subsidize energy conservation, to stimulate the production of alternative energy sources, and to ease the burden of higher energy prices on low-income families.

While a windfall profits tax would reduce the large revenue gains received by U.S. oil producers, it could also curtail the producers' incentives to explore and produce more oil. Consequently, such a tax should strike the appropriate balance between tax receipts that could be used for public investment or redistribution and industry incentives to increase domestic oil production. By placing relatively high tax rates on oil that would have been produced under controlled prices and relatively low rates on oil that is only marginally profitable at world prices, this balance may be achieved.

THE TWO WINDFALL PROFITS TAX BILLS

In general, the House bill assigns greater weight to raising revenues for purposes of public investments, while the Senate Finance Committee bill emphasizes stimulating additional production. The major differences between the two bills are that the Senate Finance Committee bill exempts certain categories of oil from a windfall profits tax: specifically, new discoveries (those made after January 1979), incremental oil from tertiary recovery techniques (technologies that use heat or chemical compounds to produce additional oil from a reservoir), heavy oil (a highly viscous oil that generally requires additional effort to produce), and the first 1,000 barrels per day of "stripper" oil (oil from wells that have produced 10 or fewer barrels per day for at least a year) produced by independent producers. The House bill, on the other hand, imposes a windfall profits tax on each of these oil categories. Both bills tax the additional revenues from oil discovered between 1973 and January 1979 at a 60 percent rate. Finally, the Senate Finance Committee bill applies a 75 percent rate to the additional revenues from oil discovered before 1973, while the House applies a 60 percent rate to these revenues. In the Senate Finance Committee bill, all windfall profits taxes start to phase out when the cumulative net receipts received under the bill reach $127.1 billion.[1] A portion of the House bill tax continues indefinitely.

Thus, the two bills strike different balances between domestic oil production in the private sector and tax receipts that could be used by the public sector. By allowing producers to receive higher prices on new oil discoveries and other oil that is expensive to produce, the Senate Finance Committee bill stimulates more total production than does the House version. This production advantage increases over time, primarily because the House bill stimulates production from known oil reserves during the early 1980s and thus depletes these reserves faster, while the Senate Finance Committee bill stimulates exploration and development of new reserves. On the other hand, because it exempts no oil production, the House bill generates significantly greater tax receipts than the Senate Finance Committee bill.

NEW PRODUCER REVENUES

Under decontrol with no windfall profits tax, producers will receive a revenue gain of $649.7 billion from higher prices for oil than would have been produced even under continued controls over the 1980–1990 period.[2] In addition, decontrol without a windfall profits tax will result in new supplies valued at $182.1 billion over this period, leading to total producer revenues of $831.8 billion (see the Summary Table). Under the Senate Finance Committee bill, the revenue gain would be $638.7 billion, and new supply revenues would be $154.4 billion from 1980 to 1990, yielding total new producer revenues of $793.2 billion. Under the House bill, the revenue gain would be $631.2 billion over this period, while revenues from new supplies would be $91.7 billion, leading to total new producer revenues of $722.9 billion.

TAX LIABILITIES

If there were no windfall profits tax, the existing federal corporate income tax liabilities on producer revenues would total $197.5 billion over the 1980–1990 period. Liabilities incurred under the two bills can be compared to this total. Under the Senate Finance Committee bill, total federal tax liabilities over this period would be $315.5 billion, of which $208.7 billion would be from the windfall profits tax and $106.7 billion from corporate taxes after deduction for the windfall profits tax. Therefore, when compared to decontrol with no windfall tax, the Senate Finance Committee bill would increase producer liabilities by $118.0 billion over the 1980–1990 period.

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[1] Net tax receipts equal the gross tax receipts from the windfall profits tax plus corporate tax liability on revenues after deducting gross windfall taxes less what would have been taxed under the corporate income tax.

[2] All the producer revenue and tax estimates in this paper assume that the world price for oil is $30.00 per barrel as of the fourth quarter of 1979 and that it increases by 2 percent a year in real terms over the 1980–1990 period. This is the same price assumption used by the Joint Committee on Taxation (JCT) and the Department of Treasury. The estimates of the Congressional Budget Office (CBO) are lower than those of the Joint Committee on Taxation and the Department of the Treasury mainly because CBO projects lower domestic oil supplies.

SUMMARY TABLE.—COMPARISON OF THE AGGREGATE EFFECTS OF THE HOUSE AND SENATE FINANCE COMMITTEE WINDFALL TAX BILLS, 1980–90

[Dollar amounts in billions of current dollars]

	Total new producer revenues	Tax liabilities		Total taxes[2] as percent of total new revenues	Production (millions of barrels per day)	
		Total Federal[1]	Total State and local		1985	1990
House bill	$722.9	$442.8	$99.1	75	7.9	7.1
Senate Finance Committee bill	793.2	315.5	112.3	54	8.2	7.6
No windfall profits tax	831.8	197.5	115.1	38	8.3	7.9

[1] Includes windfall profits tax liabilities and additional corporate income tax liabilities.
[2] Includes Federal, State, and local taxes.

Note: Attempts have sometimes been made to calculate the price per barrel implicit in the production and tax receipt figures. To perform this calculation accurately, however, it is necessary to use the cumulative production over the entire productive life of the oil wells; to use estimates only through 1990 would be misleading.

Estimates of tax liabilities made over this time period are uncertain. The major sources of uncertainty are prices, production levels, and the costs of investment, exploration, and production. Higher prices or production levels in the future would increase both the gross and net liabilities created by windfall profits taxes. Higher investment exploration and production costs would reduce corporate income tax liability and increase the net liabilities created by windfall taxes. CBO has assumed a high rate of industry reinvestment and a high rate of inflation in drilling equipment costs. This may understate corporate tax liabilities both with and without windfall taxes and, to a lesser extent, overstate net liabilities created by a windfall profits tax.

Under the House bill, the total federal tax liability would be $442.8 billion between 1980 and 1990, of which $399.6 billion would be from the windfall tax and $43.3 billion would be from the corporate tax after deduction of the windfall profits tax. Federal tax receipts under this bill would be $245.3 billion greater than with no windfall profits tax.

State and local taxes, severance taxes, and royalties will total $115.1 billion under decontrol with no windfall profits tax, $112.3 billion under the Senate bill, and $99.1 billion under the House bill. When combined with total federal tax liabilities, taxes paid to all levels of government represent 38 percent of the total producers' revenues under decontrol with no windfall profits tax, 54 percent under the Senate Finance Committee bill, and 75 percent under the House bill.

Production effects

Total domestic oil production in 1990 is estimated to be approximately 7.9 million barrels per day under decontrol with no windfall profits tax. This is 1.2 million barrels per day above what would have been produced under a continuation of price controls. Under the Senate Finance Committee bill, total production is estimated to be 7.6 million barrels per day in 1990, or about 300,000 barrels per day less than under no windfall profits tax and about 900,000 barrels per day more than under extended controls. Production under the House bill would total approximately 7.1 million barrels per day in 1990, or about 800,000 barrels per day less than under total decontrol with no windfall profits tax and about 400,000 barrels per day more than under extended controls.

EXPENDITURE ISSUES

The House bill establishes a trust fund into which the gross receipts from the windfall profits tax would flow, but it does not specify the use of these funds. The Senate Finance Committee bill, on the other hand, establishes three trust funds. One-fourth of the net windfall profits tax receipts up to $15 billion would go into a Transportation Trust Fund; one-half of the net receipts would go into a Low-Income Energy Assistance Trust Fund; and an unspecified amount would go into a fund to be used for general tax relief. The Senate Finance Committee bill also provides additional tax credit incentives for residential and business energy conservation and for the production of alternative energy sources.

Trust fund financing

The primary advantage of a trust fund as a financing mechanism is that it provides a built-in, self-adjusting device for channeling the revenues of a special tax into programs that are closely related to that tax. A trust fund is less desirable, however, if uncertainty about the amount and timing of the tax receipts that will enter the fund in future years inhibits careful planning and leads to program inefficiency. This is a potentially serious problem for the proposed trust funds since annual tax receipts are extremely sensitive to future OPEC prices, which are very difficult to project. Since the Senate Finance Committee bill begins to phase out the tax after the cumulative receipts reach $127.1 billion, however, there is less uncertainty about the total revenues that would be available to its trust funds. Nevertheless, the timing of the revenues available to the trust funds remains a major problem for both bills.

Each of the proposed trust funds would be subject to the normal Congressional authorizing and appropriating processes. In principle, this would permit the Congress to adjust expenditures from the funds to fit changing energy and fiscal policies, changing national needs, and evolving legislative priorities. But by earmarking the revenues that enter the trust fund for specific program purposes, the Congress would reduce its flexibility to redirect revenues toward emerging priorities. Consequently, decisions about yearly expenditures might be based largely on the amount of revenues available in the trust fund rather than on the importance of the specific programs.

Transportation trust fund

The Senate Finance Committee bill does not specify exactly how the transportation funds would be spent, although one possibility would be the transit program proposed by the Administration. This program would cost $15.5 billion between 1980 and 1990 for two major initiatives—the public transportation investment program and the auto use management program. By 1990, these two initiatives could yield energy savings of 65,000 to 158,000 barrels per day of petroleum. These estimates are upper limits, because they are based upon optimistic assumptions about local spending and additional patronage.

Low-income energy assistance trust fund

Two separate energy assistance programs would be financed from the Low-Income Energy Assistance Trust Fund in the Senate Finance Committee bill. The first would provide direct payments to low-income households to offset higher energy prices, while the other would provide tax credits to low- and middle-income families to offset higher energy prices for home heating.

Low-Income Energy Assistance. Over the period from fiscal year 1980 to 1982, about $3 billion a year would be allocated to states for cash payments to reduce energy prices for low-income households. These payments would be made through current welfare programs or block grants to states. States choosing the block grant option could design state programs similar to welfare programs or provide direct subsidies to vendors. In 1982, the average energy assistance payment for a welfare family would be $275 annually; this payment would offset 18 percent of oil expenditures by families in the lowest fifth of the income distribution. The major advantage of the Senate Finance Committee proposal is that it utilizes the current welfare system, which has experience dealing with the low-income population and can provide immediate relief to a large segment of the needy population. On the other hand, a primary disadvantage of direct cash assistance is that, while it would temporarily mitigate the effects of rising energy prices, it would not solve the longer-term problem, which is that the low-income population generally lives in the most energy-inefficient housing. Therefore, over the long run, policies to encourage conservation improvements in low-income housing units could promise substantial energy savings and effectively raise the real incomes of the poor more than direct cash subsidies.

Tax Credits for Residential Energy Use. The Senate Finance Committee proposal would also use trust funds to provide low- and middle-income taxpayers with a nonrefundable tax credit to offset energy expenditures for home heating. This credit would cost the government about $2 billion in 1981, the last year the credit would be available. By 1981, taxpayers with incomes as high as $22,000 a year could qualify for some credit. The maximum credit for taxpayers with incomes below $20,000 would be $200; the minimum credit would be $30. Since the credit is nonrefundable, however, many low-income households with small tax liabilities would not benefit significantly from the credit. Credits would be based on actual heating expenditures and would vary according to changes in the relative prices of particular home heating fuels. A major disadvantage of these credits is that subsidizing heating expenditures does not encourage conservation.

Residential tax credits

The Senate Finance Committee bill proposes to extend and expand the current tax credits for residential conservation investments to include such items as heat pumps, backup solar systems, and the like. In addition, it would increase the tax credit on renewable energy sources (primarily solar) to 50 percent. It is estimated that by 1990 these credits would save an additional 110,000 barrels per day over savings that would have occurred even under current policy and would reduce federal revenues by $8.3 billion over the 1980–1990 period. Most of the investment or production credits would be used by high-income households.

Business tax incentives

Current law provides both a 10 percent tax credit on new investment and an additional 10 percent credit for investment in certain types of energy facilities. Several provisions in the Senate Finance Committee bill expand the scope of eligibility for the energy credit, increase the credit, or establish new investment and production credits. By 1990, these business tax incentives will stimulate additional energy production and conservation of 200,000 to 400,000 barrels per day of oil equivalent at a cost to the government of $15 billion over the 1980–1990 period.

Mr. DOLE. Does the Senator from Oklahoma desire the floor? Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CARRYOVER BASIS AGREEMENT

Mr. LONG. Mr. President, there is a unanimous-consent agreement before us, and it is appropriate that it be there; but this order was made a long time ago. At that particular time, we did not have the windfall profit tax in mind. Clearly, the unanimous-consent agreement would apply to the windfall profit tax bill, because it does include an amendment repealing "carryover basis."

Mr. President, in due course I am going to ask unanimous consent that this unanimous-consent agreement not apply to the pending bill; but I would like to have someone on the staff or in the cloakroom notify the Senator from Virginia (Mr. HARRY F. BYRD, JR.) that I am planning to ask for a unanimous-consent agreement that the unanimous-consent agreement previously agreed to as to bill repealing "carryover basis" not apply to the windfall profit tax bill. I am sure Senator DOLE would be interested in that.

Mr. DOLE. Can we complete the whole bill in 2 hours?

Mr. LONG. No. the "carryover basis" unanimous-consent agreement could shorten the consideration, because it could mean that only the Senator from New York (Mr. JAVITS) could offer an amendment to the windfall bill, and we would have 1 hour of debate on that amendment.

I was aware that we had made such an agreement, but we really did not have the windfall tax bill in mind when the agreement was made. I do not think anyone had the "carryover basis" agreement in mind, when we reported the bill, or that the windfall tax bill would be subject to this unanimous-consent agreement. Frankly, it is a matter of inadvertence.

The Senator from Kansas (Mr. DOLE) was one of the leading proponents of the "carryover basis" amendment. I asked the Senator, when the amendment was offered, whether he had the preexisting unanimous-consent agreement in mind.

Mr. BENTSEN. Mr. President, will the Senator from Louisiana advise me what the unanimous-consent agreement is?

Mr. LONG. The unanimous-consent agreement is right on the front of our calendar. It provides that during the consideration of a bill repealing "carryover basis," no amendment shall be in order, except one to be introduced by the Senator from New York (Mr. JAVITS), on which there shall be 1 hour of debate, and one relative to a carryover amendment provision, on which there shall be 2 hours of debate, with debate on any debatable motion, appeal, or point of order limited to 30 minutes, and so forth.

Mr. BENTSEN. I thank the distinguished chairman.

Mr. LONG. That agreement was made early in 1979.

Mr. DOLE. Mr. President, if the Senator will yield, I think we discussed adding carryover basis repeal to countervailing duties bill. At that time the Senator from Kansas was persuaded not to offer his carryover basis amendment in exchange for this unanimous consent agreement.

Since the carryover basis repeal is now part of the windfall profit tax bill, there is no need for the unanimous consent agreement.

Mr. LONG. Well, I do not think——

Mr. DOLE. Here is Senator BYRD.

Mr. LONG. I do not think we need to just rescind the unanimous-consent agreement.

Mr. DOLE. We may need it later.

Mr. LONG. Senators may want the benefit of the agreement as it was originally intended. But the intent of the agreement was that we would take up some less controversial bill or some less significant bill, that we would report it out, and then that the bill would be promptly acted upon, on the same day it was called up, and sent over to the House. I really think that some people could complain, and that limiting debate on the windfall bill is not really what was contemplated at that time.

It was not contemplated that we would use this agreement in order to deny Senators the right to offer their amendments on an extremely controversial piece of legislation such as the windfall tax bill.

So, in due course, I am going to ask unanimous consent that the "carryover basis" unanimous-consent agreement not apply to this particular bill.

The Senator from Virginia is very much interested in this item, and I would hope he would agree that it was not contemplated, in agreeing to this unanimous-consent request, that it would be applicable to the windfall bill.

I would like to protect his rights if he wants to offer the carryover basis amendment on some other bill, but at the same time simply agree that the other provisions of the unanimous-consent agreement would not be applicable to the rest of that bill.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield——

Mr. LONG. Yes.

Mr. HARRY F. BYRD, JR. It seems to me the procedure might be, if the Senator from Kansas were sympathetic with it, to keep the unanimous-consent agreement the way it is now, with the proviso that it not apply to the bill itself, but keep the provision applying to the carryover basis amendment.

Mr. LONG. Well, the carryover basis amendment is a part of the committee amendment. If we dispose of the bill, we will have to vote on the carryover basis amendment one way or the other.

But it was not intended by the committee which reported the bill that we would deny Senators a right to offer amendments to this bill.

I would suggest that the best arrangement would be simply to leave the unanimous-consent agreement the way it is, but to simply agree that that unanimous-consent agreement does not apply to the rest of this bill. Is that all right with the Senator?

Mr. DOLE. But it would apply to the carryover amendment?

Mr. LONG. No——

Mr. DOLE. If somebody moves to strike out the provision repealing carryover basis, would this unanimous-consent agreement apply?

Mr. LONG. No. If someone were to make the proposal, in the course of the consideration of this bill, that the carryover basis amendment be considered like all the other amendments, he could move to strike it. If someone offered a substitute for the entire bill that did not include the carryover basis, the Senator would, of course, resist the substitute amendment that would strike out the carryover basis. But I just think the best thing to do is to agree that this unanimous-consent agreement does not apply to this bill, because I do not think anyone had in mind that it would apply at the time we reported the bill.

Mr. HARRY F. BYRD, JR. I wonder if we might have a very brief quorum call.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. 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. LONG. Mr. President, after discussing this matter about the carryover basis amendment, I simply ask unanimous consent that the unanimous-consent agreement before us shall be limited only to the part of the bill that deals with carryover basis and that this unanimous-consent agreement would not apply to the remaining portions of the bill. That being the case, Senators could offer amendments in the first and second degree, as usual, with regard to everything else in the bill, but we would confine ourselves to the terms of the agreement insofar as the carryover basis provision is concerned.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I will not object, I am advised that the majority leader would like to be on the floor.

Mr. DOLE. Will the Senator from Ohio yield?

Mr. METZENBAUM. Of course.

Mr. DOLE. That would preserve everyone's rights. Senator JAVITS' rights, the rights of the Senator from Kansas, the Senator from Virginia, the Senator from Texas, or anyone else who had an interest in that issue, will be preserved on the carryover basis issue.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield.

Mr. DOLE. Yes.

Mr. HARRY F. BYRD, JR. With one proviso. I think there would be a need to change it slightly to say the carryover basis and Senator JAVITS' proposal. Senator JAVITS' proposal does not deal with the carryover basis, as I understand it.

Mr. LONG. It is my understanding that the amendment the Senator from New York (Mr. JAVITS) had in mind does not deal with the carryover basis.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. 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. LONG. Mr. President, until such time as we can work out the agreement about carryover basis and other aspects, I ask unanimous consent that the Senator from Oklahoma (Mr. BOREN) be permitted to offer his amendment. I ask unanimous consent that it be in order for the Senator from Oklahoma to offer an amendment, Mr. President.

The PRESIDING OFFICER. Is there objection?

The Senator refers to the carryover amendment?

Mr. LONG. No. I just ask unanimous consent, in view of this unanimous consent agreement, that the Senator from Oklahoma (Mr. BOREN) be permitted to offer an amendment.

The PRESIDING OFFICER. The Senator from Oklahoma has the right to offer an amendment.

UP AMENDMENT NO. 828

(Purpose: To reduce from 60 percent to 50 percent the amount of tax imposed on the windfall profit from any barrel of taxable crude oil)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN), for himself, Mr. WALLOP, and Mr. BELLMON proposes an unprinted amendment numbered 828:

On page 3, line 1, strike out "60" and insert in lieu thereof "50".

Mr. BOREN. Mr. President, I further ask unanimous consent that because the cosponsor of this amendment, the Senator from Wyoming, must depart at 3:15, if the yeas and nays are ordered and if we are not able to have a vote prior to 3:15, that it would be in order for me to withdraw this amendment at that time.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment if he chooses to do, and he can do so.

Mr. BOREN. Mr. President, I am asking unanimous consent if, after the yeas and nays are ordered, if they are ordered, if we have not had a vote by 3:15, it would be in order for me to withdraw the amendment without prejudice.

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

Mr. BOREN. Mr. President, the purpose of this amendment, which is to the House-passed bill, is to make one very simple change.

When the President made his original proposal for a so-called windfall profit tax, he proposed that the tax rate be at 50 percent.

That figure was later changed to 60 percent.

What I am suggesting in this amendment, along with the Senator from Wyoming, is that we go back to the President's original proposal, which I think is certainly superior in this area to the action of the House of Representatives, and that the general rate prevailing under the tax in the House bill, working from the House bill, would be 50 percent as opposed to 60 percent.

I think it is vitally important, as I said a few moments ago, to produce all of the energy that we can. With the cutoff of oil from Iran, and I applaud the President's action in that regard in showing that we do not intend to be blackmailed by overseas sources of energy and by those who supply it, we have lost to this country some 700,000 barrels of oil a day which had previously been coming in. I therefore think it imperative that we do everything we can to provide the incentives and the capital necessary to produce the energy that we need and to become self-sufficient as rapidly as possible.

As the President pointed out when he took the action decontrolling oil, there is a very significant supply response to the removing of controls and the provision of price incentives to producers. If our aim, indeed, is to produce more energy, and if the President is right that there is a very significant supply response through price, then I think there is undoubtedly a significant supply response involved when we reduce the tax rate from 60 percent back to 50 percent, as originally advocated by the President.

The President was right in his original advocacy of 50 percent. It is right today. It makes even more sense today, and that is the purpose of this amendment.

I hope we will have the courage to face up to the energy needs of this country and to strengthen the bill which is before us by changing it so that it will produce more energy for the American people.

Mr. WALLOP. Will the Senator yield?

Mr. BOREN. I am happy to yield to the Senator from Wyoming.

Mr. WALLOP. Will the Senator agree to add my colleague (Mr. SIMPSON) as a cosponsor of this amendment?

Mr. BOREN. Mr. President, I ask unanimous consent that Senator SIMPSON be added as a cosponsor of this amendment.

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

Mr. WALLOP. Mr. President, I want to echo what Senator BOREN has just said to the Senate. The idea right now, whatever else this country may be up to, is to responsibly add to the oil production capability of America itself. This will do that, though not in as big a way as decontrol itself.

Mr. President, earlier this week the Congressional Budget Office made a comparison between the House-passed bill and the Senate bill and the production response in the country absent any windfall profit tax at all. According to the CBO, there are approximately 1.2 million barrels a day in production that could come on line in this country in the mid- to late-1980's, absent any windfall profit tax at all.

Under the Finance Committee bill CBO estimates there are approximately 900,000 barrels per day that will be seen as additional American production by the mid or late 1980's.

Under the House-passed bill, which is a more severe tax rate, there are only 400,000 barrels a day that will be seen as additional American production as a result of the President's decision to decontrol oil and at the same time impose a windfall profits tax.

Surely, a country which is faced with the most visible evidence imaginable of the painful servitude in which we find our economy, at the whims of OPEC oil producers, would do anything within their reasonable power to provide additional production in domestic and reliable supplies of energy.

I suggest that this amendment, offered by the Senator from Oklahoma and myself, is a small but useful step toward achieving that goal.

The case for adopting a lower tax can be made by looking at the study which I cited from the Congressional Budget Office.

The CBO model uses a cash flow method to estimate incremental supply under different assumptions. The estimates for all categories combined are 1.2 million barrels per day; the estimate for incremental production et cetera, 800,000 barrels per day; and the Senate bill, 400,000 barrels per day under the House version.

The Finance Committee bill leads to a 25-percent reduction and the House bill to a 66-percent reduction in supply by 1990 compared to decontrol with no tax.

Mr. President, do we really want to engage ourselves in a tax structure, at a time when we are seeking independence, that will prolong the time when this country can achieve it except with more exotic synthetic fuels which, goodness knows, by any stretch of the imagination, have been adequately, even superfluously funded by this Congress with the bills that have just been passed?

I suggest that my colleague is right and that by taking this hesitant but significant step, we shall add to the production of domestic American oil and gas, which is exactly what is in the interest of the country.

I compliment my colleague from Oklahoma for bringing this up and I compliment him for beginning the dialog on the basics of what the Senate and the Congress are about to do by way of the windfall profit tax in general. I think the dialog that can develop from this will be useful and instructive for Members. I think we can begin to make the argument that if there is a legitimate supply response available in the country, that supply response should be seized as an opportunity to get out from under the clutches of dependence upon those who produce foreign oil.

I thank my colleague for yielding.

Mr. BOREN. I thank the Senator for yielding.

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

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

The yeas and nays were ordered.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. BOREN. Yes, I yield.

Mr. METZENBAUM. I understand this uses the effective tax rate of 50 percent?

Mr. BOREN. That is correct. It would amend the House-passed bill. In the section that says the general rate of the tax shall be 60 percent, we change that to read 50 percent, which was the President's original proposal.

Mr. METZENBAUM. Does the Senator from Oklahoma indicate that that would be applicable to old oil, tertiary oil, secondary oil? What categories?

Mr. BOREN. It would apply to everything but Alaska, newly-discovered, and tertiary, which were set out as separate categories in the House bill. But everything else—tier 1, tier 2, old oil, new oil—would be changed from 60 percent as the House passed it to 50 percent as in the original proposal.

Mr. DOLE. Mr. President, I want to ask a question of the Senator from Oklahoma.

I assume this amendment would improve the supply response. Is that an accurate conclusion on the part of the Senator from Kansas?

Mr. BOREN. I think the Senator from Kansas is absolutely correct. When the President took his action decontrolling the price of oil, he very correctly said that there would be a very significant supply response to the act of decontrol itself. It was realized that, to the degree that any tax is imposed, we take away revenues from the producers which could and would be used to produce more oil. As the Senator from Kansas knows, the independent producers, for example, in this country are reinvesting into exploration and production 105 percent of their earnings. So it stands to reason that as we can increase the funds available to the private sector, we increase the production of energy in this country.

I say to the Senator that if our aim is to produce more energy rather than just producing more tax revenues for the Federal Government, he certainly should support this amendment because it will, as the President himself has pointed out, result in a significant increase in production.

Mr. DOLE. I thank my distinguished colleague from Oklahoma, a member of the Finance Committee, who has offered valuable and constructive input during the 28 days and 80 or more hours that we marked up the bill.

It seems fair to conclude that if one wants more energy, you vote for the 50-percent tax rate. If one wants higher taxes, you vote for the 60-percent tax rate. Sooner or later, the American consumer will pay the higher tax and, probably sooner than later, the American consumer is going to pay the penalty by having less energy. We will again be waiting in gas lines. The American consumers are going to be concerned about energy. They are going to be concerned about heating oil and alternative sources of energy. So if you are for more energy and less tax, you vote for the 50-percent rate. If you are for higher taxes and more penalties and burdens heaped upon the consumer, you should vote to leave the tax up at 60 percent or go to 160 percent. Viewed in this light it is not very difficult to understand how to vote on this amendment.

I would be willing to accept the amendment, but since the Senator has already asked for the yeas and nays, I shall defer from that. I would not want anybody to fall out of the press gallery.

In any event, it seems to me that the Senator has touched a nerve, and I think this is a good way to take the temperature of the Senate on the first day of the debate, because I think there are going to be several days and several votes. I believe that, as we explain the bill, there will be more and more understanding that to get more supply response, we have to provide some incentive. We just cannot keep adding and adding more taxes. This is an area that President Carter provided leadership in and it ought to be recognized as one of those areas where leadership is provided.

He talked about a 50-percent rate for tier 1, he talked about a 50-percent rate for tier 2 oil. He talked about so-called tier 3 at a 50-percent rate. At the time, I was not certain that the President was accurate but, as the bill passed through the House and the Senate, I began to have more appreciation for the wisdom of the original proposal.

As I understand, the amendment would return the tax rate to the 50-percent rate initially recommended by the President of the United States.

Mr. BOREN. The Senator is correct. I appreciate his comments. I think they have great wisdom.

I think that it is time for us to make a decision: Are we in the Senate interested in producing more energy for the American people? Everyone in this room knows that it is badly needed and we have had a cutoff of 700,000 barrels a day from Iran. How badly do the American people need this energy to be produced domestically?

Do we want to produce energy or do we want to produce taxes? If the goal is to produce taxes, we can fashion a tax to take 100 percent of the profit from oil and not one single cent used for energy. We could devise that without any effort whatsoever. So it seems we are down to the line between those who want to produce more energy and those who simply want to produce more taxes on the American people.

There is another fundamental decision being made here, too. As the Senator from Kansas well knows, there is a fundamental choice being made between whether or not we think the Government can be more adept at producing energy or whether the private sector could. As the Senator well knows, it takes money to drill an oil well or open a coal mine or build a solar panel or synthetic fuel plant or anything else. The question is, How are we going to pay for it?

We are going to pay for it by the private companies paying for it, which they have to do with profits; or we are going to have to pay for it with taxes, with the Government footing the bill. I think everyone knows the history of government operation as opposed to private enterprise. As I said on the floor earlier, it is no coincidence that the private companies can move a barrel of oil, as heavy as it is, from New Orleans to New York City at less than one-tenth the cost that it takes the Post Office to move letters from New Orleans to New York City. I think that is one indicator of the efficiency of governmental operations versus the efficiency of the private sector.

I think the Senator from Kansas is absolutely right and my hope is that this body will have the wisdom to choose production over taxes and to choose the private sector and the free economic system over governmental operation.

Mr. DOLE. As I understand it, this is to the House bill, so it would not have any impact on any exempt categories in the so-called substitute of the Senate Finance Committee bill.

Mr. BOREN. The Senator is correct. This is only to the House bill and would not apply to the Finance Committee substitute. Therefore, it would not affect any of the exempt categories under the Finance Committee version.

Mr. DOLE. I think it also ought to be understood that we are talking about a 50 percent so-called windfall tax. The companies still pay income tax and royalty payments.

Mr. BOREN. That is absolutely correct.

The biggest gainer of any windfall, even without this excise tax, will be the Government, because already with the income tax, the severance tax to State governments, the producers will be paying well over 60 percent on every dollar gained—already.

So we are discussing a tax upon a tax upon a tax.

Mr. JOHNSTON. Will the Senator yield?

Mr. BOREN. I am happy to yield.

Mr. JOHNSTON. The 50-percent rate, do I recall correctly that that was the rate that the administration suggested in the legislation?

Mr. BOREN. The Senator is absolutely correct.

I think the President was wise when he proposed that rate.

Mr. JOHNSTON. Would I be further correct that this is really an administration amendment?

Mr. BOREN. I would have to say that I have not cleared this with the administration. But I certainly think it would help the administration, because it will help the administration meet the critical need for energy, and it is exactly on the lines the President himself suggested when he first made the proposal.

So, certainly, my aim is to be helpful to the President, the administration and the country at the same time.

The Senator is absolutely correct.

Mr. LONG. Will the Senator yield?

Mr. BOREN. I am happy to yield.

Mr. LONG. Do I understand the logic of the Senator's proposal to be that when the President is right, we ought to go with him, but when he is wrong we ought to have the courage to do what we think is right?

Mr. BOREN. The Senator is absolutely right.

Here we say his original proposal was right.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. BOREN. I am happy to yield.

Mr. PACKWOOD. To make sure I understand, this is an amendment to the House bill?

Mr. BOREN. That is correct.

Mr. PACKWOOD. And it is a nullity as far as the Senate bill is concerned unless it is subsequently adopted?

Mr. BOREN. That is correct.

Of course, that depends on what the Senate did in terms of adopting the Senate committee bill.

Mr. PACKWOOD. I understand that exactly. But, so the Senate is clear, if this passes, or fails, it would be judged as a test vote, but at the moment it has no effect on the Senate bill, and no part of it, unless subsequently adopted?

Mr. BOREN. The Senator is correct.

If the Senate committee bill is eventually adopted, this provision would not be a part of it unless later specifically added to it. That is correct.

I think, primarily, as the Senator from Kansas pointed out, this amendment will give us an indication of whether or not we want to go the route of saying that this body knows how to raise taxes, or whether or not we want to take the path of showing the Senate of the United States knows how to produce more energy for the American people.

Mr. LONG. Will the Senator yield?

Mr. BOREN. I am happy to.

Mr. LONG. Would it not be true, if the Senate agrees to the amendment, that the Senator would, either in the event the committee amendment should fail or even if it should prevail, like to see the amendment become law, or that he would like to see it added to the committee amendment in the event it succeeds as an amendment to the House bill?

Mr. BOREN. The Senator is absolutely correct.

I think if this amendment is adopted, as I hope it will be adopted, that this would be a clear indication on the part of the Senate on the direction it wishes to take.

Therefore, if we later decide to accept the Senate committee version, it would be my intention to offer this since it would already have the support of the Senate as an amendment to the committee version of the bill.

Mr. LONG. I thank the Senator.

Mr. WALLOP. Will the Senator yield?

Mr. BOREN. Yes.

Mr. WALLOP. I want to point out two things while we are all sitting here. First, the real windfall that is going to happen as a result of decontrol and the irrational behavior of OPEC will be to the Federal Government.

Absent any windfall profit tax bill, they will get in excess of $500 billion of personal and corporate income tax over the period of the next 10 years which, by any stretch of the imagination, is an impressive figure.

I will quote one brief statement from the CBO's working paper on the windfall profit tax. They say:

The Senate Finance Committee bill results in no more lower-tier oil over the 1980–1990 period than would have resulted under continued controls. This is because lower-tier oil receives the smallest incentives under the Senate Finance bill.

So the CBO has recognized the production effects of the tax.

We had a hard time getting the Department of Energy to recognize this effect. They seemed to believe that by merely saying the word "decontrol," all good and beneficial things shower on the country. Whatever further actions would have no further effect. But the rest of the reasonable people assume a production response. This goes back to where the President originally intended those incentives to come from.

Mr. LONG. If the Senator will yield, here is a table prepared by the joint committee, and the Treasury agrees with it. It shows that decontrol and the House-passed bill would raise almost $1 trillion of gross receipts—$994 billion—over a 10-year period.

Imagine, the Treasury agrees with these figures, which show that the tax taken by the State and Federal Governments would be 83 percent.

Under the House-passed bill, which the Senator seeks to amend, there would only be 17 cents on the dollar left for the producers as their reward for going out and producing oil and for providing funds to reinvest to try to produce more.

I do not know how many people know what it is to pay an 83 percent tax on income. I do not know. I know about 70 percent, and a State tax on top of that. But I must say that 83 percent is hard for anybody to take.

Mr. President, I ask unanimous consent this table be printed in the RECORD.

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

INCREASE IN OIL RECEIPTS AND TAXES UNDER DECONTROL WITH THE HOUSE-PASSED WINDFALL PROFIT TAX COMPARED TO THE FINANCE COMMITTEE SUBSTITUTE

[Calendar years 1979–90; billions of dollars]

	House-passed bill	Committee substitute
Gross increase in oil receipts	994.4	1,025.1
Costs of production induced by decontrol	−79.6	−87.4
Net increase in oil receipts before tax	914.7	937.7
Taxes and royalties on receipts before windfall profit tax:		
Increase in Federal royalties	17.5	18.1
Increase in State royalties	32.5	33.1
Increase in State income and severance taxes	101.2	103.7
Increase in Federal income tax	332.0	340.2
Net increase in oil receipts after taxes	431.7	442.6
Windfall profit tax:		
Net windfall profit tax	276.8	138.2
Decrease in State income tax due to deductibility	19.5	9.2
Decrease in Federal tax receipts due to reduced production	8.1	
Net increase in oil receipts after windfall profit tax	166.3	313.6

Mr. LONG. Mr. President, the Senate committee came up with a bill where the tax on about the same amount of money would be slightly less. It is estimated that the gross increase in oil receipts would be $1,025,000,000,000, and that the net increase after the windfall tax would be $313 million. This is shown in the table.

So the overall tax would be about 70 percent. The industry would be able to retain only about 30 percent to pay for use of their money and to put back in the ground.

So, when one is thinking in terms of trying to encourage production, and only leaving the producers 16 cents on $1 of additional income, that is a pitifully small amount for them to have to put back in the ground in trying to get additional production.

This amendment is offered to the House-passed bill. The bill to which this amendment is offered is one with regard to which the Government would take about all but $166 billion of $994 billion in increased receipts.

So that in terms of how much we take, I can understand why the House bill had to say that in no event would we take more than all of it.

That is all we will take. They do not have to pay more than 100 percent.

I must say, that was a generous, thoughtful attitude to take on the House side.

Mr. DOLE. We lowered it to 90 percent.

Mr. LONG. The Senate Finance Committee, the Senator says, has lowered it. I did not know we were that generous, to let them keep 10 percent.

So, at least, the Senator would like to show he feels the House bill goes too far. I think that is one way of doing it.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I earlier made the statement that in reaching the decisions in the Finance Committee as to the level of tax on the oil companies and the level of credit allowed for solar energy, geothermal energy, conservation, or wind energy, there was a tradeoff and a balance. We needed enough money to make up the revenue loss that would come from credits, and that money was going to come from the windfall profits tax. We were not then and we are not now for some other additional kind of tax.

Often, we had to make a decision as to whether or not, if we lowered the tax on oil, that would increase production more than if we raised the tax on oil and used the revenue for credits to produce other forms of energy.

I emphasize that what we are trying to do in this bill is to produce energy. It is not designed just to produce oil. If we lowered the tax a bit, or substantially, and produced more oil, but in the process of doing so produced less net energy, this would not be a good amendment.

Second, I call to mind the statements made by most of the oil companies within

the last 2, 3, or 4 years about how much money they needed in order to have an adequate return, so that they would have sufficient money for exploration, refining, development, and whatnot.

It was no more than 4 years ago that the oil companies said that if they could just get their price to the then world price—which I recall was perhaps $13 or $14—that would give them a sufficient capital flow to more than take care of any of their needs. Today—and I hesitate to use the word, because it fluctuates so often, and it is always upward—the world price is in the 20's. If my memory is correct, it may be on the upper side of 25, rather than below.

To show how fast things happen, when the House of Representatives passed this bill, their Ways and Means Committee estimated that in 1980 oil would be $22 a barrel, and they premised their tax and returns on that. That is what they were predicting less than 6 months ago. Things change so rapidly that when the Finance Committee sent the bill to the floor, we operated on the premise of $30 a barrel in 1980, and that may be low. Nobody knows.

If the windfall profits tax enacted were as it was in the House bill—let alone as it came out of the Senate Finance Committee, which is less than the House bill—if the windfall profits tax as enacted were the same as it was in the House bill, the oil companies would have more retained earnings by far than just a few years ago they said they needed—and I am accounting for inflation in that.

Therefore, I do not think it needs to be said that we must lower this tax in order to encourage production. If the companies are to be believed in what they have been telling us for the last few years, the present world price of oil plus the decline curve in allowing them to keep what they are going to be able to keep, should, if their statements were accurate, give them more than enough cash for all the exploration and production they say they need.

Mr. BOREN. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. I yield.

Mr. BOREN. I understand what the Senator is saying about the need to conserve energy and the need for incentives with respect to conservation. I support him in the outstanding effort he has made in this regard and the leadership he has provided in the committee to provide tax credits and incentives for conservation.

However, according to the estimates I have seen, even if we make this change in the House-passed bill, to change the rate back to the President's original proposal of 50 percent, if we add together the additional Federal income tax collections that will come about as a result of decontrol, with the amount that would be raised under the House-passed bill, as changed by this amendment, we still would be increasing Federal revenues by $600 billion to $650 billion over the next 10 years.

Does not the Senator believe that that amount would be sufficient—$650 billion over 10 years, which would be larger than any tax increase in the history of the United States? Would that not be large enough to provide adequate incentives for conservation and meet the needs of the elderly and those on fixed incomes for relief and the other needs that we have recognized?

Mr. PACKWOOD. It depends. When I introduced my initial package of energy credits, the estimated cost of them was about $60 billion.

As the Senator from Oklahoma is aware—he was a cosponsor of those credits, and I appreciate his support—we pared that back to about $25 billion in credits in the bill, on the theory that the bill did not raise enough money to support those otherwise justifiable credits. We did not have the money, and we did not want to be irresponsible. So I am a little reluctant to start cutting money out of this bill when we have cut the credits below that level.

For example, in solar energy, while we allowed residences a 50-percent credit, we have allowed businesses 30 percent. I would like to see that raised to 50 percent. Then we would see how business would react.

I am also aware of the valid statement the Senator from Oklahoma has made. When we started on this bill, the revenue estimates were $232 billion; and when Senator DANFORTH pinned Treasury to the wall, they changed their estimates by $130 billion, without any change in the percentage. This was just a change in their estimates.

It is one thing as to how much money this bill will raise. Oil has sold for $30 or $40 a barrel. None of us knows what oil is going to sell for in 1985.

The Senator from Oklahoma made a very valid point. I could conceive of this bill, with oil at $40 to $45 a barrel, raising a trillion dollars. But until we get those conservation and other energy credits to a level at which I am sure the credit will be sufficient to induce a reaction, I am reluctant to cut any money out of the bill.

Mr. BOREN. I thank the Senator.

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

Mr. PACKWOOD. I yield.

Mr. WALLOP. I say to the Senator from Oregon that I, too, have been a supporter of those conservation credits and believe in them; but their attractiveness in terms of incentives becomes ever-heightened by the same kind of reaction, the world oil prices he mentions. So the Federal incentives required to achieve energy savings become not so urgent since an incentive comes from the marketplace. It may still be useful, but not so urgent in achieving the same energy savings.

I think one should recognize where this amendment goes. It goes to the House-passed bill, which, under the assumptions the Senate has made, raises $278 billion. So the decline in take, if you will, to the windfall profits tax off this change is relatively modest and surely is more than enough, in the Senator's wildest dreams, of what revenue is required to give conservation some financial support.

I do not disagree with the Senator that there are judgments to make, and I have a judgment to make in the course of this, because people are beginning to understand what my industrial conservation credits would do. I do not think that this amendment is a drastic step, when we attach the Finance Committee oil price assumptions to the House passed bill.

Mr. DOLE. As I understand, it would reduce revenue in the House bill from about $270 billion to about $240 billion, which is a substantial sum.

Mr. WALLOP. Yes; fairly substantial. But when we talk about where we were in April, when the President first spoke of this, $5.2 billion, and then it is $115 billion, and the House has $105 billion—the House thought this sum was adequate and even boasted about it—somehow, the escalation from $5.2 billion to $240 billion seems to be more than adequate.

Mr. DOLE. I think it demonstrates again how easy it is to raise taxes. We have not done anything, but the tax has increased from $5 billion to $138 billion in the past 3 or 4 months. I think it is much more difficult to increase our energy supply.

Maybe it is an oversimplification to say that a vote for the Boren amendment is a vote for more energy, and a vote against the Boren amendment is a vote for more taxes.

Mr. BOREN. Mr. President, I think we have thoroughly discussed this and I am prepared to vote at this time. The yeas and nays have been ordered.

Mr. METZENBAUM. Mr. President, I have heard a good deal of discussion in the last one-half hour to an hour as to how reducing the tax from 60 percent to 50 percent is going to increase the amount of production in this country. I suppose if we reduced it to 40 percent it would increase it more.

Mr. DOLE. That is right.

Mr. METZENBAUM. Thirty percent a little more. If we dropped it altogether, it would increase tremendously. The only thing is that does not seem to be borne out by the facts. There is not much evidence to support that contention. But it is the wishful thinking and the contention that the oil companies have been telling the American people in millions of dollars of television, newspapers, and radio advertising. The fact is that reducing taxes does not produce more oil.

I am not certain that the original premise of this whole legislation as I heretofore stated earlier of decontrolling the price of oil is anything but counterproductive.

The fact is that the oil companies, if they had their way, would like to pay no taxes and would like to be able to charge the highest possible amount which has certainly become inflationary in this country.

Mr. President, I am not even certain why this amendment is offered to the House bill. We all know that the House bill is not really going to be considered as such. There is some talk about it as being an opportunity to get a test vote. I am not sure it is an opportunity to get a test vote. I think it may be an opportunity for some Senators to vote no and be able to indicate that they are making the record in voting against being too good to the oil companies.

I think they will have plenty of opportunity before the windfall profit tax bill debate is concluded in order to indicate their actual position. I think there will be many amendments that will go in both directions before we are through.

But certainly there is nothing that I have heard in the debate today, and I think there have been five Members whom I have heard discuss this subject, with one exception—one has opposed it—that would convince me that there is any merit, reason, logic, or even good parliamentary procedure as to why we should adopt this amendment. I assume, therefore, that the Members of the Senate will use the necessary good judgment to start a pattern of rejecting amendments of this nature which go in the wrong direction, to say the least.

I wish to ask my friend from Oklahoma one or two questions: One is, how much less revenue will be produced for the Treasury in the event this amendment were to be adopted in comparison to the House bill; and second, how much oil would it produce?

Mr. BOREN. I say to the Senator that I am told by the committee that a rough estimate would be approximately $35 billion. So we are talking about taking the House-passed bill from approximately $275 billion down to approximately $240 billion. That will be the difference.

The additional production I think is rather difficult to isolate out one factor. It would be a significant amount. There are two different estimates between the Senate version and the House-passed version and, of course, that difference is approximately one-half million barrels per day under the CBO estimate. The industry estimates about a million barrels a day. The President himself has recognized there will be significantly less supply response with the tax than there would be with outright decontrol. The estimates as to the amount of production with decontrol and no tax has been approximately 4 million barrels per day down to a low range of 750,000 barrels per day under the President's original proposal and 2 million barrels per day under the House-passed bill. So I say there will be a significant amount, in the neighborhood of a few hundred thousand barrels per day. That is a rather significant amount when we consider that the amount of oil we are bringing in from Iran is 700,000 barrels per day.

I say to my good friend from Ohio that while he has not been convinced there is still on the part of all of us hope some day the light will dawn and that the Senator will realize that the corollary that he has been arguing, that is, more taxes will produce more energy, is far less proven than the one he was arguing against.

Mr. METZENBAUM. I wish to respond and say that I wish to deliver again for my friend from Oklahoma the speech I made earlier this morning which was that we should not have decontrol in the first place and then we would not have to have the windfall profit tax. But I do not argue that higher taxes will produce more oil. I do argue that lower taxes will not necessarily produce more oil. If old oil is flowing, I do not understand how we are going to get more oil by reducing the rate. If tertiary oil is on line and flowing, I do not see how we are going to get more oil. If the stripper wells are producing, I do not see how we are going to get more oil.

The only oil that we might be talking about might have to do with new oil. Is there an incentive to go out and sink the pipes into the ground and attempt to get it? But that actually would not be affected by this particular proposal because the Finance Committee has already exempted new oil, which I do not think they should have done, but they have already done that, so this is not going to produce anything more than that.

I just ask my friend how does he figure we are going to get so much more oil, where is it going to come from, and why because we reduce the rate 10 percent we will get more oil?

Mr. BOREN. I doubt anything I am going to say—I think I have already answered the Senator's question—will change his mind. I hope we can press ahead here and have a vote on this amendment, that we can get off high center and have an expression of sentiment by the Senate so that we can test the sentiment as to whether or not the majority would stand with the Senator from Ohio in believing that we should heap more and more taxes on it, that that is the solution of the energy problem, or if they will agree with the amendment offered by the Senator from Wyoming and myself.

I also would think it would give the Senate a chance to go on record as to whether or not we are supporting the President of the United States, as I am in his original proposal. Unlike the Senator from Ohio I am standing with the President today and saying his original action was correct and his original proposal for 50 percent was correct.

Mr. METZENBAUM. I am certainly happy to hear the Senator from Oklahoma is standing with the President. I am not because I think the proposal originally was too low. I think he came to realize that himself and modified it. I think the House gave him a very persuasive argument indicating that they thought it was too low; so that I respect the President but I would say in this instance, the first instance, I think he came out for a strong—he was on all the television tubes indicating his strong—desire for an effective windfall profits tax.

Then, as you will remember, when the computation started to be returned, everybody concluded it was but a shadow of what it should be.

So although the President and the Senator from Oklahoma may feel this is the right figure, I think the vast majority of Americans would feel that the oil companies have been getting away with profits that are too high; that the inflation rate of 14 percent, which has about a 5-percent factor in it for higher energy prices, has been unfair to the American people; and that the oil companies of this country, as indicated by reports made public by other Members of Congress, have not been paying their fair share of taxes.

Unfortunately, this will not cause any change in that. All we are now talking about is what rate of tax they will pay by reason of decontrol of the price of oil, and it will not affect the very low rates they pay at the present time on regular profits.

Mr. DOLE. Mr. President, I am willing to put the Senator from Ohio as undecided and go ahead with a vote.

[Laughter.]

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER (Mr. BAUCUS). The question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. TALMADGE), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I also announce that the Senator from Iowa (Mr. CULVER) is absent because of illness.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Masachusetts (Mr. TSONGAS) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

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

The result was announced—yeas 32, nays 53, as follows:

[Rollcall Vote No. 415 Leg.]

YEAS—32

Armstrong	Goldwater	Lugar
Bellmon	Gravel	Morgan
Bentsen	Hatch	Schmitt
Boren	Hayakawa	Simpson
Boschwitz	Helms	Stennis
Byrd, Harry F., Jr.	Humphrey	Stevens
Cochran	Jepsen	Thurmond
Dole	Johnston	Tower
Domenici	Kassebaum	Wallop
Garn	Laxalt	Warner
	Long	Young

NAYS—53

Baucus	Hatfield	Packwood
Bayh	Heinz	Pell
Bradley	Hollings	Percy
Burdick	Inouye	Proxmire
Byrd, Robert C.	Jackson	Pryor
Cannon	Javits	Riegle
Chafee	Kennedy	Roth
Church	Leahy	Sarbanes
Cohen	Levin	Sasser
Danforth	McGovern	Schweiker
DeConcini	Magnuson	Stafford
Durenberger	Matsunaga	Stevenson
Durkin	Melcher	Stewart
Eagleton	Metzenbaum	Stone
Exon	Moynihan	Weicker
Ford	Muskie	Williams
Glenn	Nelson	Zorinsky
Hart	Nunn	

NOT VOTING—15

Baker	Culver	Pressler
Biden	Heflin	Randolph
Bumpers	Huddleston	Ribicoff
Chiles	McClure	Talmadge
Cranston	Mathias	Tsongas

So Mr. BOREN's amendment (UP No. 828) was rejected.

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

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

The motion to lay on the table was was agreed to.

UP AMENDMENT NO. 830

(Subsequently numbered amendment No. 643)

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

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 830.

At the end of the committee amendment add the following new section:

Sec. 402. Savings exclusion.

(a) In general—

Mr. BENTSEN. 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 committee amendment add the following new section:

SEC. 402. SAVINGS EXCLUSION.

(a) IN GENERAL.—Part III of Subchapter B of Chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as 129, and by inserting after section 127 the following new section:

"SEC. 128. Interest.

"(a) IN GENERAL.—In the case of an individual, gross income does not include any amount received as interest or dividends on a time or demand deposit with—

"(1) a commercial or mutual savings bank the deposits and accounts of which are insured by the Federal Deposit Insurance Corporation or which are otherwise insured in accordance with the requirements of the law of the State in which the bank is located,

"(2) a savings and loan association, building and loan association, or similar association, the deposits and accounts of which are insured by the Federal Savings and Loan Insurance Corporation or which are otherwise insured in accordance with the requirements of the law of the State in which the association is located, or

"(3) a credit union, the deposits and accounts of which are insured by the National Credit Union Administration Share Insurance Fund or which are otherwise insured in accordance with the requirements of the law of the State in which the credit union is located.

"(b) LIMITATION.—The amount of interest excluded under subsection (a) for the taxable year shall not exceed $500 ($1,000 in the case of a husband and wife who make a joint return under section 6013).".

"(c) TRANSITIONAL INTEREST EXCLUSION.—The amount of interest excluded under subsection (a) during the transition period shall not exceed the following amounts:

Year	Interest exclusion	Interest exclusion for a husband and wife who make a joint return under section 6013
1981	$100	$200
1982	200	400
1983	300	600
1984	400	800

(b) CROSS REFERENCE.—The table of sections for Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by striking out the last item and inserting in lieu thereof the following items:

"SEC. 128. Interest.

"SEC. 129. Cross references to other Acts.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1980.

Mr. BENTSEN. Mr. President, the amendment that I have offered on behalf of myself and Senator PERCY and a total of 27 sponsors in the Senate is one that would give individuals a tax exemption in 1981 for the first $100 of interest earned from a savings account in a bank, a savings and loan association, or a credit union. It would give them a $200 tax exempt interest return on a joint account.

That exclusion would increase annually by $100 a year on the individual return until it got up to an exemption of $500 interest, or $1,000 for a married couple, earned on a savings account.

The Finance Committee version of the windfall profits tax already includes provisions addressing the problem of social security payroll taxes and carryover basis. I think it is equally important to address the issues of savings.

Mr. President, among the major industrialized nations of this world, the United States is dead last in its savings rate.

If we are going to do something about capital formation in this country, if we are going to do something about the disintermediation of funds from the savings institutions, if we are going to be concerned about housing in this country, then we are going to have to do something to encourage savings to help correct that.

This windfall profits tax will certainly raise far in excess of $100 billion during the next 10 years. It is important that a small portion of that enormous increase in the Federal revenues be earmarked to alleviate what I believe is a serious bias against savings in this country. Incentives for savings can play an important role in our efforts to moderate inflation.

This amendment is generally the same as my savings exclusion bill, S. 246, which has 20 cosponsors including Senators MATSUNAGA, BOREN, BAUCUS, FORD, HOLLINGS, STONE, MORGAN, BURDICK, DECONCINI, ZORINSKY, TOWER, LUGAR, PRESSLER, SCHMITT, THURMOND, YOUNG, ARMSTRONG, GARN, BOSCHWITZ, and HUMPHREY.

The Senate Finance Committee held hearings on S. 246 on October 31, 1979. We had a broad spectrum of witnesses—there were senior citizens, realtors, and financial institutions—all testifying in support of this proposal.

This amendment will help those Americans who rely on their small savings for emergency purposes. It will help protect the erosion of savings by inflation in this country. Due to inflation, individuals actually receive a negative rate of return on savings deposits. A tax on the interest received further penalizes the consumer who has already been hurt by inflation.

Our tax laws have penalized savings and investment and this has contributed to lagging productivity and high rates of inflation. As I said earlier, other industrialized societies have provided substantial incentives for savings.

I sat down and met with the French Economics Minister. He told me what they had done in the way of incentives to try to encourage capital formation in France. He said the results were dramatic in what they had been able to accomplish in that regard.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. BENTSEN. I am delighted to yield for a question from the distinguished Senator from Florida, who has been very concerned about savings in this country for a long time.

Mr. STONE. I thank the distinguished Senator from Texas.

Is the situation in Texas with retired people the same as it is in Florida, in which the elderly measure their life expectancy according to insurance and other tables, and they discuss and think and plan as to whether their little savings are going to last as long as their life expectancy? And do they, in Texas, as in Florida, hope and pray that they pass away before their savings pass away? Would not a provision like this help these elderly people of modest means to keep body and soul together?

Mr. BENTSEN. Well, that is certainly true in my State and, I know, from what the Senator tells me, in the State of the distinguished Senator from Florida.

I assume that problem and concern is shared across this great Nation of ours. One of the results happens to be that when they see what is happening and their savings are taxed, often at a negative rate of return, then they become a target of every flimflam artist that is going to give them a quick bonanza, that is going to suddenly bring them security, and they lose their savings.

It is time that we do some of the things they have done in other countries to try to encourage those kinds of savings, so that they will have something for their retirement years.

Mr. STONE. I think the Senator is to be commended in offering this amendment, because it has both aspects: It helps capital formation in the provision of new investment and jobs for people, but it also has a very human aspect in terms of the savers themselves, and particularly the elderly.

I am very much in support of this amendment. I hope and trust that it will pass overwhelmingly.

Mr. BENTSEN. I thank the distinguished Senator from Florida for his comment.

Mr. President, I had agreed to yield to the distinguished Senator from Alabama (Mr. STEWART) without losing my right to the floor.

Mr. STEWART. First, let me say that I commend the Senator from Texas for this excellent amendment and appreciate his efforts in that regard.

I thank the Senator from Texas for having yielded to me.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Senators TALMADGE, MATSUNAGA, BOREN, BAUCUS, DURENBERGER, CHURCH, PRYOR, DECONCINI, TOWER, MORGAN, COCHRAN, MCCLURE, LAXALT, DOMENICI, FORD, and STONE be added as cosponsors of the amendment.

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

Mr. BENTSEN. Mr. President, I ask unanimous consent that Senators DURKIN, HUDDLESTON, CRANSTON, HUMPHREY, STEWART, HOLLINGS, COHEN, JOHNSTON, and LEAHY also be added as cosponsors of this amendment.

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

Mr. BENTSEN. Mr. President, the U.S. rate of savings as a percentage of disposable national income in 1976 was only 4.8 percent compared to a rate of 6.6 percent in the United Kingdom, 13.1 percent in France, 13.2 percent in Germany, 17.2 percent in Switzerland, and 25.3 percent in Japan.

The percentage of disposable income that Americans saved during the third quarter of 1979 fell to the lowest quarterly figure since 1951, according to figures released by the Commerce Department.

The national savings rate during the July–September period declined sharply from 5.4 to 4.1 percent. The last time the savings rate was that low was in the first quarter of 1951, when it fell to 3.7 percent.

Michael Boskin, professor of economics at Stanford University, who supports my savings exclusion proposal states:

> There is no greater problem facing the U.S. economy today than our extremely low rate of savings and closely related low rate of investment.

Professor Boskin goes on to state:

> There is no more urgent legislation than to gradually shift to a system that would promote, rather than destroy, the incentive to save.

A recent Wall Street Journal article on the savings rate in West Germany points out that the funds made available by savings in that nation have helped push productivity ahead at a faster rate in Germany than in any other Western nation.

Our tax laws have penalized savings and investment and this has contributed to lagging productivity and high rates of inflation. One of the most effective methods to hold down the cost of living is to help boost productivity.

If you are going to increase productivity in this country, you have to encourage investment in equipment and machinery. That requires capital to be available. I see on the floor my coauthor of this bill, the distinguished Senator from Illinois (Mr. PERCY). I am happy to yield to him at this time.

Mr. PERCY. I very much appreciate the Senator yielding. This is one of the most important issues we have brought before the Congress in a long time. I commend my distinguished colleague.

As the distinguished Senator from Texas knows, on July 19 I introduced S. 1542, and subsequently had the cosponsorship of Senator DANFORTH of Missouri. My bill is based on the same principle as this amendment. S. 1542 just extended a principle which the Senator from Texas has long supported, the dividend exclusion. It extended the dividend exclusion from $100 to $500 but required that $400 be reinvested. And it also provided a savings interest exclusion, for $500 of interest if the top $400 was reinvested.

This amendment which phases in the $500 interest exclusion cost is a very direct action. It does not require reinvestment.

I commend my distinguished colleague for adding 27 cosponsors to this particular measure.

Certainly without any question the distinguished Senator from Texas realizes, as a former businessman, that one of the most disastrous things happening in the American economy today is the lack of savings. This lack of savings, the lack of investment in the ways that that money can be used, is causing very, very high interest costs today. Scarce money chasing goods and the cost of money is continuing to go up. As the distinguished Senator has said, our level of saving today is scandalously low. People are buying things because they know the things are going to go up in value and appreciate. It does not matter whether it is an automobile, a television set, or whatever.

Usually, in years past, those products stayed relatively stable in price. From 1955 to 1965, it was only 1½-percent increase for a whole decade. But I heard last night an automobile advertised for $4,400 that my wife paid $3,100 for 2 years ago. That kind of appreciation causes people to buy things and not hold on to money because they see their money dropping in value.

What we have to do is change the psychology. We have to change habits now. We have to get people back into the habit of saving to create more money which can then be used by others to invest in equipment that will reduce the cost of production.

Mr. President, I am joining Senator BENTSEN in submitting this amendment because I believe the low rate of savings in this country is a crucial economic problem. Congressional attention to this problem is long overdue.

As Senator BENTSEN has pointed out the savings rate in the United States is the lowest of the major industrialized nations. Personal savings and investment are major sources of business investment capital and without this investment capital there can be no economic growth and no productivity gains.

The amendment we are offering is quite simple. It will provide the tax incentives needed to encourage personal savings. Beginning in 1981, it will allow a $100 tax exclusion for interest earned from a savings account. The exclusion will increase annually by $100 until calendar year 1985 when an exclusion for $500 of interest—$1,000 on a joint return—will be provided.

Mr. President, a high rate of capital formation is necessary if we are to increase the rate of productivity growth in the American economy. Increased productivity is the key to fighting inflation. One way to spur capital formation is to encourage personal savings and investment. We can accomplish this by reducing the penalty our tax system inflicts on savings.

The United States has a dismal record of savings as compared to other industrialized nations. According to the Organization for Economic Cooperation and Development 1979 Economic Survey, in 1977 the United States was last among the industrialized nations in the rate of household savings. Japan led the way with 21.2 percent, West Germany 12.6 percent, France 16.7 percent, the United Kingdom 13.7 percent, and the United States 5.3 percent.

The same survey also evaluated international savings rates as a percentage of gross national product. This rate is determined by deducting national consumption from GNP and stating it as a percentage of GNP. In 1977, Japan saved 32.2 percent of its GNP, West Germany 24.2 percent, France 23.4 percent, the United Kingdom 20.3 percent, and the United States 17.7 percent. While these statistics show the United States in a more favorable light, the fact is that we still finish last of the major Western industrialized nations.

The low rate of savings is a major factor in the shortage of capital available for business investment in new plant and equipment. Here again, statistics show that the United States falls behind other major industrialized nations. From 1966 to 1976, the United States invested 13.5 percent of its GNP in plant and equipment. During the same period, Japan invested 26.4 percent, West Germany 17.4 percent, France 16.7 percent, and the United Kingdom 14.9 percent.

It is time that we in Congress take steps to reverse these alarming statistics.

The pending amendment is a major step in the right direction. Savings and loan associations, credit unions, and commercial banks all over the country have told me in recent weeks that this single step would be the biggest thing we could do to reverse a dangerous trend. Dangerous because it has endangered farmers and small business people, dangerous because it is endangering consumer credit, dangerous to the entire economy. This step we are taking today, or should take as soon as possible, is a step that can reverse that dangerous trend and put us back on a much more prudent and frugal footing.

I commend my distinguished colleague for proposing the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent to add the name of the distinguished Senator from New Hampshire (Mr. DURKIN) as cosponsor.

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

Mr. STAFFORD. Mr. President, would the distinguished Senator from Texas, whose amendment I am strongly supporting, care to add me as a cosponsor, also?

Mr. BENTSEN. I am delighted, Mr. President. That adds a lot of weight to the bill. We have deep concern over savings in this country.

I ask unanimous consent to have Senator STAFFORD added as a cosponsor.

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

Mr. BENTSEN. Mr. President, a study prepared by the Department of the Treasury indicates that total U.S. fixed investment as a share of national output between 1960 through 1973 was 17.5 percent. The U.S. figure ranks last among a group of major industrial nations. Our investment rate was 7.2 percentage points below the average commitment of the entire group, even below that of Great Britain.

Ever since World War II, the major concern of our economic policy has been to maintain an adequate level of demand in the system. This year's Joint Economic Committee annual report, which, for the first time in 20 years, was endorsed by all committee members, points out that the time has come for a fundamental reorientation in our economic strategy. The JEC report suggests that the supply side of the economy should be our major area of concern and points out that policies which expand our capacity to produce goods and services more efficiently are the most effective way to deal with our current economic problems. Greater savings and investment are needed.

Mr. President, this amendment would provide considerable assistance to countless senior citizens throughout our Nation. To illustrate this point, I refer to the testimony of Mr. Robert E. Pugh, president of the Texas Senior Citizens Association, at the October 31 Finance Committee hearings. Mr. Pugh stated at that time:

> In this day when we have long since passed double digit inflation, perhaps, it is only those of us who are older who can remember that one of our Founding Forefathers reminded us that, "A Penny Saved Is a Penny Earned."
>
> In our mad rush toward economic suicide and financial oblivion, our society seems dazed and drugged by an opiate. That subtly suggests spend, and spend, with no thought that the piper is awaiting down the road for his pay, and that suggests, that S.B. 246 by Senator Bentsen, and cosponsored by 18 of his Senate colleagues is long over due.

Mr. Pugh proceeded to state:

> As President of a large and vocal group of senior citizens I am deeply hopeful that our people become concerned about and interested in savings, since economists tell us that a retiree who can retire on a $10,000 a year income now, will need $18,000 before 1990.
>
> Let's face facts—where is that extra $8,000.00 a year going to come from? The only obvious answer is "savings"—but under the present circumstances, our government is not encouraging the saving habit.

Mr. Pugh concluded his remarks to the Finance Committee by pointing out:

> If you give to our people the incentive, the motivation for saving, that this will engender, as we invest in savings in savings banks, building loan associations, credit unions, each of us who participate will have a part in providing the capital for home and commercial buildings, and help us have the feeling that we are helping America to get moving again.
>
> While we may not be economists, we do know the banks, the building and loan associations, and kindred institutions cannot lend money they do not have, and this is where individual Americans all over America can come in—if something can be done to develop our incentive for saving, then we can help provide the capital, that will mean business, homes, and therefore more jobs for our people. The rank and file of Americans do not have great wealth, but they love their country and they are concerned about the future of America—they would like to know they can have a part in rebuilding America.

According to estimates of the Joint Committee on Taxation, this amendment would result in a "static" revenue loss of $1 billion in 1981 and this would increase to some $5 billion annually when the amendment is fully effective in 1985.

Let me say of the word, "static," that means that if you do not get anything happening, if you do not get an outpouring of funds that go into these kinds of savings accounts that help build more homes, that help start small businesses, if you do not have any of that happening as a result of it, the revenue loss would be $1 billion in 1981. That would increase to $5 billion by the time it was fully effective in 1985.

However, it is very important to note the important "feedback effects" that this amendment would have on our economy. It would increase the flow of capital to lending institutions and provide a more stable source of funds for the real estate industry, construction industry and homebuilding. At the same time, taxpayers would be encouraged to save for family health care, retirement, education or other worthwhile objectives.

The rate of interest on home mortgages is presently at the 13 percent level. According to testimony presented to the Senate Finance Committee, a $500 savings exclusion would decrease long-term interest rates due to the higher rate of savings inflow into lending institutions. Concurrently, residential and nonresidential construction would each increase by approximately 4.7 percent over current levels to accommodate the anticipated increase in housing demand.

Productivity and economic growth would also increase if the savings exclusion were enacted.

According to some estimates presented at recent Senate Finance Committee hearings, as the increased amount of savings is spread throughout the economy, private investment would increase by $21.2 billion, a gain of 4.8 percent, with a corresponding increase in employment of 250,000 jobs and a rise in household per capita income of $210. The result of this increased economic activity is an estimated rise in GNP of $9.5 billion according to testimony presented at the Finance Committee.

As we come to the close of the seventies, we can look back on a decade of lagging productivity, reduced capital investment and rising inflation.

One of the causes of this economic decline has been the lack of incentives for capital formation and the significant reduction in the savings rate in the United States. If the eighties are to show improvement, it is imperative to stop the disastrous slide in the rate of personal savings that is now occurring. For this reason, we urge the Congress to act immediately to set policies that encourage savings instead of penalizing, as we now do, those persons who save.

In a recent survey done for the Savings and Loan Foundation, it was determined that one-half of the adults nationwide would consider increasing their use of savings accounts if they received a tax incentive of only $100/$200 exclusion on interest. Significantly, 40 percent of people who do not now have savings accounts indicated that they would be inclined to establish such an account if a tax exemption on the interest earned were provided. The study found that the interest exclusion was particularly appealing to people in the moderate income brackets and people under 35.

These are the very people who are not saving as much or at all under current tax provisions. These increased savings would provide additional capital for investment in housing and updating of business and industrial equipment that will be needed in the coming years.

Mr. President, I urge the adoption of my amendment.

Mr. JOHNSTON. Will the Senator yield?

Mr. BENTSEN. I am delighted to yield.

Mr. JOHNSTON. Mr. President, I want to associate myself with the remarks of the distinguished Senator from Texas. I want to congratulate him for putting in this amendment. I hope he will add me as a cosponsor of the amendment, if I am not already.

Mr. BENTSEN. I am delighted to add the Senator as a cosponsor.

Mr. President, I ask unanimous consent that the distinguished Senator from Louisiana be added as a cosponsor.

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

Mr. JOHNSTON. Mr. President, this is a rare amendment because it is one that will help little people and big people in the country at the same time. We so often are engaged in legislating on matters where we have to take our choice between the little people who need welfare, heating assistance, food stamps, or whatever, or the big people who are out for more profits, and all of those polarized issues that usually face us.

This issue is different. It helps the small saver. It gives him a measure of equity. It helps the savings and loan associations and the banks, which do not have enough money to lend, or enough deposits. It helps the country and the economy because we need savings for capital. It helps, particularly, young people who are out trying to buy their first home and now find no mortgage money.

I think this amendment, Mr. President, has absolutely irresistible appeal, not just political appeal, but irresistible appeal because it is right. It is right for the economy. It is just. It is fair. It is helpful to the economy.

I think it is one of the best pieces of legislation to come through this Senate for a long time. I congratulate the Senator from Texas for leading the way on this.

Mr. BENTSEN. I thank my friend from Louisiana.

Mr. MATSUNAGA. Will the Senator from Texas yield?

Mr. BENTSEN. I am delighted to yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I wish to congratulate the Senator from Texas for his leadership on this particular measure.

As a cosponsor of S. 246, the bill which the Senator from Texas originally introduced and as a cosponsor of the amendment he is now offering, I feel that this savings incentive, if adopted, will be one of the greatest stimulants for capital formation and development. Moreover, by encouraging greater individual savings and less consumer spending, it will be an effective anti-inflation measure. It will also protect the hard-won earnings of millions of Americans.

Present inflation creates a powerful disincentive for savings. The return on individual savings accounts falls short of the inflation rate; and the taxation on interest increases the negative return on savings deposits. Individuals find little benefit in savings, and the low rate of personal savings has resulted in a dire capital shortage.

It is a shame that the United States lags far behind other industrial nations in the rate of individual savings. As a percentage of disposable national income in 1976, the Japanese saved 25.3 percent, the Swiss 17.2 percent, the Germans 13.2 percent, the French 13.1 percent, and the English 6.6 percent. But Americans had only a 4.8 percent rate of savings.

It is no wonder that interest rates for home mortgages have gone as high as 13 or 13.5 percent. It is no wonder that the prime interest rates have gone up to 15.75 percent, as announced today by the second largest bank in the Nation. It is no wonder that our businesses have difficulty in finding the capital needed for plant modernization.

If we had provided incentives for personal savings, we would not be in the position we are in today. Our savings institutions would have the funds to meet our capital needs and improve our economic potential. We could enhance our industrial productivity and beat inflation.

However, the tax laws create a bias against personal savings and that bias must be removed. This amendment would remove the savings disincentive.

So, again, I commend the Senator from Texas for the leadership he has shown in this area. I join him enthusiastically in support of this amendment.

Mr. BENTSEN. I thank the distinguished Senator.

I yield.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I, too, commend the Senator from Texas and the Senator from Illinois.

Despite the merits of this proposal, and it has a great deal, there will be a substitute offered which will deal with the area touched on by the distinguished Senator from Texas, and also on dividend income.

The amendment that will be offered as a substitute—not today, but perhaps sometime next week—would exclude $100 per person and $200 per return of interest, the same as the existing exclusion on dividends. In addition, up to $400 additional excluded for interest and dividends if the amounts are reinvested.

Not only will people have more options in making use of their disposable income, they also will be encouraged to maintain part of their income in a form that will help provide for their future and for the future of the Nation, as well.

I am not certain which amendment may have the most merit. I am certain there is merit to each.

Maybe cost should not be a factor, but the proposed substitute, which is sponsored by all Republican Senators and I think, maybe, some of the Democratic Senators, would be somewhat less costly. It is my understanding the Bentsen amendment would cost about $4 billion when fully implemented. The proposed substitute would cost about $2 billion when fully implemented.

I do not know if the Senator from Texas intends to press for a vote today. But some of those who have had a primary interest in development of the substitute are not present. I hope that we do not intend to vote today on either the Bentsen proposal, if it can be agreed not to vote, or on the substitute.

The Senator from New York (Mr. JAVITS), I think, will be on the floor to discuss this in more detail.

I just advise my colleagues that there will be a substitute offered. The Senate can work its will on whether they want to include additional incentives on dividends and interest and, if not, I am certain the Bentsen amendment——

Mr. BENTSEN. Will the Senator yield?

Mr. DOLE. Yes.

I understand the Senator from Missouri has a substitute.

Mr. BENTSEN. I understand that.

Mr. President, I ask unanimous consent to add the Senator from Michigan (Mr. RIEGLE) as a cosponsor of the Bentsen-Percy amendment, the savings amendment.

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

Mr. BENTSEN. Mr. President, I say to my very good friend from Kansas that, yes, I would like to vote today. But if we do not have enough here, and if the Senator feels strongly about it, I am willing to check this with Senator PERCY who coauthored this with me, and, subject to that, I would be prepared to put off the vote.

I would want agreement that we could have a vote by a set time on Monday.

Mr. DOLE. We are not trying to delay the Senator from Texas.

Mr. BENTSEN. I know the Senator is not, and I am sure the manager of the bill is not.

I just want to be sure about it. But I am not pressing for it this afternoon.

Mr. LONG. Mr. President, if the Senate is going to consider these things, of course, they all have a lot of merit, I think the Roth amendment might be considered, if he wants a general cut for everybody. It would be very unfortunate if only those with some savings get a tax cut. It would be nice if those who do not have any savings would get a tax cut, also.

Perhaps we could add the Roth amendment.

I hope we do not rush to action before I can raise my stock ownership proposal because it has been a long time since we did anything for employees who own stock in companies for which they work.

If this is going to be a Christmas tree bill, I do not know why we should not all have the opportunity to add a few ornaments on the tree.

I am not against Christmas tree bills. But I did not know we were going to make a Christmas tree bill out of this.

So far, I thought the Senator from Louisiana used great restraint. I have some ideas which I think could help benefit more taxpayers. These have not been discussed here and that I would like to see these suggested.

I certainly hope we are not going to be niggardly. We have a lot of good proposals here. Perhaps we can add one that would help capital accumulation.

There was some magnificent testimony in the committee supporting increasing the depreciation on equipment. I hope the Senator would be willing to accept an amendment to his amendment that would add the capital accumulation provision to the bill.

If we are going to go in the other direction, why should we just limit it to one particular group of taxpayers?

Mr. BENTSEN. I say to the Senator, as he well knows, that we accepted the provision in here for a trust fund, for the social security increase. We turned around and accepted another provision for a carryover basis.

We are talking about collecting well over $100 billion in tax. I have urged this specific provision for quite some time and I think it is one whose time is overdue, and one that we should try to put through, particularly at a time when we are raising this kind of revenue and see savings in this country headed in a disastrous way, downhill.

I am urging this, and I think we have substantial support. As the Senator knows, I had talked about adding it to the banking bill. The Senator from Louisiana told me he felt it should not be on that bill, that it should be something within the province of the Finance Committee, and I acceded to his request. I think that is the proper place for it.

I understand that substitutes will be offered to my amendment. Can we get an agreement as to when we will do it? I would be willing to agree with the distinguished chairman of this committee and the leadership as to a time. Senator DOLE asks that we delay this until Monday. I am prepared to do that, if I have a set time on Monday.

Mr. LONG. Mr. President, I think

there are more Senators who would like to know about the matter, so that they can consider it in connection with their plans.

It was my hope that this bill was going to be limited to the area we have here. It was not the idea of the Senator from Louisiana that a social security amendment would be offered. He voted against it because he felt that matter should be considered next year. It should be a matter of appropriate study, to see just how best to handle the social security financing problem.

We did agree to an amendment that provided that we would have a trust fund and earmark some money so that the social security tax would not have to go up. It should be borne in mind that the trust fund provision does not commit the Senate and it does not spend the money.

There are many Senators who would like to have their meritorious amendments considered.

When the Senator from Texas, a member of the committee, insists that his amendment, which would cost about $43,659,000,000 over the period 1980–1990, should be considered, others will want to insist on theirs. This is a democratic institution, and that is how Senators tend to react.

We had better try to take a reading on where we are going and whether we can stand the revenue loss.

Of course, the Senate will do whatever it wishes. I think that those on the Budget Committee should be privy to this discussion and to have a chance to think about the overall problem. They have the task, which is not enviable, of trying to keep expenditures in some balance and of trying to move within a balanced budget.

I have supported proposals to cut the capital gains tax, when this Senator was convinced it was not going to lose money but was going to make money for the Treasury. I think the record will indicate that it very likely did make money for the Treasury. I see no indication that this is going to make money. My impression is that this will cost us a great deal more money and will make it more difficult for us to balance the budget, as we started to do.

If we could afford it, I would like to vote for the proposition. But others should have an opportunity to look at their proposal, in view of the fact that we are going to act on amendments of this sort, to see whether they wish to offer their amendments.

Mr. BENTSEN. In that connection, I say to the Senator that this amendment has been drafted so that the first $100 would be exempt and $200 on the joint return would be exempt, starting in 1981.

In looking at the second budget resolution, the Budget Committee report maintains the assumption in the first budget resolution of a $55 billion general tax reduction in fiscal year 1982, $75 billion in fiscal year 1983, and $100 billion in fiscal year 1984.

What the Senator from Louisiana has cited are numbers on a static analysis. My friend from Louisiana has been one who has been in the forefront in changing that kind of accounting approach, that sterile approach of the past, with the understanding that the public does react to this kind of situation, that we do get a rippling effect.

Mr. LONG. That may be the case.

Does the Senator have an estimate as to how much feedback there would be as a result of this deduction?

Mr. BENTSEN. Yes. I gave that in the comments earlier, and I will be pleased to give it to my friend again.

One of the estimates we had—of course, we had hearings before the subcommittee on this particular piece of legislation—some of the estimates we had in testimony was that plant investment would increase by $21.2 billion, a gain of 4.8 percent; a corresponding increase in employment of 250,000 jobs; a rise in household per capita income of $210. The result of this increased economic activity is an estimated rise in GNP of $9.5 billion. Obviously, that means a substantial feedback.

Mr. President, I am just asking that I have appropriate consideration for this matter.

The Senator from Kansas has asked that we not vote this afternoon, and I am not pressing for a vote this afternoon. I want to accommodate the leadership in this matter. But I do want to vote on Monday, if I decide not to continue the discussion of this matter this afternoon and urge a vote this afternoon. I would like a time certain on Monday and ask for a vote.

Mr. PACKWOOD addressed the Chair.

Mr. EAGLETON. Mr. President, may I address an inquiry to the Senator from Louisiana or the Senator from Texas?

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Texas has the floor.

Mr. BENTSEN. I yield for a question, without losing my right to the floor.

Mr. EAGLETON. As the Senator from Texas knows, I have a substitute amendment to his amendment, as does the Senator from Kansas (Mr. DOLE). If a time certain is agreed to for Monday, I am amenable to, say, 20 minutes on my substitute. I cannot speak for Senator DOLE as to what he might need. So all the votes can be in close proximity.

Mr. BENTSEN. Mr. President, all we are seeking here is that the Senate work its will on this and have a chance to vote.

This obviously is not a new issue. This is an issue that has been spoken of, studied, debated, for years in the Senate, and the situation has become more acute. Savings have continued to deteriorate in this country. Capital formation has suffered and we are talking about a very substantial decrease in housing in the forthcoming year. We are seeing a disintermediation of funds taking place. So unless we can correct that we are going to have an extremely chaotic economic situation. This is something that addresses that kind of a crisis.

Again I keep saying that all I am asking the managers of this bill to do is let the Senate work its will on Monday. Otherwise we will continue to discuss it until we can get it.

I yield with the understanding I do not lose the floor.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Senator from Texas if he would be willing to yield the floor for a little while with the understanding that he regain it so as to allow the Senate to proceed with two privileged matters. First is the concurrent resolution on the budget and Mr. BELLMON, who is the ranking member on that side of the aisle, has to leave, I believe, within 10 minutes. Mr. MUSKIE is ready to call it up. Then following that we will take up the conference report on the continuing resolution. As I understand, there should not be any great deal of time on that. The House of Representatives has taken certain items back and has voted on them. I understand from Mr. MAGNUSON he will be ready to call that up shortly. That is a very highly privileged matter. If we can take up those two items, I will be willing to try to get a time agreement on either or both, certainly on the first one of them.

Mr. MUSKIE. Thirty minutes I think would be sufficient.

Mr. ROBERT C. BYRD. Thirty minutes equally divided.

Mr. BELLMON. I only need 2 minutes.

Mr. ROBERT C. BYRD. Mr. Bellmon says he only needs 2 minutes.

Mr. MUSKIE. I may not use the 30.

Mr. ROBERT C. BYRD. Could we make it 20 minutes equally divided?

Mr. MUSKIE. Yes.

Mr. ROBERT C. BYRD. Twenty minutes equally divided, and if we could follow that with the continuing resolution and with the understanding that Mr. BENTSEN regains the floor. In the meantime perhaps he and Mr. LONG and others can discuss it.

Mr. BENTSEN. With that understanding I certainly yield the floor.

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

TIME LIMITATION AGREEMENT

Mr. President, I ask unanimous consent that there be 20 minutes equally divided, not to exceed that, on this privileged matter which Mr. MUSKIE is about to call up, and that that be followed by the continuing resolution and that upon the disposition of that matter that Mr. BENTSEN regain the floor.

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I wish to know what our plan is. I believe there is a substitute to be offered for the Bentsen amendment on this side, which is sponsored by Senators BAKER, DOLE, and myself and this will all take considerable time for discussion. So may we have some idea as to how late we are going to be here tonight, if there is any idea, but it is going to take a little time. We are not satisfied to just rush to a vote on this amendment. It is a pretty important one involving a vast amount of money and a lot of Members are going as we all know.

Mr. BENTSEN. I say to the distinguished Senator from New York that I am prepared to stay here as long as anyone else wants to and I will stay here through the night unless we get some kind of agreement as to a vote on Monday.

Mr. JAVITS. Yes. Let us get an agreement. That is the only thing I am urging. That is why I interrupted now because

all Members will want to go at 5 or 5:15, and so on. So I am happy to do that if it is agreeable to the Senate.

Mr. LONG. Mr. President, I am not going to vote on this amendment right now. The Senate is entitled to know about it. There are a lot of Senators who are not present who should know about it before we vote. Even the President and the Secretary of the Treasury might be interested in the fact that this very important amendment is being considered. I am not ready to agree to a unanimous consent request in 5 minutes that we vote on a $43 billion amendment that is not germane to the bill. Many Senators did not know this matter was going to be presented. The Senator can do whatever he wants to about his amendment. I am not seeking to deny him of any of his rights, but I wish to protect the rights of others, and I am not going to agree to vote on the amendment tonight. I think Senators should know that and make their plans accordingly.

Mr. JAVITS. Mr. President, will the Senator allow me to finish?

Mr. LONG. Yes.

Mr. JAVITS. I do not think there is any adverse feelings in this matter. I happen to be very sympathetic with this, and many are. I do think we should vote on this if we can because the thrifts and the savings banks I can tell the Senator are very worried. We do not like to make big discussions about that. But I do think that an orderly procedure should be worked out if possible to give this matter an opportunity to be considered and decided by the Senate. That is all that I plead for.

Mr. LONG. I do not complain about that and, frankly, I am sympathetic to the amendment myself. I am sure the amendment has merit, but I am also interested in passing a windfall profit tax bill. I felt I made a commitment to the Secretary of the Treasury and others that if I could we would try to limit this to a windfall profit tax bill. I must admit that is a difficult thing to do. But at least I think I should make a good faith gesture in trying to do what the Senator from Louisiana indicated to some very responsible people in this country he would try to do. I am only one person and only have one vote. It is easy enough for the Senate to roll over me any time it wants to. If it wants to make this a Christmas tree bill, the Senate has the power to do that. But at the moment I do not feel that I could responsibly agree to vote on the amendment. And I think we should discuss it Monday. The Senator will be here, I am sure, and we can discuss it at greater length then.

Mr. ROBERT C. BYRD. Could we get the request I made agreed to? It will not deny the rights of Senator BENTSEN, and while we are talking about it the principals in this particular issue can get together and talk.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request, to move to the second concurrent budget resolution with a time limit of 20 minutes equally divided?

Mr. ROBERT C. BYRD. No, it is not the second concurrent budget resolution. It is a privileged matter on which there will be 20 minutes.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1980, 1981, AND 1982

Mr. MUSKIE. Mr. President, on behalf of the Committee on the Budget, I send to the desk an original concurrent resolution on the budget for fiscal year 1980 and ask unanimous consent for its immediate consideration.

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

The clerk will state the concurrent resolution by title.

The second assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 53) revising the Congressional Budget for the United States Government for the fiscal years 1980, 1981 and 1982.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the following members of the staff of the Budget Committee and the Congressional Budget Office be accorded the privilege of the floor during consideration and votes on the revised second budget resolution: John McEvoy, Karen Williams, Sid Brown, Susan Lepper, and Rick Brandon.

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

Mr. MUSKIE. Mr. President, at this point I yield to my good friend, the ranking minority member of the committee, Senator BELLMON, who is under some time restraints, for his comments on the resolution, and then I shall add mine subsequently.

Mr. BELLMON. Mr. President, I thank my friend from Maine.

Mr. President, we are very pleased this evening that we appear to have an agreement on the second budget resolution for fiscal year 1980.

This has been a long and arduous conference. We have missed by 2 months the September 15 deadline in the budget process. We are hopeful, however, that missing this deadline will remain a unique experience and next year we intend to be back on schedule. The whole process relies on meeting deadlines, and the orderly establishment of appropriate fiscal policy requires keeping on schedule.

We have come very close to enforcing a reconciliation instruction for fiscal year 1980. We were disappointed by the House vote last week striking reconciliation from the conference agreement, although there were two other points which were more disturbing during the floor debate in the House:

First. The chairman of the House Veterans' Committee stood up to announce that even though savings in veterans' programs were assumed, his committee would not take any further action this budget year to save funds.

Second. One Member of Congress announced in floor debate that he was sure a third budget resolution would be necessary next spring and that the budget committees would likely report such a resolution to prevent a point of order from occurring.

Mr. President, what we have done today is to make every effort to achieve savings and to declare in this resolution that it is the sense of Congress not to have a third budget resolution to make up for any savings which are not achieved.

Make no mistake about it. There are savings assumed in the second budget resolution, and these savings will only be achieved with the help of the various committees of jurisdiction. If these savings are not achieved, we have only two options: Either we raise the deficit, or we crowd out of some future spending bill (probably next spring's supplemental appropriations bill) funding for some programs which may be high priority items. We are making clear now we will not have a third budget resolution to bail out committees who do not make the concessions. Therefore, we have only two choices: Either make the savings or crowd out future spending.

I wish to congratulate Chairman MUSKIE in particular for his perseverance during the long conference and also wish to express my appreciation to the other members of the Senate conference committee for their cooperation, as well as to the staff who have been of inestimable value throughout this entire process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I thank my good friend, the Senator from Oklahoma, for his compliments and his support which has made it possible to develop this discipline as far as we have developed it. He has described the circumstances which bring us to the floor.

Last week, the Senate adopted a second budget resolution which contained a 1980 budget agreed to by the House-Senate conference. That budget assumed savings of $3.6 billion in outlays and contained the reconciliation provisions the Senate had passed by a vote of 90 to 6 to require that those savings actually be made.

Last week, the House of Representatives also adopted that budget resolution and agreed to the budget totals which assume the savings but rejected the reconciliation provisions designed to require that the savings actually be made.

Thus, the budget resolution figures have now been approved by both Houses. But the second resolution will not be in place until the reconciliation issue is settled.

If the Senate passes the resolution as the House has returned it to us, the budget totals will be in effect, but the reconciliation provisions will not take effect.

The simple fact is that the budget resolution figures agreed to now by both Houses assume virtually the full amount of the savings contemplated by the reconciliation instructions. The question is whether those savings will be made voluntarily, as the House assumes, or will only be made if we insist on reconciliation, which has been the Senate position.

The Budget Committee has carefully weighed the options available to the Sen-

ate at this juncture. Let me report to you our advice under the circumstances.

First of all, we believe it is highly unlikely that we can force the House to accept reconciliation this year. For reasons fortunately unique to the House, no coalition can be created in the House at this time to pass a budget resolution which contains reconciliation provisions. The Republican side will vote for reconciliation, but will not vote for a budget resolution which contains it. The Democratic side will vote for a budget resolution, but not if it contains reconciliation.

On the other hand, if the savings assumed by the resolution are not made through reconciliation, as the Senate has proposed, and are not made voluntarily, as the House assumes, important national budget priorities will simply be crowded out by the spending necessary to make up for the lost savings.

If none of the savings assumed by reconciliation occur, as much as $3.6 billion of the $10.7 billion in outlays contained in the agreed-upon budget for important supplemental appropriations priorities will have to be spent for the savings instead.

Some of the priorities which would be simply crowded out include supplemental funding for food stamps, the space program, refugee assistance, student assistance, strategic stockpile acquisitions, the Economic Development Administration, and countercyclical revenue-sharing programs.

This is not some horrors list, designed to frighten and alarm. It is the actual list of major "controllable" supplemental appropriation requests which will have to bear the brunt of spending for the lost savings.

The Budget Committee has rejected the alternative of a higher deficit to solve this dilemma. Although it might be easy simply to add the jeopardized $3.6 billion in savings to the budget, that course would increase the deficit by more than 10 percent—to $33.4 billion—and betray all our efforts toward budget control.

Instead, the committee recommends the following course of action to the Senate:

First, we should refuse to honor the House action of last week which rejected reconciliation.

Second, we should continue to press Senate and House committees to make the savings assumed in the budget resolution totals which have been agreed to by both Houses. We should do so because those savings should be made and because without them other important spending priorities will have to be sacrificed.

The Senate has established a record of restraint this year which is in tune with the needs and aspirations of our fellow citizens. While we regret that House action last week appears to have ended our effort to achieve these important savings through the reconciliation process this year, we believe our responsibility requires us to continue to press in every way possible for the savings and to put the House clearly on notice that failure to make those savings will not justify a revision of the budget resolution.

Unfortunately, the difficulties of achieving these savings without reconciliation was nowhere more clearly demonstrated than on the floor of the House of Representatives just yesterday. By a vote of 234 to 166, the House voted to gut the savings proposed by the hospital cost containment bill, a key element of the budget resolution's savings plan.

So we believe we must serve notice on the House and on the whole Congress that failure to enact the proposed savings will not, under any circumstance, be a cause for revising the budget we have adopted.

Nonetheless, in light of the House refusal to accept the reconciliation provisions, we must reluctantly recommend that the Senate delete them from the resolution.

We recommend we replace those instructions with a strong sense of the Congress commitment to make the savings and to stand by the budget we have adopted.

It was necessary to report an original concurrent resolution, Mr. President, because the conference report had been amended as far as it could be amended. So technically it was necessary to report an original concurrent resolution, and that original resolution contains the substance of the conference report on the budget, so there is nothing new in the substance.

Then the committee has added a sense-of-the-Congress commitment on reconciliation, and it reads as follows:

SEC. 3. Sense of the Congress on Reconciliation.

It is the sense of the Congress that there shall be no Third Budget Resolution or any other revision of the budget figures contained in this Resolution unless justified by significantly changed national or international developments beyond the power of Congress to control and not foreseen in the Development of the Second Budget Resolution for fiscal year 1980.

The amount of savings assumed in the Second Budget Resolution but not made in a timely fashion will crowd out funding for other priorities in the budget and may require rescission of already-enacted appropriations to stay within the budget ceilings.

Therefore, Congress calls upon the Committees of Congress named in the reconciliation instructions to make the savings assumed within the totals of this Resolution and calls upon all other Committees of the Congress to exercise the maximum restraint in spending and maximum effort toward savings in order that important national priorities will not be crowded out by the failure to make those savings.

Mr. President, this language has been included in the resolution for the purpose of putting the Congress on notice that the budget numbers agreed to in conference assume savings that have not been made, and if they are not made, then the effect on the spring supplemental will be to crowd out important programs that I am sure will have a high priority in the judgment of many Members of both Houses of Congress.

We hope that this notice will impel committees of Congress in both Houses to look at the prospects for savings with a sense of urgency so that when we get to the spring supplemental in March or April we will not find it necessary then, or the Appropriations Committee will not find it necessary then, to crowd out high-priority items in the budget.

I have discussed this with Members on the House side, Mr. President, and this procedure accords with what they think the circumstances require.

Except for the deletion of the reconciliation instructions and the addition of this sense of the Congress language, the budget resolution we propose is identical to the conference agreement the Senate passed last week by a vote of 65 to 27.

We hope with this vote today to complete Senate action on this budget resolution once and for all this year.

Mr. President, did the Senator from Virginia (Mr. HARRY F. BYRD, JR.) wish me to yield? I know he likes to be a close observer of these budget developments, so I want to be sure I did not overlook his interests.

Mr. HARRY F. BYRD, JR. I thank my friend from Maine. I was merely listening to his argument. I always like to hear him speak.

Mr. MUSKIE. I thank my good friend. I yield to my friend from New Mexico.

Mr. DOMENICI. Mr. President, I have a request on my side for the yeas and nays. So, as a Senator on our side, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. DOMENICI. I understand Senator BELLMON had to leave, so I ask how much time is remaining?

The PRESIDING OFFICER. Eight and a half minutes remain.

Mr. DOMENICI. I understand Senator HATCH wants 3 minutes, so I yield 3 minutes to the Senator from Utah.

Mr. HATCH. May I have a copy of the resolution?

Mr. DOMENICI. Mr. President, the Senator from Utah desires to wait a few minutes before he speaks.

Does the Senator from Maine have any other time requirements?

Mr. MUSKIE. No, I do not.

Mr. DOMENICI. I do not know that we need 8½ minutes, but I yield myself 2 minutes.

Mr. President, the Budget Committee conferees have gone through a most arduous experience. I know that we would have preferred to accomplish our task many weeks ago and been here before the Senate at a much earlier point in time. But I think it is fair to say that the job of getting a resolution agreed to by both the House and Senate is becoming more and more difficult. The process has become more and more fragile.

I think it is fair to say that but for the distinguished leadership of Senator MUSKIE and Senator BELLMON, the process would have been in serious jeopardy. We had to remind ourselves a number of times that the Congress of the United States has a budget process in the past that has failed, much as this one almost did when the bodies could not agree on some very basic principles that, taken singly and separately, did not amount to that much.

But there was just kind of a refusal to get on with resolving the issues. I think it was because everyone on that

conference, especially on the Senate side, was committed to the proposition that we want this budget process to work, and that the more difficult the economic times are in America the more difficult it is to retain the process, that all signs indicated that that just means it is more important that we retain it, maintain it, and see that it continues as a process and procedure of fiscal constraint and responsibility here in this institution.

With that we have a resolution in which the numbers are not much different from what we have already approved, so those who voted for it in the past can vote for it again, and that did pass the Senate rather handsomely. But we have succeeded in putting in a resolution language that clearly indicates that we do not intend, the Senate and, hopefully, the House when they pass it, do not intend, in a third resolution to make room for the moneys that should be saved if the letter and the spirit of this second concurrent resolution are followed. By that I mean it is contemplated that significant savings will occur both in the entitlement and Finance Committee process, and certainly the appropriation process so that the second concurrent resolution numbers become the budget numbers for the country.

Yet, we know there will be a supplemental, and we are saying now in advance we are not going to provide a third resolution to make up for the shortcomings of the Congress that would be called for if we do not make these savings contemplated by the resolution.

I think this is historic. It is a way of reconciling, and reconciliation was indeed the cornerstone of the Senate's second concurrent resolution.

We are warning again that we are not going to provide for overexpenditures or failure to make savings in the third resolution, and if this body adopts it and the House adopts it, we are saying, "Be careful now in the next few months to avoid a very painful process that is going to require that discretionary items be cut back to accommodate it."

I want to tell the Senators what some of those discretionary items are: food stamps, space shuttle, countercyclical assistance, student assistance, refugee assistance, Economic Development Administration, strategic stockpile acquisition, and others.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DOMENICI. I yield myself an additional minute.

So if we want to avoid the painful discretionary cuts, we are not only going to have to live up to the spirit of the second concurrent resolution, but we are going to have to see to it that the appropriate actions here for the next 2 months result in a reduction of spending consistent in every respect with the second resolution.

There are many who think that the basic budget should have been cut more, and many of us who are going to support it feel that way. But, indeed, when you understand that we are on the border of having no process, and there is a real chance that the budget process could die, we are standing here today with a pretty restrained budget deficit, under $30 billion, for the most part; but for a new direction in defense, we have held to the approach that was formulated in the first concurrent resolution.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DOMENICI. I yield an additional minute.

I believe those are salutary signs. So I rise today to commend the conferees and the floor leaders, Senator MUSKIE and Senator BELLMON, for an extraordinary effort not only at general fiscal restraint, but at a warning mechanism, a red flag saying that the Senate is not going to break the budget just because there are some painful votes down the line, and that there is a way to avoid it, which is by making the savings recommended in the reconciliation process adopted by such a significant margin here in the Senate.

I yield 3 minutes to the Senator from Utah.

Mr. HATCH. I thank the Senator.

Mr. President, when the first budget resolution came up, I proposed that we start the reconciliation process by having all appropriations bills held at the desk until the second budget resolution was passed, and any reconciliation that might be necessary taken care of. If that amendment had passed last spring, the Senate would be in a much stronger position now, it seems to me. First, none of the appropriations bills would have been acted upon, the whole Government would be operating on a continuing resolution, and we could put the House under more pressure to accept the reconciliation than we are presently doing.

Second, all committees, including the Appropriations Committee, would have been given advance notice that we were serious about enforcing the first resolution ceilings and savings, and they would have been more cooperative.

I believe the committee should put everyone on notice right now that we intend to follow this approach on the first budget resolution for fiscal year 1981.

I think it is a reasonable and workable approach, and strengthens the hands of the Budget Committee in an area where they deserve strengthening, and I think in the final analysis would avoid the problems we are having now. Under the circumstances, I can see where the Budget Committee would be for this particular resolution, but I think we would have been in a better position had we done what we were urged to do last spring. I urge that we do that during the coming year, and I know my friend from Maine will give every consideration to that suggestion, as he has given to my suggestions heretofore, and I thank him for that.

Mr. MUSKIE. Mr. President, I thank my friend from Utah for the approach he suggested earlier this year.

My frustrations grow as the budget process develops, and I find myself more and more receptive to propositions I might have considered a little strong or a little unreasonable earlier. It may take that kind of effort; but sometimes you have to build slowly. It has been slower this year than I had hoped. I had more optimism when we passed the second concurrent resolution in the Senate than I have now.

Nevertheless, yesterday's developments in the House have visibly strengthened the support on the House side for the kind of discipline suggested, reflected, and recommended in this original concurrent budget resolution. It will be interesting to see whether the House will buy what we propose here today.

I thank the Senator from Utah for his cooperation.

Mr. HATCH. I thank the Senator from Maine for his kind references to me.

Mr. DOMENICI. Mr. President, I, too, wish to commend the Senator from Utah for his observations. I recall we did give the Senate an opportunity, in the second concurrent resolution, to vote on holding the appropriations bills at the desk until they were all in, so that we could have an opportunity to evaluate them versus the budget message. That did not pass, but, as the Senator from Maine indicates, we are all still in the process of understanding the overall significance of the Budget Act. It does provide for that mechanism in either the first or second resolution, and I believe this year will be an indicator that we are going to have to try some of those kinds of activities if we want the budgetary process.

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

Mr. HATCH. I thank my friend from New Mexico as well.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Maine yield for a question?

Mr. MUSKIE. Mr. President, do I have some time remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 40 seconds.

Mr. MUSKIE. I yield.

Mr. HARRY F. BYRD, JR. Will the Senator give the numbers again? What is the total?

Mr. MUSKIE. The recommended level of Federal revenues is $517.8 billion.

Mr. HARRY F. BYRD, JR. That was what? I did not understand.

Mr. MUSKIE. $517.8 billion for revenues. For new budget authority, $638 billion.

Mr. HARRY F. BYRD, JR. $638 billion, in new budget authority?

Mr. MUSKIE. Yes. And for outlays, $547.6 billion.

Mr. HARRY F. BYRD, JR. For outlays, $547.6 billion. Those are the same figures as the Senate adopted just recently.

Mr. MUSKIE. Yes, in the conference report. These are the same figures identically. I think the Senator made his analysis of them at that time.

Mr. HARRY F. BYRD, JR. I thank the Senator. I just was not clear on that point.

Mr. LEVIN. Mr. President, the resolution before us maintains the budget levels set in the initial conference report. At that time and during debate on the

second budget resolution, I opposed reconciliation on the grounds that reductions are mandated without knowledge of the programs impacted.

The sense of the Senate resolution substituted for reconciliation instructions makes it clear that a third budget resolution will not occur unless developments not foreseen during debate on the second budget resolution make it necessary to raise budget levels. Since the levels contained in the budget resolution assume savings from reconciliation it is unlikely that Congress can meet the targets without rescinding previously enacted programs and funding levels.

I respect the chairman of the Budget Committee for his diligence and hard work in fashioning a resolution. I am constrained however by my conviction that given conditions foreseen during debate on the budget resolution, reconciliation will still take place with unknown consequences to specific programs. I therefore must oppose the conference report on the second budget resolution.

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

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the concurrent resolution. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. TALMADGE), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Alaska (Mr. GRAVEL), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I also announce that the Senator from Iowa (Mr. CULVER) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Kansas (Mr. DOLE), the Senator from California (Mr. HAYAKAWA), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH), the Senator from South Carolina (Mr. THURMOND), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

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

The result was announced—yeas 57, nays 20, as follows:

[Rollcall Vote No. 416 Leg.]

YEAS—57

Baucus	Heinz	Nelson
Bayh	Hollings	Packwood
Bentsen	Inouye	Percy
Boschwitz	Jackson	Pryor
Bradley	Javits	Randolph
Burdick	Johnston	Riegle
Byrd, Robert C.	Kassebaum	Sarbanes
Cannon	Kennedy	Sasser
Chafee	Leahy	Stafford
Church	Long	Stennis
Cohen	Lugar	Stevens
Domenici	McGovern	Stevenson
Durenberger	Magnuson	Stewart
Durkin	Matsunaga	Stone
Eagleton	Melcher	Tower
Exon	Metzenbaum	Warner
Ford	Morgan	Weicker
Glenn	Moynihan	Williams
Hart	Muskie	Young

NAYS—20

Armstrong	Garn	Levin
Boren	Goldwater	Pell
Byrd, Harry F., Jr.	Hatch	Proxmire
	Hatfield	Schmitt
Cochran	Helms	Schweiker
Danforth	Humphrey	Simpson
DeConcini	Jepsen	Zorinsky

NOT VOTING—23

Baker	Gravel	Pressler
Bellmon	Hayakawa	Ribicoff
Biden	Heflin	Roth
Bumpers	Huddleston	Talmadge
Chiles	Laxalt	Thurmond
Cranston	McClure	Tsongas
Culver	Mathias	Wallop
Dole	Nunn	

So the concurrent resolution (S. Con. Res. 53) was agreed to as follows:

S. CON. RES. 53

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby determines and declares, pursuant to Section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $517,800,000,000 and the amount by which the aggregate level of Federal revenues should be increased is $2,400,000,000;

(2) the appropriate level of total new budget authority is $638,000,000,000;

(3) the appropriate level of total budget outlays is $547,600,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $29,800,000,000; and

(5) the appropriate level of the public debt is $886,400,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $7,400,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979 the appropriate level of new budget authority and the estimated budget outlays for each functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $141,200,000,000;

(B) Outlays, $129,900,000,000.

(2) International Affairs (150):

(A) New budget authority, $13,100,000,000;

(B) Outlays, $8,400,000,000.

(3) General Science, Space, and Technology (250):

(A) New budget authority, $5,850,000,000;

(B) Outlays, $5,700,000,000.

(4) Energy (270):

(A) New budget authority, $39,500,000,000;

(B) Outlays, $7,250,000,000.

(5) Natural Resources and Environment (300):

(A) New budget authority, $12,600,000,000;

(B) Outlays, $11,900,000,000.

(6) Agriculture (350):

(A) New budget authority, $5,000,000,000;

(B) Outlays, $2,550,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $6,800,000,000;

(B) Outlays, $2,850,000,000.

(8) Transportation (400):

(A) New budget authority, $19,500,000,000;

(B) Outlays, $18,600,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $8,900,000,000;

(B) Outlays, $8,350,000,000.

(10) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $30,900,000,000;

(B) Outlays, $31,000,000,000.

(11) Health (550):

(A) New budget authority, $58,000,000,000;

(B) Outlays, $54,450,000,000.

(12) Income Security (600):

(A) New budget authority, $218,500,000,000;

(B) Outlays, $190,000,000,000.

(13) Veterans Benefits and Service (700):

(A) New budget authority, $21,450,000,000;

(B) Outlays, $20,800,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,200,000,000;

(B) Outlays, $4,400,000,000.

(15) General Government (800):

(A) New budget authority, $4,450,000,000;

(B) Outlays, $4,200,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $9,050,000,000;

(B) Outlays, $9,050,000,000.

(17) Interest (900):

(A) New budget authority, $58,100,000,000;

(B) Outlays, $58,100,000,000.

(18) Allowances (920):

(A) New budget authority, —$200,000,000;

(B) Outlays, —$200,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$19,700,000,000;

(B) Outlays, —$19,700,000,000.

SEC. 3. Sense of the Congress on Reconciliation Savings.

It is the sense of the Congress that there shall be no Third Budget Resolution or any other revision of the budget figures contained in this Resolution unless justified by significantly changed national or international developments beyond the power of Congress to control and not foreseen in the development of the Second Budget Resolution for fiscal year 1980.

Failure to achieve in a timely fashion the savings assumed in the Second Budget Resolution will crowd out funding for other priorities in the budget and may require rescission of already-enacted appropriations to stay within the budget ceilings.

Therefore, Congress calls upon the Committees named in the Senate-passed instructions to make the savings assumed within the totals of this Resolution and calls upon all other Committees of the Congress to exercise the maximum restraint in spending and maximum effort toward savings in order that important national priorities will not be crowded out by the failure to make those savings.

BUDGET TOTALS FOR FISCAL YEARS 1981 AND 1982

SEC. 4(a). In order to achieve a balanced budget recommended by the Senate in fiscal years 1981 and 1982, the following budgetary levels are appropriate for fiscal years 1981 and 1982:

(1) the recommended level of Federal revenues is as follows:
Fiscal year 1981: $610,200,000,000;
Fiscal year 1982: $671,800,000,000;
and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:
Fiscal year 1981: +$10,200,000,000;
Fiscal year 1982: —$34,800,000,000;
(2) the appropriate level of total new budget authority is as follows:
Fiscal year 1981: $664,900,000,000;
Fiscal year 1982: $747,600,000,000;
(3) the appropriate level of total budget outlays is as follows:
Fiscal year 1981: $600,500,000,000;
Fiscal year 1982: $653,000,000,000;
(4) the amount of the surplus in the budget which is appropriate in light of economic conditions and all other relevant factors is as follows:
Fiscal year 1981: $9,700,000,000;
Fiscal year 1982: $18,800,000,000;
(5) the appropriate level of the public debt is as follows:
Fiscal year 1981: $911,200,000,000;
Fiscal year 1982: $939,100,000,000;
and the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:
Fiscal year 1981: $32,200,000,000;
Fiscal year 1982: $60,100,000,000.

(b) Based on allocations of the appropriate level of total new budget authority and of total budget outlays for fiscal years 1981 and 1982 as set forth above, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (050):
Fiscal year 1981:
(A) New budget authority, $159,800,000,000;
(B) Outlays, $146,400,000,000.
Fiscal year 1982:
(A) New budget authority, $180,500,000,000;
(B) Outlays, $163,300,000,000.

(2) International Affairs (150):
Fiscal year 1981:
(A) New budget authority, $14,100,000,000;
(B) Outlays, $8,700,000,000.
Fiscal year 1982:
(A) New budget authority, $14,900,000,000;
(B) Outlays, $8,800,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 1981:
(A) New budget authority, $5,900,000,000;
(B) Outlays, $5,800,000,000.
Fiscal year 1982:
(A) New budget authority, $5,600,000,000;
(B) Outlays, $5,700,000,000.

(4) Energy (270):
Fiscal year 1981:
(A) New budget authority, $4,700,000,000;
(B) Outlays, $7,800,000,000.
Fiscal year 1982:
(A) New budget authority, $24,200,000,000;
(B) Outlays, $9,700,000,000.

(5) National Resources and Environment (300):
Fiscal year 1981:
(A) New budget authority, $13,400,000,000;
(B) Outlays, $12,700,000,000.
Fiscal year 1982:
(A) New budget authority, $14,100,000,000;
(B) Outlays, $13,500,000,000.

(6) Agriculture (350):
Fiscal year 1981:
(A) New budget authority, $4,800,000,000;
(B) Outlays, $3,200,000,000.
Fiscal year 1982:
(A New budget authority, $3,900,000,000;
(B) Outlays, $3,600,000,000.

(7) Commerce and Housing Credit (370):
Fiscal year 1981:
(A) New budget authority, $5,900,000,000;
(B) Outlays, $3,500,000,000.
Fiscal year 1982:
(A) New budget authority, $6,200,000,000;
(B) Outlays, $3,200,000,000.

(8) Transportation (400):
Fiscal year 1981:
(A) New budget authority, $21,600,000,000;
(B) Outlays, $19,700,000,000.
Fiscal year 1982:
(A) New budget authority, $2,400,000,000;
(B) Outlays, $20,700,000,000.

(9) Community and Regional Development (450):
Fiscal year 1981:
(A) New budget authority, $9,900,000,000;
(B) Outlays, $9,200,000,000.
Fiscal year 1982:
(A) New budget authority, $9,500,000,000;
(B) Outlays, $9,000,000,000.

(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1981:
(A) New budget authority, $31,100,000,000;
(B) Outlays, $30,500,000,000.
Fiscal year 1982:
(A) New budget authority, $31,100,000,000;
(B) Outlays, $30,800,000,000.

(11) Health (550):
Fiscal year 1981:
(A) New budget authority, $70,500,000,000;
(B) Outlays, $62,000,000,000.
Fiscal year 1982:
(A) New budget authority, $82,200,000,000;
(B) Outlays, $69,400,000,000.

(12) Income Security (600):
Fiscal year 1981:
(A) New budget authority, $244,300,000,000;
(B) Outlays, $212,400,000,000.
Fiscal year 1982:
(A) New budget authority, $275,600,000,000;
(B) Outlays, $235,800,000,000.

(13) Veterans Benefits and Services (700):
Fiscal year 1981:
(A) New budget authority, $22,100,000,000;
(B) Outlays, $21,700,000,000.
Fiscal year 1982:
(A) New budget authority, $23,200,000,000;
(B) Outlays, $23,200,000,000.

(14) Administration of Justice (750):
Fiscal year 1981:
(A) New budget authority, $4,400,000,000;
(B) Outlays, $4,500,000,000.
Fiscal year 1982:
(A) New budget authority, $4,500,000,000;
(B) Outlays, $4,500,000,000.

(15) General Government (800):
Fiscal year 1981:
(A) New budget authority, $4,700,000,000;
(B) Outlays, $4,400,000,000.
Fiscal year 1982:
(A) New budget authority, $4,900,000,000;
(B) Outlays, $4,600,000,000.

(16) General Purpose Fiscal Assistance (850):
Fiscal year 1981:
(A) New budget authority, $8,200,000,000;
(B) Outlays, $8,600,000,000.
Fiscal year 1982:
(A) New budget authority, $8,200,000,000;
(B) Outlays, $8,200,000,000.

(17) Interest (900):
Fiscal year 1981:
(A) New budget authority, $60,900,000,000;
(B) Outlays, $60,900,000,000.
Fiscal year 1982:
(A) New budget authority, $62,300,000,000;
(B) Outlays, $62,300,000,000.

(18) Allowances (920):
Fiscal year 1981:
(A) New budget authority, $0;
(B) Outlays, $0.
Fiscal year 1982:
(A) New budget authority, $100,000,000;
(B) Outlays, $100,000,000.

(19) Undistributed Offsetting Receipts (950):
Fiscal year 1981:
(A) New budget authority, —$21,500,000,000;
(B) Outlays, —$21,500,000,000.
Fiscal year 1982:
(A) New budget authority, —$23,900,000,000;
(B) Outlays, —$23,900,000,000.

SEC. 5. The House projects the following budget aggregates for fiscal years 1981 and 1982, based on the policies assumed in sections (1) and (2) above:

(1) The level of Federal revenues is as follows:
Fiscal year 1981: $603,200,000,000;
Fiscal year 1982: $703,400,000,000.

(2) The level of total new budget authority is as follows:
Fiscal year 1981: $668,137,000,000;
Fiscal year 1982: $730,318,000,000.

(3) The level of total budget outlays is as follows:
Fiscal year 1981: $602,699,000,000;
Fiscal year 1982: $655,869,000,000.

(4) The amount of surplus in the budget is as follows:
Fiscal year 1981: $501,000,000;
Fiscal year 1982: $47,531,000,000.

(5) The level of the public debt is as follows:
Fiscal year 1981: $921,900,000,000;
Fiscal year 1982: $920,400,000,000.

GENERAL PROVISIONS

SEC. 6(a) In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980, the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

(b) The Congress reaffirms its commitment to find a way within the congressional budget process to relate accurately the outlays of off-budget Federal entities to the budget. The Congress recognizes that by law the outlays of off-budget Federal entities are not reflected (and, hence, the off-budget deficit are estimated to be $16,000,000,000.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 440 CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the next privileged matter which is the conference report on the continuing resolution, which will be managed by Mr. MAGNUSON and Mr. YOUNG, that there be a 30-minute time limitation overall inclusive of the conference report, any amendment, debatable motion, point of order, or appeal in relation thereto, to be equally divided between Mr. MAGNUSON and Mr. YOUNG.

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I renew the request with only one change, that being 1 hour instead of 30 minutes.

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

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

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

The yeas and nays were ordered.

FURTHER CONTINUING APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on House Joint Resolution 440 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill joint resolution (H.J. Res. 440) making further continuing appropriations for the fiscal year 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

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

(The conference report is printed in the House proceedings of the RECORD of November 16, 1979.)

Mr. MAGNUSON. Mr. President, we had a conference this morning and the House acted just about 2 hours ago. We must act on this bill tonight to get under the deadline of the first continuing resolution. I hope that the Senate will accept the conference report. If there are any questions on it, the Senator from North Dakota and I shall be glad to answer them.

There were not any amendments. There is one amendment in disagreement which involves a small amount of money for the trade agreement negotiator. That is the only one.

On the abortion, we accepted it—I did reluctantly, and the Senator from Connecticut. We accepted the language of the first continuing resolution, which was the language of the Senator from Nebraska yesterday. That is the same language that is in the first continuing resolution.

Mr. YOUNG. Will the Senator yield?

Mr. MAGNUSON. Yes, I yield.

Mr. YOUNG. Mr. President, the major disagreement on the continuing resolution, as always, has been the abortion language. I think we worked out the best possible compromise. If every Member of the Senate and every Member of the House voted his own convictions, that is if those who are anti-abortion and those who are pro-abortion all voted their convictions, this bill would be disapproved 100 percent or unanimously.

If we keep on this way, Mr. President, the Federal Government will just come to an end. There would be no financing. There has to be a compromise. If everybody voted his convictions, perhaps everybody would vote no. I hope this compromise can be accepted.

Mr. President, the present continuing resolution expires November 20. It is necessary that we pass a second continuing resolution to permit a large number of agencies of the Government to continue to operate and pay salaries until their annual appropriations bills are passed. At this time, we must provide the necessary means for continuation of these agencies under the following appropriations bills:

Labor–HEW; Interior (may be signed by the President any time); Foreign Assistance; Transportation; Defense; and Military construction.

Mr. President, again there is urgency to pass this continuing resolution in order for the various agencies to pay their employees. For example, the Department of Defense will need funding by November 19, and the other agencies soon after.

Mr. President, the conferees have worked out the best agreement possible with the differences with the House and, in particular, the disagreement on abortion. The conferees for both houses tried to be responsible to the will of their respective bodies. As we all know, the House has voted over 30 times in support of the Hyde language on abortion and the Senate has voted 35 times in support of more liberal language for abortion. The conferees have tried to bring back in the conference report the best possible compromise. The compromise contained in this conference report is the same language that both Houses agreed to in the previous continuing resolution.

Mr. President, I believe that this is the best possible compromise available to the Senate at this time.

I urge my colleagues to adopt the conference report as reported to the Senate.

Mr. PACKWOOD. Mr. President, does the Senator from Washington have the floor or may I have it?

The PRESIDING OFFICER. The Senator from Washington yielded the floor.

The Chair recognizes the Senator from Oregon in his own right.

Mr. PACKWOOD. Mr. President, I shall vote for this resolution with some misgivings. I agree with the Senator from North Dakota that if we all voted our convictions on the issue of abortion, we would probably all vote no, those of us who have strong convictions.

I want to explain to the Senate what the situation is, because there has been some confusion on this question of abortion and medicaid-funded abortion.

As the Senate will recall, the Supreme Court in 1973 legalized the right of a woman to have an abortion in this country. In October 1976, we adopted roughly the first so-called Hyde amendment. That language was immediately enjoined by the Federal district court. It was not until June of 1977 that the Supreme Court decisions ruled that there was not a constitutional requirement that the Federal Government fund abortions.

In August of 1977, the injunction prohibiting the enforcement of the Hyde language was lifted. This is the injunction that was lifted as a result of the Supreme Court decision.

In the fall of that year, for fiscal year 1978, the year starting in October 1977, we put in the language "life, rape, incest, and severe and long-lasting physical health damage of the woman." From that time onward, we have funded relatively few abortions in this country.

After the Supreme Court decision in 1973 and before the injunction was lifted on the Hyde amendment, we were funding, under medicaid, some place between 250,000 and 300,000 abortions a year. From roughly December 1977 or February 1978 onward, we have been funding about 3,000 to 4,000 abortions.

The difference between the so-called liberal Senate language and the so-called conservative House language borders on Tweedledee and Tweedledum if you realize, that at one time, we were indeed funding 250,000 to 300,000 abortions under medicaid. Now we are talking about what could be funded under the strictest of the Hyde language, perhaps 600 to 800 abortions, and under the most liberal of the Senate language, perhaps 3,000 to 4,000 abortions.

The battle is largely symbolic on this issue. Right to Life has won and we fund relatively few abortions. The symbolism is important. I shall vote for this conference report. As between the two, I obviously prefer the Senate language to the Hyde language.

But let not anybody be mistaken. Even under the Senate language, Right to Life has won 99 percent of what they wanted. What they wanted was to deny to poor women in this country medicaid funding of abortions and, for 99 percent of the poor women in this country who are covered by medicaid, they have been successful.

Messrs. MAGNUSON and EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I want to tell the Senator from Oregon that I reluctantly signed the report, with the exception of the abortion language, hopeful that they would accept the law as it has been the 2 years they have accepted it. But I was in the minority.

Mr. PACKWOOD. I give my full congratulations. I know that the Senator from Washington previously, with the Senator from Massachusetts, fought this battle and fought this battle. What it has become now is, frankly, a political battle to be settled in 1980. We shall see what happens in the elections. But the issue is whether those women who were covered by medicaid and who, in my mind, may have had funded abortion, should get it. It is not the Senator's fault. I know he fought as hard as he could fight.

Mr. EXON. Mr. President, I congratulate the Senator from Washington and the Senator from North Dakota for working out what I thought was an excellent compromise. This compromise lost by only five votes in the Senate yesterday. I simply suggest that we move on with the business of the Senate. I hope my colleagues in the Senate will support the conference report as just recommended to us by the chairman of the committee.

Mr. DOLE. Mr. President, we are again facing, or perhaps it would be more accurate to say not facing, the continuing national agony of the Federal role in

abortion. Yet again, our inability or unwillingness to face the dilemma forced upon us by an ill considered Supreme Court decision has us funding the greatest Government on the Earth in a piecemeal basis. The continuing resolution before us, House Joint Resolution 440, provides temporary funding through September 30, 1980.

This is not the way to legislate. The House acceded on this occasion to the Senate language, by a vote representing a bare quorum of that body. But we dare not be deceived that the issue will go away by a kind of attrition. It will not.

In this resolution, we again have prohibitory language which satisfies no one. We put off for yet another period the inevitable resolution of the conflict. It is no surprise to those who know the views of the Senator from Kansas that I support the stronger language which has prevented us from passing in proper manner the annual appropriations, not merely for this agency but for a major part of the entire Government. Few are unaware that I urge a constitutional referendum to end the issue by responding as closely as possible to the true will of the people of the Nation. It is my belief that this is the only sensible and reasonable solution to the entire abortion issue.

Mr. President, while decrying the need for these resolutions, nonetheless I must again announce support for the continuing resolution on the sole ground that the continuity of the Nation's affairs override temporarily even so fundamental and crucial an issue as our Federal funding of abortions. In so doing, I cannot refrain from warning my colleagues that there is no permanent hiding place from solving this matter. We must ultimately face the issue and end it before it divides the Nation irretrievably.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I move that the conference report be agreed to.

The PRESIDING OFFICER. Is all time yielded back?

The question is on agreeing to the conference report. The yeas and nays have been ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. YOUNG. I had not yielded back my time yet.

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 assistant legislative clerk proceeded to call the roll.

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

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

Who yields time to the Senator from Connecticut?

Mr. YOUNG. How much time does the Senator want?

Mr. WEICKER. Four minutes.

Mr. YOUNG. I yield 5 minutes to the Senator.

Mr. WEICKER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to express my opposition to the conference report, particularly because of the provision on abortion, and also because of the provisions for the special trade representative.

Let me say that, clearly, again, the Senate has capitulated to the House position on the abortion matter.

Yesterday, the Senate passed by a rollcall vote of 57 to 36, language which would authorize the appropriation of funds under House Joint Resolution 440, the second continuing appropriations resolution, for:

First, abortions when the life of the mother would be endangered if the fetus were carried to term;

Second, for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service;

Third, abortions in instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

As you know, my feelings are that this language violates the law of the land. In fact, my position has been vindicated by a Federal district court which held that this language is violative of the 14th amendment of the U.S. Constitution by denying equal protection.

Today, in conference on this continuing resolution, the Senate conferees agreed to deny Federal funding for abortions where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term. They denied this funding on an appropriations bill which is called continuing, but in fact is the fiscal year 1980 appropriations bill for the Departments of Labor and HEW.

Why did the Senate conferees back down from the clear mandate given to them by their colleagues less than 24 hours earlier?

Because the House held a gun to our head.

They said that the first continuing resolution would expire on Tuesday.

One might say that this fact should not be enough to force the Senate to back down from its position without more than one-half hour of debate. That is right.

But another factor comes into play here. The House is going out on recess tonight. Thus, the Senate, but not the House, had to back down.

Let us look at this procedure. The Senate Appropriations Committee received the continuing appropriations bill on Tuesday night. On Wednesday, the committee marked up the bill, and on Thursday the Senate acted.

There were significant differences between the two bills. But one common provision was that the appropriations under the bill would be for the period through September 30, 1980. Thus, this bill would serve as the appropriations bill for fiscal year 1980 for those agencies for which there is no great groundswell to increase funding.

Like Labor and HEW, which includes appropriations for medicaid and, accordingly, for Federal funding of abortions.

Thus, in one morning the Senate conferees had to decide what funds would be made available for indigent women who need abortions.

Why did we have to do it in one morning? Because the House wanted to go on vacation.

So the Senate, which had approved its position by a 61-percent to 39-percent margin, had to back down from its position.

Thus, in this bill we are being asked to deprive indigent pregnant women of the right to an abortion in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. In short, we are being asked to agree to cut Federal funding of "medically necessary" abortions.

Mr. President, this is contrary to the law of the land. Again, I must remind my colleagues of what the law of the land is regarding abortion. The law of the land was summarized in Roe against Wade:

> A state criminal abortion statute of the current Texas type, that excepts from criminality only a life saving procedure on behalf of the mother, without regard to pregnancy stage and without recognition of the other interests involved, is violative of the Due Process Clause of the Fourteenth Amendment.

Mr. President, those who advocate this limited Federal funding for abortions justify their position on the basis of protecting the fetus through the encouragement of childbirth.

This argument, to be blunt, is spurious. The U.S. Supreme Court decisions in *Roe* v. *Wade*, 410 U.S. 113 (1973) and *Colautti* v. *Franklin*, 99 S. Ct. 675 (1979) settled this issue. As the court in *Zbaraz* v. *Quern*, 469 F.Supp. 1212 (N.D. Ill. 1979) stated:

> We do not believe, however, that a state has a legitimate interest in promoting the life of a non-viable fetus in a woman for whom an abortion is medically necessary. This approach, which recognizes that the fetus is being carried within a living, human being, is consistent with Supreme Court decisions which suggests that the interest in the fetus cannot be isolated from the interest in the health of the mother.

The Zbaraz court's discussion of the implications of isolating the fetus from the health of the mother is illuminating. I would like to read this passage for the benefit of my colleagues:

> As a consequence of the state's viewing the fetus apart from the mother, the mother may be subjected to considerable risk of severe medical problems, which may even result in her death . . .

Let me repeat. we are talking about the death of the mother. And this increased chance of mortality occurs even where funding is made available, where there

would be severe and long-lasting physical health damage to the mother. This morning, the Senate conferees agreed to prohibit funding even where the mother's health would be affected.

Let me return to the court's language:

> Most health problems associated with pregnancy would not be covered . . ., and those that would be covered would often not be apparent until the later stages of pregnancy, when an abortion is more dangerous to the mother. At the earlier stages of pregnancy, and even at the later stages, doctors are usually unable to determine the degree of injury which may result from a particular medical condition. The effect of the new criteria, then, will be to increase substantially maternal morbidity and mortality among indigent pregnant women.
>
> We cannot hold that the state has a legitimate interest in preserving the life of a nonviable fetus at the cost of increased maternal morbidity and mortality among indigent pregnant women.

Nor can we, in the Senate, claim that the Federal Government has an interest in protecting a nonviable fetus at the risk of increasing maternal morbidity and mortality among indigent pregnant women.

Today, we are being asked to approve legislation which would deny Federal funding to indigent women even "in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term." To approve this language will jeopardize the lives of many indigent women.

Federal funding would be denied to indigent women for abortions even where the fetus is at risk for genetic disorders, chromosomal abnormalities or has been exposed to a known teratogenic agent. Thus, indigent parents would not be able to make a decision to terminate pregnancy even where there is a substantial risk that the child would have physical defects and/or mental retardation.

Genetic disorders, which are inherited, are more common than the layperson might believe. For example, one of every 750 babies born have spinabifida, a serious defect of the spinal formation.

Women aged 35 and over have an increased risk of bearing children with chromosomal abnormalities. Approximately 300,000 families a year are at a risk for having a child with a chromosomal defect. For example, approximately 4,500 babies are born each year with Down's Syndrome, or one in every 650 babies born annually. Patau Syndrome and Edwards Syndrome, although not as common as Down's, are associated with advanced maternal age. All involve physical defects as well as mental retardation. Amniocentesis can detect these and other chromosomal disorders, as well as more than 80 metabolic diseases and neural-tube defects, with an overall accuracy rate of 99.4 percent. Yet Federal funding would be denied to indigent women even though they know the fetus is at risk for a genetic disorder or chromosomal abnormality.

Do my colleagues know that a fetus exposed to a teratogenic agent has an extremely high probability of being born with a defect? For example, epileptics who use Dilantin have a 30-percent chance of giving birth to a child with serious birth defects.

Yet no Federal funds would be available for indigent women using Dilantin. Thus, they may be forced to forego use of the drug to avoid giving birth to a child with serious defects, at an increased risk to their own health.

I would also like to bring to the attention of my colleagues the fact that Federal funds would not be available for abortions for indigent women even though:

First. Women with sickle cell disease have a 25-percent chance of going into sickle cell crisis and dying as a result of pregnancy. The normal pregnancy rate is 0.2 percent. However, no matter how careful her care and physician's monitoring, it cannot be known whether the state of her disease will remain unaffected by pregnancy. Under present law, we deny an indigent woman with sickle cell disease the funds to obtain the abortion which may be necessary to save her life.

Second. Pregnancy has been described as acting like "a fertilizer" for the cancerous cells in a pregnant woman's body, causing an isolated cancerous growth to spread throughout the body. In addition, the drugs used to treat cancer are teratogenic agents which increase the risk of fetal defects.

Third. Women with diabetic nephropathy (affecting the kidney) and diabetics suffering from heart disease have an extremely high mortality rate. Although the availability of insulin has decreased the maternal mortality rate of 30 percent for mothers with diabetes, the coexistence of diabetes and pregnancy has dire consequences.

Fourth. Acute renal failure is a serious complication of pregnancy, occurring as frequently as once in 1,400 pregnancies. Approximately 50 percent of all women developing acute renal failure are, or were recently, pregnant.

Fifth. Pulmonary arterial hypertension represents a severe danger for pregnant women with cardiac problems. Medical studies have shown that as many as 53 percent of women with Eisenmenger Syndrome, a form of pulmonary hypertension, died during pregnancy. The mortality rate of pregnant women with coarctation of the aorta is 3.5 percent.

Sixth. Reports indicate that rheumatic heart disease accounts for at least 61 percent of all pregnant cardiac patients, with the most common form being mitral stenosis. Nearly all physiological changes caused by pregnancy have an adverse affect on a patient with mitral stenosis.

Mr. President, limiting funds for abortions has the same result as limiting the actual right to an abortion insofar as indigent women are concerned. It is unrealistic to believe that an indigent woman can make a valid choice if she knows she will be deprived of the means to effectuate her choice.

What we are doing here is imposing a governmentally ordained morality on an indigent woman. She knows she will not receive funds for an abortion—even if she is facing "severe and long-lasting physical health damage." Yet, if she chooses to follow the State-encouraged morality and bear her children, she will be reimbursed not only for her pre-delivery and delivery expenses but also for her children's post-natal costs, as well as receiving an increase in her welfare stipend.

What was a temporary solution concerning language relating to Federal funding of abortion in the last continuing resolution has now become in this bill the established platform for further retreat even closer to pure Hyde language. With the adoption of this conference report, this language will now be no longer a temporary resolution for the closing minutes of a congressional session. Rather, it serves as the new take-off point with the end objective being pure Hyde language.

Clearly, both the Senate and the House are out of step with the American people. I had occasion to note just the other day a new testing of American sentiment on the issue. A New York Times/CBS News poll showed that 64 percent of the Roman Catholics and 69 percent of the Protestants surveyed felt that the "right of a woman to have an abortion should be left entirely to the woman and her doctor."

So, in effect, it is a loud-mouth minority that has managed to go ahead and do a number on the Senate and on the House.

But that does not bother me as much as the constitutional aspects of what we are dealing with here.

Clearly, there has been an introduction of religion into the deliberations of this matter by both this and the other Chamber. That causes me considerable concern.

Last, I would hope something can be devised to remove this issue from the appropriation process. That process has suffered greatly because of this issue being introduced into the deliberations of the appropriations process, both in the House and in the Senate.

The fact is that this question is taking our eye off the ball when it comes to many issues. It has been used by the House on several occasions as the reason for bringing the Federal Government to a dead halt. Therefore, we have had to accede to them.

I would suggest, regardless which point of view there is on the abortion issue, that it is best handled by the authorizing committees. Go ahead and devise legislation that makes abortion illegal and consider it on the floors of the Chambers of Congress. That is fine. Debate that.

Go ahead and so modify the medicare-medicaid policies. That is fine. It would be an open debate.

Present a constitutional amendment banning abortions. That is all right.

Of course, none of these things are being done because those advocating outlawing abortions would go down in flames, whether it be on a constitutional amendment, or when these issues are considered directly either in the House or Senate.

So, we continue to come at it in a sur-

reptitious way which, as I say, clearly affects the other functionings of Government. And it comes at the issue unconstitutionally, by the side door.

I will not attempt to take up the time of my colleagues this evening and have an extended debate on this issue. There is no point. Apparently, it would only serve to inconvenience the individual lifestyles of myself and my colleagues.

To me, the points are too important to be discussed at the tail end of any session. But I hope come the first of the year that those who have advocated their position by the side door would do so by the front door. Let us have done with it, rather than to go ahead and screw up the appropriation process.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I would like to ask a question of my friend from Connecticut.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. I am glad to yield to the Senator.

Mr. EXON. Mr. President, during the Senator's remarks, I was momentarily distracted. I heard him use the term, I think, "the loud-mouth minority."

The Senator did not mean colleagues in the Senate or in the House who do not happen to agree or vote with him on the abortion issue did he?

Mr. WEICKER. Well, if the shoe fits, wear it.

That was not my reference. I was referring, as I indicated in my earlier remarks, to the national poll that has been taken on this matter.

Mr. EXON. Just for clarification of the record, the Senator was not referring to his colleagues in the Senate as a loud-mouth minority?

Mr. WEICKER. As I said, again, I make my remarks. As I say, if the shoe fits, wear it. I allow the Senator whatever interpretation he wants on those comments.

Mr. EXON. I hope, Mr. President, as a new Member of this body, we could have honest disagreement on things where we do not agree without that kind of language being used on the floor of the Senate.

Since my colleague from Connecticut indicated he did not——

Mr. WEICKER addressed the Chair.

Mr. EXON. I believe I have the floor.

Mr. WEICKER. The Senator does not. I yielded——

Mr. EXON. I do not believe the Senator did.

The PRESIDING OFFICER. As a matter of fact, the Senator's time has expired.

Who yields time?

Mr. WEICKER. I will be glad to go ahead. I made no specific accusations. The Senator is making interpretations which, really, go beyond what I said. However, he can speak for himself. I made my comments, and stick by them.

I merely pointed out what, based on a nationwide poll, and based on what I also believe, the minority opinion in this regard was.

We are all citizens of the same country. If the Senator wants to narrow it down to those in the Senate, that is his privilege. I did not.

I am aware of what honest disagreement is all about. But I am aware of the prevailing feeling in the country. It is, apparently, of the minority—in terms of the Senate and House.

But as to interpreting my remarks, I do not go ahead. Everybody else can do that for themselves.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Nebraska?

Mr. EXON. Mr. President, 1 more minute?

Mr. MAGNUSON. I will yield the Senator 1 minute.

Mr. EXON. Just for clarification of the record, I am assuming the remarks that were made do not apply to the Members of the Senate or the House of Representatives.

I yield the floor.

Mr. MAGNUSON. Mr. President, I am prepared to yield back the remainder of my time, if the Senator from North Dakota is prepared.

Mr. YOUNG. If no one wants time, I am prepared to yield back my time, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Alabama (Mr. HEFLIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. TALMADGE), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I also announce that the Senator from Iowa (Mr. CULVER) is absent because of illness.

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

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from California (Mr. HAYAKAWA), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from South Carolina (Mr. THURMOND), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. JAVITS) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 51, nays 23, as follows:

[Rollcall Vote No. 417 Leg.]

YEAS—51

Bayh	Hatfield	Packwood
Bentsen	Heinz	Percy
Boren	Hollings	Pryor
Boschwitz	Inouye	Sarbanes
Burdick	Jackson	Sasser
Byrd, Harry F., Jr.	Johnston	Schmitt
Byrd, Robert C.	Kassebaum	Schweiker
Cannon	Kennedy	Simpson
Chafee	Leahy	Stafford
Church	Levin	Stennis
Cochran	Lugar	Stevens
Cohen	Magnuson	Stevenson
Danforth	Matsunaga	Tower
Eagleton	Metzenbaum	Warner
Exon	Morgan	Williams
Goldwater	Moynihan	Young
Hart	Muskie	
	Nelson	

NAYS—23

Armstrong	Glenn	Proxmire
Baucus	Hatch	Randolph
Bradley	Helms	Riegle
DeConcini	Humphrey	Stewart
Domenici	Jepsen	Stone
Durkin	Long	Weicker
Ford	McGovern	Zorinsky
Garn	Melcher	

NOT VOTING—26

Baker	Gravel	Pell
Bellmon	Hayakawa	Pressler
Biden	Heflin	Ribicoff
Bumpers	Huddleston	Roth
Chiles	Javits	Talmadge
Cranston	Laxalt	Thurmond
Culver	Mathias	Tsongas
Dole	McClure	Wallop
Durenberger	Nunn	

So the conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid resolution, and concur therein with an amendment as follows:

In lieu of the first sum named in said amendment, insert: "$3,800,000".

Mr. MAGNUSON. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 5.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas (Mr. BENTSEN) is recognized.

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

Mr. BENTSEN. I am happy to yield to the majority leader.

ORDER FOR RECESS UNTIL 10 A.M., MONDAY, NOVEMBER 19, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock on Monday morning.

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

ADJOURNMENT OF THE TWO HOUSES OVER THE THANKSGIVING DAY HOLIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of of Represenatives on House Concurrent Resolution 214 and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 214, which will be stated.

The assistant legislative clerk read as follows:

H. CON. RES. 214

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Tuesday, November 20, 1979, it stand adjourned until 12 o'clock meridian on Monday, November 26, 1979, and that when the Senate recesses on Tuesday, November 20, 1979, it stand in recess until 12 o'clock meridian on Monday, November 26, 1979.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the concurrent resolution.

UP AMENDMENT NO. 831

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 831:

On page 1, line 6, strike "12 o'clock meridian" and insert "10 o'clock a.m."

Mr. ROBERT C. BYRD. Mr. President, this amendment provides for a reconvening of the Senate at 10 a.m. on November 26, the day the Senate returns following the Thanksgiving holiday. The resolution itself allows the House to stand in recess until November 26 with pro forma meetings in the meantime.

Now that the continuing resolution has been adopted we have no problem.

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

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 214), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

ENERGY POLICY AND CONSERVATION ACT ANTITRUST PROVISIONS

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1871.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Ordered, That pursuant to the provisions of H. Res. 478, the bill (S. 1871) entitled "An Act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program", together with all accompanying papers is hereby returned to the Senate.

Mr. JACKSON. Mr. President, I move that the Senate recede from its amendment to the text of the House amendment to the text of the bill, and that the Senate concur in the House amendment to the text of the bill, with an amendment which I send to the desk.

UP AMENDMENT NO. 829

(Purpose: Amendment to Section 252(j) of the Energy Policy and Conservation Act of 1975, and for other purposes)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 829:

Strike all after the enacting clause and insert, in lieu thereof, the following:

SEC. 1. Section 252(j) of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6272(j)) is amended by striking out "November 30, 1979" and inserting in lieu thereof "June 30, 1980".

TRANSCRIPTS

SEC. 2. (a) Subsection (c)(4) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(4)) is amended by adding at the end thereof the following: "Such access to any transcript that is required to be kept for any meeting shall be provided as soon as practicable (but not later than 14 days) after that meeting.".

REPORT

SEC. 3. The Secretary of Energy, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Federal Trade Commission, shall prepare and submit to the appropriate committees of Congress, a report concerning the actions taken by them to carry out the provisions of section 252 of the Energy Policy and Conservation Act. Such report shall examine and discuss—

(1) the extent to which all, or part, of any meeting held in accordance with section 252(c) of such Act to carry out a voluntary agreement or to develop or carry out a plan of action should be open to interested persons in furtherance of the provisions of section 252(c)(1)(A) of such Act;

(2) the policies and procedures followed by the apppropriate Federal agencies in reviewing and making public or withholding from the public all, or part, of any transcript of any meeting held to develop or carry out a voluntary agreement or plan of action under section 252 and in permitting persons, other than citizens of the United States, to review such transcripts prior to any public disclosure thereof;

(3) the extent to which the classification of all, or part, of such transcripts should be carried out by one agency;

(4) the adequacy of actions by the responsible Federal agencies in insuring that the standards and procedures required by section 252 are fully implemented and enforced, including the monitoring of the program concerning any anticompetitive effects, and the number of personnel, and the amount of funds, assigned by each such agency to carry out such standards and procedures;

(5) the actions taken, or to be taken, to improve the reporting of energy supply data under the international energy program and to reconcile such reporting with similar reporting that is conducted by the Department of Energy;

(6) the actions taken, or planned, to improve the reporting required by section 252(i); and

(7) other actions under such section.

The Secretary of Energy shall transmit such report to such Committees within 90 days after the date of the enactment of this Act and shall make such report available to the public.

Mr. JACKSON. Mr. President, S. 1871 deals with the extension of the antitrust defense provisions of the International Energy Agency provisions of the Energy Policy and Conservation Act of 1975.

The Senate has already passed extensions of this provision three times this year. As a result, the deadline has been extended from June 30 to October 31 and now to November 30.

My amendment would extend the deadline to June 30, 1980, which is the date approved by the Senate when it passed S. 1871 on October 30. The remainder of my amendment is identical to the version of S. 1871 the Senate agreed to on October 30 except that it does not contain the amendment offered by the Senator from Louisiana (Mr. JOHNSTON) dealing with oil import quotas and fees. This is the language that led the House of Representatives to return S. 1871 to the Senate without acting on it. Senator JOHNSTON has graciously agreed to eliminating this provision.

Mr. President, Senator HATFIELD, ranking minority member of the committee, and Senator METZENBAUM have also agreed to my amendment. It has been cleared on the minority side.

I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, as I stated to this body earlier today I was prepared to vote, and the Senator from Kansas and the Senator from Louisiana have urged me not to have a vote tonight, and I am certainly prepared to allow further consideration, and that that vote would be on Monday.

I would again urge my friend, the manager of the bill, and ask him if we could not agree to a time certain on Monday. I understand that opponents of the Dole amendment, with the cosponsors, are prepared to arrive at a time agreement. I am and Senator EAGLETON is, if that would be agreeable to my distinguished friend.

Mr. PACKWOOD. I might also say, Mr. President, in speaking for Senator EAGLETON, we have worked out an agreement with him that the Baker-Dole substitute will be offered first, and then the Eagleton substitute. He is prepared to accept a one-half hour time limit on each side of his amendment and a one-half hour time limit on ours.

Mr. LONG. Mr. President, I am not ready to enter into an agreement to vote on that matter.

Mr. BENTSEN. Let me say this then, and I understand the position of my friend from Louisiana: I then ask unanimous consent that I be recognized first when we return to this business, if there is no objection to that.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BENTSEN. Then I yield the floor.

ROUTINE MORNING BUSINESS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may speak for 1 minute as if in morning business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond 30 minutes, and that Senators may speak therein up to 5 minutes each.

Mr. President, I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator has 5 minutes available in morning business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may speak up to 15 minutes each during the period for the transaction of routine morning business.

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

"IMPERFECTIONS" FLAWED ARGUMENT AGAINST GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Genocide Convention has been stalled in the Senate for over 30 years now. Its opponents have made numerous claims to persuade this body not to ratify the convention. Those of us who are convinced of its merits as a fundamental international human rights treaty have consistently rebutted these arguments.

Today I would like to refute another of these proposed objections.

There are those who attack the convention on the grounds that it limits the scope of genocide to the extermination of "national, ethnical, racial, or religious groups." They say that the exclusion of, for example, political groups, is evidence that the treaty is flawed and thus not worthy of ratification.

I do not dispute that the treaty is not perfect. It is, however, a carefully crafted and meaningful piece of international legislation. Like any such document, its drafting included the confrontation of many different interests and opinions, and the resolution of these conflicts through compromise.

Certainly, there are areas in which this treaty could be improved. But at what price?

Would not the inclusion of "political groups" raise fundamental issues of definition? What is a political group? Who qualifies? How many constitute a group?

The limitations of the treaty involving the exclusion of political groups certainly do not overshadow its substantial merits and are clearly not a conclusive argument. These so-called imperfections should instead be a spur to ratify the convention and to continue and extend the work for international human rights.

Let us note again all that this treaty does accomplish: For the first time in history, the community of nations has joined in denouncing genocide as a crime, whether committed in wartime or in peacetime. This is indeed an important step forward for humanity.

I urge the Senate to ratify the convention.

MAYOR RICHARD ARRINGTON, JR.

Mr. STEWART. Mr. President, earlier this week I had the unique experience of being present at the inauguration ceremony for Birmingham, Ala., Mayor Richard Arrington, Jr. What made that occasion so unique was the fact that Dr. Richard Arrington, Jr., is the son of an Alabama sharecropper and a black man. Birmingham is Alabama's largest city and major center of industry and commerce in the Southeast. In installing Dr. Arrington as mayor of Birmingham, Alabama and the South reached a new plateau of racial understanding and social harmony.

Sixteen years ago Dr. Martin Luther King, Jr., spoke of a dream—a dream of a nation in which all men would be judged not by the color of their skin but by the content of their character.

This election made that dream a reality as Dr. Richard Arrington was elected mayor of the city of Birmingham not because of the color of his skin but because of the content of his character. Dr. Arrington's remarks on the occasion of his inauguration are indicative of the extraordinary content of his character and I ask unanimous consent that the remarks be printed in the RECORD at this point.

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

STATEMENT OF RICHARD ARRINGTON, JR.

Four years ago, at the inauguration ceremonies of our Mayor and Council Members, I briefly related the story of my parents' decision to come to Birmingham. I want to repeat that story here today because of what I see as its relevance to this occasion.

Sometime in 1940 my father who had spent his adult life as a sharecropper in southwest Alabama decided that better fortunes for his family lay in coming to Birmingham. He had no money to pay the bus fare for the 110 mile trip from Livingston, Alabama to Birmingham; so he asked his brother who had already come to Birmingham to work, to send him bus fare for the trip. He came to this city and found a job in the steel mill and immediately moved his family to a duplex house in the western section of the city. It seems now like not only an interesting but a unique story when seen in the light of today's historic occasion. But on reflection its not a unique event, for in the history of this city it has been repeated many times by family after family. The story of my parents' quest for a better quality of life and their faith that it could be found in this valley is the story of many other families who came to Birmingham seeking a little better chance. And though they have not all fared as well as they had hoped, thank God that the overwhelming majority have seen many of their dreams realized. In this valley they have been able to make a decent living, to educate their children and to watch this valley grow; and for some, like my parents, to see their children attain positions of responsibility they never dreamed of.

Since its founding in 1871, Birmingham with its God-given natural resources has faced and overcome several crisises in its young lifetime At times its future seemed to hang by the most tenuous thread but its people held on with goodwill and tenacity. Some watched it overcome a cholera epidemic when it was only two years old. Others witnessed it struggle through the depression years and most of us here today watched it come to grips with racial strife. From each crisis the city rebounded, each time stronger than before.

With all of its natural resources, its most important resource has always been and remains even today, its people and their endurance.

I approach this historic occasion humbly but with keen awareness of its significance. My election as the first black mayor of this city is to me and many others an example of the reality of the American dream, the depth of the American ideals and the commitment of Birminghamians to the basic tenets of our democracy. The decision of a majority of the voters in Birmingham to elect a mayor who is black has focused national and international attention once again on Birmingham—perhaps in a manner in which is paralleled only by the publicity received during our racial strife of earlier years. But it must be clear that the cause of our attention today, my election, is a clear indication of our progress in human relations. As a resident of this city and one privileged to serve in city government for the past eight years, I know that the Birmingham of today is very different from the Birmingham of yesteryear which was wracked by racial strife. Although there is still work to be done to improve race relations and to bring about full racial justice, we no longer deserve the image of the Birmingham of the early 60's.

Our record of hard work for biracial communication and cooperation has earned for us a new image which this occasion today underscores. For 10 years in Birmingham

blacks have served with whites in city government and today blacks sit on all decision-making boards of the city government. A significant number have been chosen to provide leadership for these boards. Even though I am aware of the racial pattern of voting in the mayor's election, the uneasiness which this political transition creates in many of our people and the need for me as mayor to reassure all of our people by my actions that this is but another significant chapter in our history of progress, I want to make it clear that I do not view this election or its results as the onset of a new period of racial cleavage or polarization.

I go into office today with a deep commitment to continuing the progress of recent years, to building upon those foundations laid by recent mayors of this city—mayors like George Seibels who share this platform with me today and my predecessor and good friend, David Vann, whose long years of progressive work and dedication to this city are known and appreciated by all. Under my administration Birmingham will continue its progress. In what is a critical and highly competitive time for our city I pledge to implement programs which will refine management and accountability in city hall, revitalize our downtown, improve neighborhood revitalization and stability and reduce citizens' fear of crime. At the same time, I pledge to seek ways for intergovernmental cooperation with other units of local government.

I will work for and with all the people of this city—our citizens, our business community and our city employees—to build an even better city. I only ask your cooperation in this endeavor. I know where we are, where we've come from and where we have yet to go as a city. I welcome the challenge, as great as it is.

In closing I want to mention two of many fine letters I received from members of my daughter's 8th grade class at Glen Iris this past week. One young lady wrote:

"I'm glad that you won. I wish Parsons would have won, but you'll do. I wish you luck."

A young man wrote:

"Our class congratulates you on your victory. All I want from you is your best."

I believe that the citizens of this city deserve my very best as their mayor. I will give them nothing less

MRS. AVERELL HARRIMAN

Mr. METZENBAUM. Mr. President, recently Mrs. Pamela Harriman, the wife of W. Averell Harriman, one of the Nation's most esteemed statesmen, traveled to the city of Toledo to make a major address at the Toledo Museum of Art.

Her address was an eloquent plea in support of the arts and the meaning that the arts have for all of us. One of the finest statements I have ever heard concerning the need for the support of the arts was included in that speech when Mrs. Harriman said:

As a society, we cannot afford not to afford art, for art is our most precious clock that measures our lives with greater sweep than our minutes or our money.

Asked later in an interview with the Toledo Blade newspaper if the use of art to illustrate a political outlook is a legitimate tactic, Mrs. Harriman replied:

Art does not only relate great historic events, it conveys the basic truths of past and present life as well. I believe the art is not only a chronical of history, it often serves as a guide for the future.

Mr. President, I feel that Mrs. Harriman's remarks should be read by all of us because they provide a different perspective to some of the day-to-day problems that face us as a nation and a society. It was a remarkable essay on the meaning of art and expresses clearly the reasons why institutions such as the Toledo Museum of Art deserve our support.

I ask unanimous consent that Mrs. Harriman's speech and an accompanying article from the November 2, 1979, edition of the Toledo Blade be printed in the RECORD.

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

REMARKS OF MRS. AVERELL HARRIMAN

For the next several minutes, I am supposed to talk and you are supposed to listen. This comes perilously close, on both our parts, an aesthetic contradiction. In the Toledo Art Museum, like others that preserve the greatest visual expressions of the human spirit, it seems more appropriate to see than to speak, to sense, to feel, and to contemplate than to put so much perfection into such imperfect words.

Yet we speak of art so that we may perceive it a little more clearly and support it more generously. Words can recount how the creation and the conservation of art are both demanding works that require something from us all, each according to our gifts. This museum is striking proof that art is a participatory process that flourishes only, when we all, have a place and a part in it. Without the contributions of this community, without this annual membership drive, for your city and children it would be as though the artists gathered here from other times and spaces of other lands, had never painted or sculpted at all. Without your support, the happy sight of "Children with a Cart," a painting exhibited here that tells so well how it is to be young in the summer, would never have reached from the Toledo of Goya's Spain to this Toledo of our America, which Goya knew only as a vast and empty new world.

We talk often of art as enduring work, but we tend to emphasize the feature of endurance more than the fact that for the artist is was a matter of hard work—that the brilliance of the conception was followed by a long labor of execution. We comprehend that instantly when we look at the roof of the Sistine Chapel: we can almost see Michaelangelo on his back on a high scaffold, with the Pope far below, impatiently exhorting him to hurry. But more often we confront the finished work without pondering, except perhaps in passing, how difficult it really was.

The reality of art as work was literally brought home to me in 1945, when my son was 5 years old. His grandfather and namesake Winston Churchill had just lost the first post-war British election. In England a defeated Prime Minister must vacate the official residence of No. 10 Downing Street without delay—within a matter of hours. Mr. Churchill moved to a hotel, since, not expecting to lose, his own house in London was still rented. To provide a more homelike atmosphere, his wife Clementine decorated the hotel rooms with many of the pictures he had painted over the years. My son Winston stopped by after nursery school to visit his grandfather. He came home breathless with joy. He had been too young to appreciate his grandfather's historic role during World War II, but he did appreciate what it meant to be an artist. "Mummy, mummy," he exclaimed. "My grandfather is a painter—he works!"

Few museums have worked at the job of art as well as creativity as this one has. Your collection is not only internationally known; it is accessible to the local community in the broadest sense. Your tours for school children reflect the wisdom that, like my son at the age of five, they are more than old enough for their eyes to be enthralled and their minds to be enriched by the beauty of colors on a canvas or the light playing across cut glass. Your Saturday art and music classes are the largest free program of this kind in the world; your evening courses attract a thousand adults a year.

Your commitment to all this—and to other endeavors—reflects the conviction that art is not a relic, but a vital force. It has many truths to teach—and we all have a lot to learn, even those for whom art has been a passion in their lives.

There is a British family the Cowdrays—one of the world's wealthiest, who have collected art for generations. Lord Cowdray once owned a large painting—of lions. It was thought, possibly, to be of the school of Rubens. His wife, disliking the painting, sent it down to the family office where it hung for many years unnoticed in the Board Room. Finally, in the 60's, when redecorating was taking place, it was sent with other unwanted furnishings to a not well-known auction house. An American dealer saw it, suspected it to be "the missing Rubens" and made a presale deal to buy the picture above its reserve—about 1000 Pounds!

Then, and only then, was the fact it was a genuine Rubens discovered, but the British Government could not retreive it from export to the United States because the 1000 pound price was below the legal limit restricting shipment of an art work out of the United Kingdom.

In 1965, "Daniel in the Lion's Den"—for that was the picture—was sold to the National Gallery in Washington for over half a million dollars. It is now worth many millions.

This episode provides a lesson not only in the financial value of art, but in other, deeper values. Paintings, sculptures, tapestries, decorative arts, and photographs are not only meant to be pretty pleasing; quite frequently they can, and they should, disturb the universe.

John Kennedy once said that "politics creates power"— and that poetry questions and corrects it. The visual arts can set vividly before us those inarticulate, irreducible truths that even poetry can only approximate. The anguished cry of the distorted, disembodied face in Picasso's "Guernica" tells more in an instant about the terror of war than all the pages of James Jones' novel, "From Here to Eternity." And the sight of Richard Estes' painting of "Helene's Florist Shop," which hangs in this museum, can show simply and starkly, on the small scale within which we actually conduct our daily lives, the neighborhoods, the flowers, the vibrance, and the existence that we stand to lose in nuclear conflict.

When I hear the opponents of the new SALT treaty to limit nuclear weapons discoursing about megatons and acceptable millions of deaths, I wish they would pause and look to that smaller scale. A single picture truly would be worth thousands of their cold and technocratic words.

Thus art can help to point us toward the future. And the heritage of art can teach us the history of the past. Gibbon's chronicle of Rome's decline can be read in a glance into the fearful eyes of the bust of "Venus" in this museum. The eyes seem to look apprehensively toward the fragile frontiers of an empire also facing internal disarray. My great-great-grandfather, John Singleton Copley, whose "Portrait of a Young Lady" graces this museum, chronicled his revolutionary era on canvas as surely, and even more vividly, than Macaulay recorded it in his writing.

Produced by the picturesque beauties of nature . . . the brevity of human existence (and) the beauty of first love.

All these great and obvious truths can be realized anew, over and over, in never fully fathomed variety, within and on the walls of your museum.

The blue-green shimmering water of Monet's "Antibes" evokes the bright glory of the environment. The separated greens, blues, and dappled whites of DeKooning's "Lily Pond" sharply recall, in this era of pollution, that water is not naturally grey.

"The Architect's Dream" in 1840 of Thomas Cole and Pannini's "Architectural Fantasy" of 1716 both prefigure baroquely the bold, searching, and sometimes bizzare architectural trends of our own time.

And what of lives inside, away from the ponds and within the buildings? Gerard Ter Bosch's "Music Lesson," on exhibit here, conveys across three centuries the frustration and anxiety of a child learning to make music. We are not, after all, so different now. We are not, in these basic things, so different from the student at the King's School in Canterbury who in the early 1600's engraved upon the cloister wall: "Will loves Mary." And there is a trusting yet tense love in Primaticcio's "Ulysses and Penelope," as they look at themselves and across the ages at us, what Huxley calls "marriages of affection."

These are the central commonplaces of our being; in art they become the glass through which we see less darkly.

In 1911, Henry Bowie wrote the first comprehensive study in English of Japanese paintings. He found in it the special serenity that we can all observe in its delicacy and its grace. He also described a quality the Japanese call Ki In—which is the ground of all art. "It is," he wrote, "that undefinable something which . . . suggests elevation of sentiment, nobility of soul. . . . It is . . . that divine and vital breath, that emanation of soul, which vivifies . . . the work and renders it immortal."

I can conceive of no more important task for this museum, in the International Year of the Child, than the goal you have set to share that undefinable something with the children of Toledo.

There are, of course, those who argue that we cannot afford art, especially now. When I hear that, I recollect my own experience with a beautiful clock I saw in a Paris antique shop shortly after World War II. I decided not to buy it, quickly regretted my decision, but then discovered that it had already been sold. Years later I saw my clock, as I had come to regard it, in a friend's house. Finally, after another few years, it was for sale again. And though it had grown in price, this time I decided it was to be mine.

As a society, we cannot afford not to afford art for art is our most precious clock that measures our lives with greater sweep than our minutes or our money. Since 1901, Toledo has moved this museum to meet that measure fully. Today you have one of the notable art institutions of the world. It is notable for its excellence, for its relevance, and for its community involvement. I am privileged to stand here with 700 of you who will work among your friends and neighbors seeking new members. I, for one, would like to enlist right now.

Mrs. Harriman Calls For Strong Support of Creative Arts

Pamela Harriman believes that even when a country is in the middle of an economic downturn, people should continue to give strong support to the arts.

Speaking to nearly 400 museum volunteers, friends, and guests at a luncheon Thursday in the Great Gallery of the Toledo Museum of Art, Mrs. Harriman said, "As a society, we cannot afford not to afford art."

Mrs. Harriman, who was accompanied from her home in Washington to Toledo by her husband, W. Averell Harriman, to help launch Museum Membership Month, told the audience that art increases in value, not only in monetary terms, but also in its continuing ability to enrich the lives of those who experience it.

"Art, both in its creation and its conservation, is extremely demanding," Mrs. Harriman said, "and it requires something from each of us, according to his gifts. Without events such as your membership drive, it would be as if the artists who are gathered here from other times and places had never lived."

Mrs. Harriman, who is tall and slender, stepped virtually unruffled from the helicopter which brought her to the museum lawn from the offices of the Dana Corp., where she and her husband stopped to visit with Mr. and Mrs. Gerald B. Mitchell. Mrs. Mitchell is cochairman of the museum fund drive. Undampened by a display of typical Toledo weather, Mrs. Harriman moved gracefully through the museum, noting paintings which were of particular interest to her, and making observations about what she called the "excellent quality" of the museum's collections. The fact that she was favorably impressed by the museum was later reflected when, at the end of her speech, she indicated that she plans to join the museum.

She emphasized the need for art-oriented institutions to become creative forces within the communities that they serve, and added that anyone visiting the Toledo Museum of Art or taking part in any of its programs should immediately realize that art is "not a relic, but a vital force."

"The arts," Mrs. Harriman said, "are not only meant to be pretty and pleasing, but quite frequently they can and should disturb the universe."

As an example of this, she cited Picasso's 1937 anti-war painting, the "Guernica," commenting that anyone who viewed it with the ravages of war in mind should then have no trouble deciding about the necessity for present-day peace measures such as the ratification of the SALT II agreement.

Asked later in an interview if the use of art to illustrate a political outlook is a legitimate tactic, Mrs. Harriman commented that "art does not only relate great historical events, it conveys the basic truths of past and present life as well. I believe that art is not only a chronicle of history, it often serves as a guide for the future."

When asked how art will influence the future, Mrs. Harriman said that the "tough times" which she believes the country is heading into will make museums even more important as places where all people can gather to observe and appreciate art.

She predicted an eventual end to the lavish private art collections, saying that it has become necessary for people in all segments of society "to tighten their belts a great deal."

Mrs. Harriman said that this is particularly noticeable in Washington where, "life has changed greatly in the last two and one-half years.

"In some ways, it seems that the opulent life-style which accompanied the Kennedys was fashionable only yesterday. But when you see it reflected in the films and magazines of 20 years ago, you realize how very long ago it all was. Washington hasn't seen anything like that in a very long time—and perhaps we never will return to that.

"But I think that even though we are in difficult times now, the American people are still tough enough to handle their problems."

Before her address to the volunteers, Mrs. Harriman toured the museum with director Roger Mandle and Samuel Carson, president of the museum's board of trustees. She said that seeing the "Portrait of a Young Lady," which was painted by her great-great-grandfather, John Singleton Copley, was a highlight of her visit.

INTERNATIONAL COCOA AGREEMENT

Mr. PERCY. Mr. President, during 1979, the United States has been participating actively in negotiations for renewal of the International Cocoa Agreement. The proposed ICA would be based on a buffer stock mechanism designed to keep world cocoa prices within a particular range. At this time, only the issue of what that price range will be remains unresolved. The proposal now being considered by the states which are parties to the negotiations calls for a floor price of $1.10 per pound and a ceiling price of $1.60 per pound. This represents a compromise between the $0.76 floor price initially suggested by the European Economic Community and the $1.90 floor price first suggested by the Ivory Coast. As of the last negotiating conference, the U.S. position was that the floor price maintained by the agreement should not be greater than $1. I have agreed with this position and strongly supported it.

Industrialized countries and Third World countries have had differing views on what purpose international commodity agreements should serve. The industrialized countries have generally seen commodity agreements as a means of assuring supply at prices stabilized around its long-range equilibrium price. The producers in the less developed countries on the other hand, are interested in an assured price at as high a level as possible.

An international commodity agreement which stabilizes prices at an unreasonable level above the long-range equilibrium price for the commodity cannot be justified on economic grounds. Unless the commodity is limited and unique, such as oil, an artificially high guaranteed price will stimulate expansion of output from existing sources of supply and encourage the development of new sources of supply. It could also sustain inefficient producers. Moreover, stabilizing the price for a commodity at an artificially high level stimulates the use of substitutes. In the end, ironically, all of this could only help to destroy the long-term viability of the world cocoa market.

We must also remember that if artificially inflated prices lead to a decline in consumption of confectionery and other products containing cocoa. U.S. workers will be the victims.

Mr. President, I strongly urge the U.S. delegation attending the next cocoa negotiating conference in November to continue to work for a reasonable floor price which is in the interests of this Nation's consumers and workers. Many chocolate producers expect cocoa prices to drop significantly for three reasons. First, they expect cocoa harvests to increase from 1979–1985. Second, in the United States, consumption of chocolate and other products containing chocolate leveled off a few years ago, and is now in the process of decline. Finally, the use of substitutes

for cocoa and cocoa butter can be expected to increase in the next few years, another factor depressing demand for cocoa beans.

As a member of the Senate Foreign Relations Committee, which would ultimately have to pass judgment on any agreement submitted by the administration for the advice and consent of this body, I believe that an agreement which provides a fair return for producers and a fair price and assured supply for consumers is desirable. A floor price should help to provide incentives for continued production but not sustain inefficient producers or seriously reduce the competitiveness of cocoa over substitutes. Any agreement should reflect economic realities and the national interests of the United States and should not bring with it an adverse inflationary impact and put more Americans out of work.

THE ONGOING HORROR IN CAMBODIA

Mr. SCHWEIKER. Mr. President, a tragedy of almost unimaginable proportions continues to unfold in Cambodia, a once-peaceful land now ravaged by famine, disease, and ongoing war. The brutal reign of the Pol Pot regime from 1975 until early this year became synonymous with national genocide, as an estimated 3 million people (of Cambodia's 1975 population of approximately 7 million) perished as part of the Khmer Rouge's merciless pursuit of a genuine "socialist" state. The Vietnamese "liberation" of Cambodia, and the installation of the puppet Heng Samrin government, has only intensified the sufferings of a people whose curse it is to be viewed as mere pawns in a cynical power struggle in Southeast Asia.

The most poignant manifestations of this horror are the hundreds of thousands of refugees housed in squalid camps along the Thai-Cambodian border, victims of a conflict they little understand and for whom the specter of death from starvation or disease is ever imminent.

No individual of conscience or government with a pretense of civility can remain indifferent in the face of such a monumental crime against humanity. The overriding moral imperative of responding generously to the basic human needs of the Cambodian refugees, including especially the provision of emergency shipments of food and medical supplies, must prevail over petty political considerations.

While I strongly support the humanitarian efforts of the U.S. Government and private relief agencies, the magnitude of the tragedy compels a concerted multinational assistance program. Under the auspices of UNICEF and the International Red Cross, a commendable first step has been taken, despite Vietnam's obstructionism in refusing to permit the transit of certain aid shipments as well as irregularities in the distribution of the assistance accepted.

Among those whose efforts have been instrumental in focusing world attention on this problem has been Christians for Cambodia, an interdenominational association of individuals seeking to promote a coordinated humanitarian response. The selfless spirit which animates their work was recently demonstrated by a march in New York dedicated to fostering understanding of the Cambodian tragedy and appealing to the conscience of mankind for support in alleviating the refugees' plight.

Unfortunately, the enormity of the tragedy tends to obscure its appreciation in human terms, that is, with respect to the levels of pain and misery inflicted on individuals and families. In order to increase my colleagues' understandings of what the Cambodian horror really means, I will have printed in the RECORD two articles from the August issue of Worldwide Challenge which outline in gripping detail the human struggle, both physical and emotional, to survive against overwhelming odds. I have seen no more lucid or provocative illustrations of a message which none who claim to embrace Christian values can dismiss. Indeed, it is only when we truly appreciate the scale of human suffering involved in Cambodia that we can comprehend the moral necessity of acting expeditiously and effectively to counter it. This is a commitment we dare not shirk.

Mr. President, I ask unanimous consent to have the articles printed at this point in the RECORD.

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

THROUGH CAMBODIA'S JUNGLE OF DEATH: ONE FAMILY'S MIRACULOUS SURVIVAL

"Oh, my husband!"

Huong turned at her cry and saw that his wife had fallen down by the trail. Weeping, Samoeun urged him to take their little son and go on. "I cannot walk any more," she said weakly. "I must drink water, or I think I will die now."

Helpless, Huong looked at the others. Including three children, they were 26 in all—Cambodian Christians trying to escape across the border into Thailand. Near his wife, the other women had also collapsed, unable to rise and go on.

"We must pray," he declared, as tears coursed down all their faces. They knew they were only a half day's journey from freedom as they sank down by the path.

"Lord Jesus," Huong prayed. "if You want us to die here, we are ready. But if You want us to live and serve You, then please show us where is the water to drink so we can go on."

For the past two days, crossing treacherous mountain jungles, they had turned their eyes away again and again from the bones of decaying bodies of hundreds of their fellow countrymen who had *not* found water. In a desperate attempt to flee the Khmer Rouge regime, these Cambodians had died of dehydration . . . or stepped on a land mine . . . or lost their direction. Like Huong and Samoeun and their companions, they had somehow come up with nearly $350 apiece in gold to pay guides who might decide to abandon them miles from the border.

So the struggling group prayed fervently. When they finished, a young man got up and started down the trail, saying, "I am going to find the water." He had not walked more than 15 meters when he stumbled upon a hidden pool of rain water! Quickly dipping the water by hand fulls for those who could not walk, they all drank thirstily. The entire group broke out in praise, giving thanks to God, and Huong and Samoeun began to sing a beloved chorus:

Silver and gold have I none,
But such as I have give I thee,
In the name of Jesus Christ
Of Nazareth rise up and walk!
He went walking and leaping and praising
God . . ."

Their strength and spirits renewed, they started down the path once again. Late in the night, all 26 slipped across the border into Thailand.

CRUCIBLE OF FAITH

It was April 23, 1979—the climax of four grim but glorious years for Vek Huong Taing and his wife, Samoeun. As the only representatives of Campus Crusade for Christ in Cambodia, they had experienced an agonizing crucible of faith ever since the communist takeover of Cambodia in April, 1975.

"God has taught us things we can never forget in all our lives!" Huong exclaims. "We had decided to die in Cambodia, but God shows His mercy on us."

Five years ago, the Taings little suspected what lay ahead in God's plan for their lives. Christians since their teenage years, the young couple had grown up in the Evangelical Church of Cambodia. After Huong received his university degree in agricultural engineering in Phnom Penh, his pastor and various church leaders, including Christian and Missionary Alliance missionaries, encouraged him to consider joining the Campus Crusade for Christ movement.

At that time it was estimated that in all of Cambodia there were only a few thousand Cambodian Christians, most of whom had become Christians since 1972, and in the capital city of Phnom Penh there were three tiny congregations. The country was 97 percent Buddhist. And yet, the first time Huong's church hosted Campus Crusade's training in evangelism, 99 Cambodian Buddhists responded to receive Christ.

Turning down a tempting scholarship to earn his doctorate in France, Huong and his bride of one month were accepted to enroll in Campus Crusade's staff training base in Manila, the Philippines. Even though every young man was being drafted to fight in the escalating war against communists, Huong and Samoeun quickly secured passports and flew to Manila. Once there, the Taings, already fluent in French as well as their native Khmer, determined to learn English quickly and well in order to be thoroughly trained. They made a pact to speak only English to each other, even when they were alone. Within 60 days, the couple was sharing Christ in English with Filipinos all over Manila and even giving classroom presentations!

They completed their training and returned to Cambodia in October, 1974. They found other believers eager to learn how to share their faith and their Buddhist countrymen responsive to the claims of Jesus. By spring at least 32 groups of believers met every Sunday in the capital city.

Huong and Samoeun say at least 500 Buddhists come to Christ through their ministry in those first six months. "I have never seen a young man so bold to share his faith as Huong," commented the Rev. Gene Hall, a Christian and Missionary Alliance missionary.

In early April, 1975, the Taings led an institute outside the capital to train students to share Christ. Accelerated fighting forced them to return to Phnom Penh, but the day before the Khmer Rouge invaded, they took 25 of these students out witnessing in government buildings.

The capital fell to the communists on April 17, and the next day the Taings fled south with their two-month-old son. As they left Phnom Penh with some ministry materials, clothing, a little food and several cartons of precious powdered milk for their baby, it was the last they were to see of civilization as they had known it. The new communist regime, determined to abandon the cities and revert to a primitive rural society, refused to allow the uprooted urban

population to settle in homes. Most of the time the Taings stayed in the jungle, sleeping in the open or under makeshift shelters.

"We were like chickens kept in a cage, waiting to be killed and cooked for eating," Huong explains. "Every day, every week, we knew that we should be killed. We expected to die, probably very soon. We just did not know when."

If they did not starve to death first, they knew they were guilty of three major "offenses" for which the Khmer Rouge regime executed the Cambodian people: They were well educated, they had traveled outside of Combodia, and they were Christians. Despite the danger, however, they resolved never to lie when questioned about their identity, and they boldly admitted their faith in Christ and affiliation with Campus Crusade for Christ during the frequent, lengthy interrogations by communist officials.

Death seemed so imminent that, as soon as their son could understand, they taught him that soon they would be going to live in God's house in heaven. More than once after that, as they were fleeing from one place to another, they caught their breath over Wiphousana's curious question, "Are we going to God's house now?"

When their suffering seemed too great to bear, they deliberately compared it to the sufferings of the Lord Jesus Christ. "Then we realized how small our pain was, whether in our bodies or in our spirits," Huong relates.

ONLY TWO MILLION LEFT?

In January, 1979, an invading Vietnamese soldier casually volunteered to Huong, "There are only about two million of you Cambodians left now." Huong knew that before the war, Cambodia's population was more than seven million. The extent of the holocaust cannot be verified, but Huong admits sadly, "In one village where we stayed, the population went down from 388 to less than 30, in just four or five months!"

The infant toll was particularly high, so when Huong and Samoeun were forced out of Takoa to a jungle area known as Kok Trom, they asked God how to keep their baby alive. The Khmer Rouge provided only one spoonful of rice for the adults each day, if that often, and Huong knew that Samoeun needed more food to continue to nurse Wiphousana.

Taking a hook and line, with wild locusts for bait, Huong decided to trust God to teach him how to fish! His fishing pond was a shallow rice paddy, where all the villagers declared a fish could never be found. But every morning, for 60 days in a row, Huong caught a nine-inch fish! Amazed, other villagers fished alongside him, but no one else could catch fish there. "God gave us that fish," Huong relates reverently, looking at his four-year-old son who is a healthy testimony of God's provision during those months.

Often they recalled a message given at the Manila training base on "How to Rest in God's Plan." Speaking from Isaiah 25: 1 and Hebrews 4: 3, training center director Kent Hutcheson had taught them how to rest in "plans formed long ago, with perfect faithfulness."

Because they had to be cautious in sharing Christ with the people around them, with tears they often prayed, "Lord Jesus, why don't we have any possibility to serve You." Then they remembered that God had planned their lives long ago, with perfect faithfulness.

Huong and Samoeun then realized that intercessory prayer was a strategic ministry. So they prayed for others who could openly share the claims of Christ.

By name, they remembered every Campus Crusade staff member they had ever met—from Dr. Bill Bright to their Asian director, Bailey Marks, and his staff. Throughout the day they prayed, while walking to work in the rice fields, cutting bamboo, carrying water. And as often as possible, they prayed together, always in secret.

Even though the Taings could not speak the name of Jesus openly, His love began to shine so clearly through their lives that people were drawn to them. Time and again, the villagers, who had been taught to resent and abuse the well-educated "city people," melted as Huong and Samoeun showed love to them.

Huong would carry water for elderly women or help them find firewood—even when he was exhausted by the long hours of forced labor in the fields. Often they shared their meager food—giving a coconut to another family or stretching their own weak rice porridge.

"YOU ARE DIFFERENT"

In response, the Taings repeatedly heard their neighbors remark, "You are different. You have love inside of you." With quiet joy, they would then try to share the gospel. Twenty Cambodians received Christ with them during those four years—each one expecting that decision to cost his life.

One of the most dramatic conversions occurred when Huong and Samoeun moved to Chenc Kdar to work near a coconut sugar factory. Soon after their arrival a young woman named Ann began to report them regularly to the chief of the village. She complained in particular about Samoeun, insisting, "She is lazy, always going to the rice fields late! She is from the city. Look, her skin is light! Sometimes she speaks English. And she teaches her son songs about Jesus Christ!"

Finally, a formal *kosang*, or tribunal, was called for Samoeun to bring the accusations before the communist leaders of the village. The ceremony aroused great fear all through the village, since a second *kosang* always ended in death for the "defendant."

When Samoeun returned from her *kosang* weeping and bewildered by Ann's hatred for her, Huong compassionately counseled, "We must pray for her—not that God will condemn her, but that He will change her attitude!"

Over the next months, many opportunities arose for ministry to Ann. Without warning, Ann's husband deserted her and fled with their two children. Distraught and on the verge of suicide, she told Samoeun, "My life is nothing."

Samoeun responded, "Oh, Ann, if you had Jesus Christ in your life, you could not say that!" Slowly, Ann became their friend, drawn by their love that overlooked her previous accusations.

After nearly a year, Ann's moment of decision came as the entire village fled into the mountains ahead of the Vietnamese invasion. One night, talking late with Samaeun in their jungle hiding place, Ann invited Christ into her life. She became one of Huong and Samoeun's closest companions and accompanied them in the escape into Thailand.

Once across the border into Thailand, the Taings learned that they faced imminent repatriation by Thai border officials. But God graciously intervened for the Taings, and within 12 days of crossing the border into Thailand, they were discovered by a Reuters reporter, located by Campus Crusade staff and granted entry visas to the United States. That rapid sequence of miracles is a chapter in itself! (See *WWC*, July, 1979, p. 37.)

Now resting in the States, the Taings reflect on the past four years. "We had learned a lot *about* faith, but in the forest we *experienced* it," Huong says. "And prayer was not that meaningful to us before, but now we have learned to pray according to God's will—not to please our own desires."

As for the future, Huong and Samoeun contemplate it soberly. "We will go wherever God sends us," Huong resolves. "In myself, I confess I want to stay in a place where there is peace. But if God sends me back, even into the fighting in Cambodia, I am ready to go. We cannot escape His will, even if we have to die."

AT A REFUGEE CAMP IN THAILAND: A "FAMILY" REUNION

(By Barb Bolin)

(EDITOR'S NOTE.—Staff member Barb Bolin was one of several Campus Crusade workers who joyously greeted the Taing family at a refugee camp in Thailand. Her firsthand observations provide a vivid—and inspiring—picture of the family's trust in God.)

"I've seen that kind of shirt before."

The woman speaking walked toward us and away from the group of refugees huddled together. "That's from the Philippines," she said. "I lived in the Philippines."

Our hearts beat faster. "What's your name?" we asked her.

The woman drew closer. "I'm Samoeun."

Charlie Culbertson, dressed in his barong (Filipino shirt) held up a yellow Four Spiritual Laws booklet. Samoeun screamed. She cried. They embraced. Then she and I embraced; she clung to me and sobbed. Huong, her husband, soon joined us.

My fellow Campus Crusade workers—Charlie, Greg Fallow and Jintana Chaowonglert—joined me in my tears and amazement. After four years, the chances were that our Campus Crusade for Christ director and his wife and son were dead. Campus Crusade staff, however, believed they were alive and continued to pray for them. Bailey Marks, our Asia-South Pacific director of affairs, stated he had prayed for them the morning the news of their safety arrived.

Today, at a small refugee camp near the Thailand-Cambodia border, we had discovered them alive! What a joy to be reunited with our staff brother and sister.

Vek Huong Taing and his wife, Samoeun, had been accepted on our staff in 1973 and had received training at the Great Commission Training Center in Manila the following year. Although fully aware of the dangers involved in returning to Cambodia, they had committed themselves to help reach the people of their country for Christ.

But then, in the spring of 1975, the city of Phnom Penh fell, and the Taings were forced to flee into Cambodia's forests—along with a vast multitude of their countrymen. Even before their departure, life had become very difficult. They found they could not cash checks, and they often had to do their work without the benefit of electricity.

LAST LETTER

But even in the hectic environment of Phnom Penh, they wrote a thoughtful last letter to Bailey Marks. Their letter read, in part:

. . . we are happy to live and to die for our Lord Jesus Christ. No missionary stay in Cambodia in this time and also some of our Christian leaders want to run out from the country but for we both we have decided to serve our Lord Jesus Christ until our last minute of lives in reaching Cambodia for Him.

Soon after moving to Asia four years ago, I began to learn about this precious couple. Through the years of hearing their story over and over, I had seen the tears of many as they reflected on these two dedicated people.

As we talked together at the refugee camp, Samoeun began to tell us about their struggles under the Khmer Rouge and how they could not share Christ freely as they desired. They added that on the day before Phnom Penh fell, they were with some of their disciples witnessing for the Lord Jesus Christ.

"Do you have more of these?" Samoeun said, pointing to Charlie's booklet. "We have found that this is the best way to share." Already, after being in the camp for only five

days, they had led 10 people to trust Christ as Savior and had held Bible studies each day.

Huong asked if we were "going to have another EXPLO" or if we had already had one. (He had attended EXPLO '74, a congress on evangelism held in Seoul, Korea.) This was important to him because he felt another such congress would help in "fulfilling the Great Commission by 1980."

Samoeun led us to the rear of the barbed wire area where their son, Wiphousana (meaning "power"), was sleeping. "These people are with our movement," she said to friends in the camp to describe the four of us.

Sitting in the fly-infested area, I handed Huong and Samoeun two photocopies of the letter they had sent to Bailey four years before. Huong cried as he read it. He nodded his head—yes, he remembered writing the letter. How many times had that letter inspired, encouraged and convicted me? Thus, it was no surprise that I had brought some copies of it when I moved from Manila to Bangkok just seven days before.

PLACE OF ABUNDANT

After our initial conversation, Greg suggested that we read Psalms 66:8–12. The night before, my roommate, Ah Eng, had claimed this passage as a promise for our Cambodian brother and sister: "Thou didst make men ride over our heads; we went through fire and through water; yet Thou didst bring us out into a place of abundance."

Charlie brought out all the gifts we carried—vitamins, mangoes, soap, washcloth, toothpaste, medicine, mirror, etc. It probably hurt me more than Samoeun as I put the iodine on the open sore (about the size of a quarter) on the side of her foot.

Wiphousana was two months old when the family was forced to leave Phnom Penh. There were times when they had to eat grass. "But God gave my baby milk," Samoeun said through her tears.

Later we learned that for two months God had provided one fish per day for Huong to feed his family. No one else nearby was catching fish, but God provided for Huong. Not two or three, and never zero, but one fish a day.

As we continued to talk, they mentioned that "we didn't know English very well when we were in Manila."

"Yes, I heard a little about that," I replied with a laugh. Then I shared with them my own fears in coming to Thailand and learning a new language. I told them that on February 14 God gave me victory over these fears—as I had reflected on their determination to learn English in order that they could be trained to reach their people. From their example, I had gained the courage to trust God with learning Thai. What a thrill to share this with them in person soon after arriving in Thailand.

This dear couple sitting with me in a refugee camp had taught me more than one valuable lesson. One night in the Philippines, for example, we suffered an electrical blackout. (These happened so often that we were often tempted to become irritated.) On this particular night, I stared at the electric typewriter and thought of the work that had to be completed before morning. I was tempted to murmur and complain, but suddenly I thought of Huong and Samoeun and their loss of electricity. I never complained again that night.

TIN CAN DEPOSIT BOX

At one point in our conversation at the camp, Huong left for a few minutes. Returning, he carried a dented tin can about 10 inches high and a few inches around. He showed us that it contained his staff identification card and some other items. This little cyclinder actually held all the family's earthly possessions.

We ended our time together with prayer. Huong immediately led us, and I will never forget his closing words: "that we might fulfill the Great Commission by 1980." Yes, that was on his heart—not the need for shoes on his feet, not a hope for the barbed wire to be cut away, not a desire for a life of ease and comfort. What he was concerned about was the fulfillment of the Great Commission.

I was struck by Huong and Samoeun's faith. After attending the training center in Manila, they had entered God's special training center in the forest for four years. The positive effects on their relationship with the Lord were obvious.

I was also struck by their vision. They had truly caught something; they knew what it was to be part of a movement. Within 10 minutes of our introduction they had mentioned several essential elements of Campus Crusade for Christ: transferable methods ("the Four Spiritual Laws is the best way to share"); common goals ("fulfilling the Great Commission by 1980"); and training (speaking of the importance of a training congress on evangelism). No wonder Samoeun could say that "these people are part of our movement."

Greg and I later remarked that they were not afraid to die. They were not demanding freedom. They only desired to come out of Cambodia so they could share Christ freely.

"They have a strong, simple faith," Greg said in summing up his thoughts. Indeed, the story of Huong and Samoeun is a story of faith—a faith that never died and was not affected by circumstances. God spared their lives, I believe, so they could be a model for all of us.

SENATOR STEVENSON AND THE ETHICS COMMITTEE

Mr. HEFLIN. Mr. President, I am sure each Member of this body knows that I have assumed the chairmanship of the Senate Ethics Committee. This will be no easy endeavor, yet I look forward to the challenge with great anticipation.

I am equally certain that all Members of the Senate will agree with me that it is absolutely essential that the strictest standards of congressional ethics are maintained and that our actions as elected leaders of this Nation must be above and beyond suspicion or reproach.

As mandated by this body the objectives of the Senate Ethics Committee are simple: To give advisory opinions and suggest new Senate Rules, to investigate allegations of improper conduct and to recommend disciplinary action if necessary. But the administration of these simple objectives can often be a difficult, frustrating and confusing task.

I believe this complex challenge was ably met and accomplished with honesty and competency by my predecessor, Illinois Senator ADLAI STEVENSON.

Senator STEVENSON has set a high standard for me to live up to. His integrity, honesty, and determination exhibited in performing an arduous task has earned for him the respect, admiration, and gratitude of each Member of this body.

My Illinois colleague's most recent project as chairman was the investigation and subsequent disciplining of a fellow Senator—surely one of the most unpleasant, yet important, duties any Senator could have.

He performed this duty with dignity and sensitivity and insured the public's right to know that the investigation was both complete and impartial.

Under his direction, the Ethics Committee interpreted the new and complex regulations which fell within the committee's jurisdiction. This led to nearly 900 advisory rulings in response to inquiries from Members, officers, and employees of the Senate.

A new set of operating procedures was developed for the committee and the first comprehensive system for public financial disclosure in the Federal Government was established.

Under Chairman STEVENSON's leadership Members of the Senate were investigated and cleared of improper conduct in connection with the Korean influence-buying scheme and regulations governing the use of the mailing frank were revised.

All of these tasks were accomplished with good judgment, untiring dedication and care for the institution of the Senate and for the American people.

Chairman STEVENSON was served well by his vice chairman, New Mexico Senator HARRISON SCHMITT and by each and every Member of the Senate Ethics Committee. Each of these Senators deserves to be honored for his hard work and dedication to the principles of decency and honesty in government.

Mr. President, as chairman of this important committee I hope to follow the lead of my predecessor and live up to the high standards he has set forth for me.

TRIBUTE TO GRANT E. PERRY, OFFICIAL REPORTER OF DEBATES

Mr. ROBERT C. BYRD. Mr. President, I wish to pay tribute to Grant E. Perry, Official Reporter of Debates, who is retiring after 14 years of Senate service at the end of this first session of the 96th Congress.

Mr. Perry was born in Mountrail, N. Dak. After graduation from Jamestown College, he was a high school teacher in North Dakota and Minnesota. Following service in the Army in World War II, he developed his verbatim reporting skills and began his career as a shorthand reporter, first reporting in the district court in Alliance, Nebr. In 1957 he was appointed official reporter in the U.S. district court in Houston, Tex., where he served until 1965.

He was appointed as an Official Reporter of Debates in the Senate in August 1965 and has reported the historic debates of the past decade and a half, which included the one-man, one-vote legislation, civil rights legislation, the many issues concerning Vietnam, and the ratification of the Panama Canal treaties.

His broad general knowledge has stood him in good stead in reporting the variety of subjects that occur in the course of the Senate's business. With his retirement, the Senate is losing a devoted, loyal, and efficient member of its staff; and he takes with him our thanks for the outstanding manner in which he performed a grueling and demanding job.

On behalf of the entire Senate, I ex-

tend to Mr. Perry and his wife, Frances, our best wishes for many years of happiness and health as they return to their home in Houston, Tex.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE 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.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on November 15, 1979, he had approved and signed the following act:

S. 1281. An act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel United States, steamship vessel Oceanic Independence, steamship vessel Santa Rosa, and the steamship vessels Mariposa and Monterey into the trade.

MESSAGES FROM THE HOUSE

At 1:20 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2440) to repeal the prohibition against the expenditure of certain discretionary funds under the Airport and Airway Development Act of 1970; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JOHNSON of California, Mr. ROBERTS, Mr. ANDERSON of California, Mr. LEVITAS, Mr. YOUNG of Missouri, Mr. FLORIO, Mr. HARSHA, and Mr. SNYDER were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2727. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes;

H.R. 5871. An act to authorize the apportionment of funds for the Interstate System, to amend section 103(e)(4) of title 23, United States Code, and for other purposes; and

H.R. 5872. An act to modify the New Melones Dam and Reservoir project, California.

The message further announced that the House has agreed to the concurrent resolution (H. Con. Res. 202) urging the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes, in which it requests the concurrence of the Senate.

At 2:32 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4391) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 10, 26, and 27 to the bill and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 2 and 4 to the bill, and concurs therein each with an amendment in which it asks the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the text of the bill (H.R. 2282) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1319) to authorize certain construction at military installations, and for other purposes.

At 4:27 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3434) to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. CORMAN, Mr. RANGEL, Mr. BRODHEAD, Mr. CONABLE, and Mr. ROUSSELOT were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2626. An act to establish a National Commission on Hospital Costs, to encourage voluntary efforts to contain hospital costs, to provide for the orderly development of State hospital cost containment programs, to encourage philanthropic support for nonprofit hospitals, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 440) making further continuing appropriations for the fiscal year 1980, and for other purposes; that the House recedes from its disagreement to the amendment of the Senate numbered 6 to the joint resolution, and concurs therein; and that the House recedes from its disagreement to the amendment of the Senate numbered 5 to the joint resolution, and concurs therein with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 214. Concurrent resolution providing for an adjournment of the House from November 20 until November 26, 1979, and a recess of the Senate from November 20 until November 26, 1979.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1319. An act to authorize certain construction at military installations for fiscal year 1980, and for other purposes; and

H.R. 4167. An act to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price therefor.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILL AND CONCURRENT RESOLUTION REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 2727. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes; to the Committee on Finance.

The following concurrent resolution was read by title and referred as indicated:

H. Con. Res. 202. Concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes: to the Committee on Foreign Relations.

HOUSE BILLS HELD AT THE DESK

The following bills were read twice by their titles and held at the desk, by unanimous consent:

H.R. 5871. An act to authorize the apportionment of funds for the Interstate System, to amend section 103(e)(4) of title 23, United States Code, and for other purposes; and

H.R. 5872. An act to modify the New Melones Dam and Reservoir project, California.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 16, 1979, he presented to the President of the United States the following enrolled bill:

S. 1319. An act to authorize certain construction at military installations for fiscal year 1980, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2496. A communication from the Secretary of the Senate, transmitting, pursuant to law, a statement of receipts and expenditures of the Senate, showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in his possession from April 1, 1979, through September 30, 1979; which was ordered to be printed and to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1980—CONFERENCE REPORT

Mr. KENNEDY, from the commitee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes (Rept. No. 96-418).

By Mr. LEVIN, from the Committee on Armed Services, without amendment:

S. Res. 282. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5269. Referred to the Committee on the Budget.

By Mr. LEVIN, from the Committee on Armed Services, with amendments:

H.R. 5269. An act to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes (Rept. No. 96-419).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Bernard Daniel Rostker, of Virginia, to be Director of Selective Service.

(The above nomination from the Committee on Armed Services was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. LEVIN. Mr. President, as in executive session, and from the Committee on Armed Services, I report favorably the nomination of Col. William Fremont Engel to be brigadier general as a Reserve Commissioned officer in the Adjutant General's Corps, Army National Guard of the United States, and in the Reserve of the Air Force, 11 officers to the grade of major general and brigadier general (list beginning with Irvin G. Ray). I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. LEVIN. In addition, Mr. President, in the Army of the United States there are 1,847 officers for promotion to the grade of lieutenant colonel (list beginning with Thomas Abercrombie); in the Navy and Naval Reserve there are 1,652 appointments to the grade of captain and below (list beginning with Brian W. Aamoth) and 92 Naval Reserve Officer Training Corps graduates for permanent appointment to the grade of second lieutenant in the Marine Corps (list beginning with James H. Alameda); in the Regular Air Force there are 668 officers for appointment to the grade of first lieutenant and second lieutenant (list beginning with Clark E. Abelard) and in the Reserve of the Air Force there are 56 officers for promotion to the grade of colonel (list beginning with Bobby R. Baker) and in the Air Force and Reserve of the Air Force there are 91 appointments and promotions to the grade of lieutenant colonel and below (list beginning with Robert Bousquet). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD on October 19, 25, and 29, and November 26, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. YOUNG (for himself, Mr. DOLE, and Mr. BOREN):

S. 2016. A bill to adjust target prices for the 1979 and 1980 crops of wheat and feed grains; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSTON:

S. 2017. A bill to amend the Organic Act of Guam and the Revised Organic Act of the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PELL (for himself and Mr. HATFIELD):

S. 2018. A bill to transfer unexpended balances of funds appropriated for salaries of Senate committee employees, and for other purposes; to the Committee on Rules and Administration.

By Mr. MATSUNAGA:

S. 2019. A bill for the relief of Siegfried Hans Ehrmann; to the Committee on the Judiciary.

By Mr. COHEN:

S. 2020. A bill to amend title 10, United States Code, to provide expanded opportunities for individuals to earn education benefits based on honorable active service in the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. YOUNG (for himself, Mr. DOLE, and Mr. BOREN):

S. 2016. A bill to adjust target prices for the 1979 and 1980 crops of wheat and feed grains; to the Committee on Agriculture, Nutrition, and Forestry.

(The remarks of Mr. YOUNG when he introduced the bill appear earlier in todays' proceedings.)

By Mr. JOHNSTON:

S. 2017. A bill to amend the Organic Act of Guam and the Revised Organic Act of the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. JOHNSTON. Mr. President, I send to the desk for appropriate reference legislation which would amend the Organic Act of Guam and the revised Organic Act of the Virgin Islands. This legislation is designed to confer on the territories of Guam, Virgin Islands and American Samoa complete and total autonomy over local tax collections and local sources of revenue, while at the same time continuing the present Federal policy of financial support through the covering over of revenues derived from the Federal Internal Revenue laws.

One of the most difficult areas of territorial administration has always been the problem of funding the operations of the local civil government. Historically, the territories were administered principally by annual authorizations (as is presently done for the Trust Territory of the Pacific Islands). The uncertainties attendant on congressional action made long-range economic planning difficult for the local territorial governments and also served as a disincentive to responsible government.

In order to eliminate the uncertainties of the annual appropriations process and in order to transfer a greater measure of autonomy and consequent responsibility to the shoulders of the local territorial governments, Congress has enacted for each of the territories, except for American Samoa, provisions to permit the respective territorial governments to retain the proceeds from the application of the Federal Internal Revenue laws.

In general, territorial residents and corporations operating in the territories file returns and pay taxes to the territory in which they are resident and, by doing so, are relieved of such obligations to the Federal Government. Each territory is a separate tax jurisdiction administering income tax laws which are identical to those in force in the United States. This results in what have come to be known as the "mirror" codes. Together with various special provision differing from territory to territory, but all relating to the coordination of Federal and territorial income taxation, the "mirror" codes govern the system of income taxation in each U.S. territory.

The "mirror" systems are, at least in principal, well suited to meeting three objectives. First and foremost, they provide the territories with local tax revenues to meet a part of their government expenditures. Second, they subject territorial and mainland residents to comparable income tax burdens. Third, they may simplify income tax administration by providing the territories with a tax code, regulations, tax forms, and a judicial system. The intent of the Congress in enacting the mirror tax provisions was that the territories should live within the parameters set by the revenues produced

through the mirror tax, supplemented by such other measures (such as sales or property taxes, licenses, permits, et cetera) as the local legislatures deemed appropriate. The Federal Government would no longer need to be involved in the annual budget formulation and funding decisions unless extraordinary measures were required (such as the typhoon relief needed for Guam).

For a variety of reasons, this theory of the mirror tax has, in the last several years, ceased to work in practice. Under a variety of guises the Congress has begun a series of annual authorizations principally to the Virgin Islands, but also to Guam, in order to balance their annual budget. The measures have been variously captioned as prepayments, tax relief, Federal assumption of costs, et cetera, but have all in fact had their genesis not in some perceived inequity, but in an anticipated deficit. Guam has been the fortunate beneficiary of our disingenuity and sense of equity since a measure to provide $8 million to overcome a Virgin Islands deficit need not be replicated in Guam, but an $8 million authorization due to Federal changes in the tax laws must be replicated, since Guam is subject to the same tax laws.

These annual authorizations have to some extent resulted from inherent problems implicit in the mirror tax concept. Since the territories have only the authority to administer and enforce the tax laws, but not the authority to modify or amend them, they are unable to take necessary action to increase revenues or stimulate the local economy.

In addition, changes in the Federal tax laws are immediately "mirrored" whether or not such changes are beneficial. In several instances Congress enacted broad changes in the Federal tax laws to afford some relief to taxpayers and to enable State and local governments to impose their taxes without increasing the overall tax burden. For the territories these reductions not only did not produce any benefit, but in some instances they also required the territories to cover Federal tax credits from local revenues.

Rather than increasing local revenues, some of these measures have precipitated deficits. The willingness of the Federal Government to authorize and appropriate moneys to cover anticipated deficits, however, has itself contributed to the fiscal problems of the territories. To some extent constant authorizations to cover deficits has fostered a belief in the territories that unless they run a deficit, the Congress will not appropriate moneys to overcome the deficit, and conversely, if in fact they do run a deficit, Congress will appropriate the moneys.

A recent report on the territorial income tax systems prepared by the Department of the Treasury analyzed the application of the mirror tax and concluded that the most obvious disappointment with the mirror tax has been in the amount of income tax revenues collected by the territories.

The report stated that in the Virgin Islands and Guam, income tax revenues as a percentage of gross territorial product fell by more than one-third in the period 1973 through 1978. The reports of the Federal comptrollers for the territories and the recently released GAO report on Guamanian tax administration suggests substantial deficiencies in procedures for collecting taxes due.

The Treasury report goes on to note that the mirror systems have also "failed to insure that territorial and mainland residents are subject to comparable income tax burdens.

In all territories, the poor records of administration and compliance have widened the gap between the law and actual practice. Moreover, the substance of the territorial income tax laws produces inequities in the tax treatment of mainland residents vis-a-vis residents of the territories."

The central problem, however, lies in the formula of the mirror tax itself. There is no necessary relationship between the revenues produced by the income and excise taxes and the custom duties collected pursuant to Federal law and the actual needs of the territories. The inability of the local governments to control the details of the local tax structure most certainly contributes to the fiscal problems of the territories.

In addition, the relatively small populations in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, when coupled with the lack of adequate technical assistance, and the incredible complexity of the Federal Internal Revenue laws, results in a situation in which the local territorial governments are confronted with an almost impossible situation.

Mr. President, the political development of the territories especially in the past decade has been little short of remarkable. Today Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands each enjoy complete local political autonomy.

Each territory is governed by a popularly elected Governor, together with a popularly elected local legislature. The Northern Mariana Islands is governed pursuant to a Constitution of its own adoption, and both Guam and the Virgin Islands have demonstrated the political maturity to develop constitutions for local self-government even though the residents subsequently rejected the proposed documents.

Increasingly the territories have demonstrated a desire for increased local autonomy and a willingness to assume responsibilities which accompany that autonomy. The Congress should be sensitive to this desire and sympathetic to their legitimate concerns.

Recently the Committee on Energy and Natural Resources conducted hearings on H.R. 3756, legislation which would, among other things, provide for the Internal Revenue Service to administer and enforce the local territorial taxes.

While the intent of the legislation was to increase the local revenues and decrease local administrative expenses, those provisions were viewed as incursions on local autonomy. The testimony received by the committee, from both the representatives of the territories and from the administration was unanimous in its opposition to that provision.

Over the past several years, the fiscal problems of the territories have been almost constantly before the Congress. Both Congressman WON PAT, representing Guam, and former Congressman de Lugo, representing the Virgin Islands, have been forceful and eloquent advocates for increased local autonomy.

They have both urged, and succeeded in obtaining, support for local economic development so that the territories could become more self-sufficient. Congressman WON PAT especially has been concerned that the present situation is becoming unworkable and failing to meet the objectives originally envisaged by the Congress.

He has quite correctly pointed out that so long as Guam has the authority and responsibility for the administration and enforcement of taxes, but is denied the ability to amend or modify the basic legislation or to institute its own tax laws, it will continue to have only the appearance of local self-government and not the reality. Congressman WON PAT has also noted that under the Federal Internal Revenue laws, many States can "piggy-back" their local taxes, thereby greatly simplifying administration. In addition, control over the local tax structure allows the local government to devise and implement economic development incentives appropriate to local needs, resources, and options. To a great extent, the present formula impedes this ability for the territories.

The legislation which I am introducing today would confer total local autonomy on the territories for the development, administration, and enforcement of a local tax system while preserving the present Federal financial support through the covering over of revenues derived from the Federal Internal Revenue laws. I would like to emphasize that this proposed legislation, while it would confer the total local autonomy which the various territories have requested, is not final in any sense of the word. I have today written directly to each of the Governors of the respective territories as well as to the local legislatures asking that they specifically address the question of local control over taxing authority.

I have also written to the Secretary of the Interior and to the Secretary of the Treasury requesting their assistance in refining and clarifying the legislation. Undoubtedly there will need to be several modifications made to the legislation in order to fully implement its purpose.

It is my intention to work closely with the locally elected officials from the territories as well as with representatives from the executive branch in order to develop and enact legislation which will recognize the desires and aspirations of the U.S. citizens residing in the territories to fully assume the burdens and responsibilities of local self-government.

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

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

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 31 of the Organic Act of Guam (64 Stat. 392), as amended, is hereby repealed.

SEC. 2. Section 28(a) of the Revised Organic Act of the Virgin Islands (68 Stat. 508), is amended by deleting "Virgin Islands, and such persons shall satisfy their income tax obligations under applicable taxing statutes of the United States by paying their tax in income derived from all sources both within and outside the Virgin Islands into the treasury of the ".

SEC. 3. Section 5 of Public Law 94-392 (90 Stat. 1195) is hereby repealed.

SEC. 4. Notwithstanding any other provision of law the Government of Guam, American Samoa, and the Virgin Islands are authorized and empowered to impose such taxes on income as the respective legislatures may deem appropriate: *Provided,* That such taxes shall be uniform in their application to residents of states as defined in 26 U.S.C. 7701(a)(10).

SEC. 5. All customs duties and Federal income taxes derived from American Samoa, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in American Samoa and transported to the United States, its territories, or possessions, or consumed in American Samoa, and the proceeds of any other taxes which may be levied by the Congress on the inhabitants of American Samoa, and all quarantine, passport, immigration, and naturalization fees collected in American Samoa shall be covered into the treasury of American Samoa.

SEC. 6. (a) Section 7701 (a)(10) of Title 26 United States Code is amended by inserting "Guam, the Virgin Islands, American Samoa, and" after "construed to include" and before "the District of Columbia".

(b) Section 7701(a)(12)(B) of Title 26 United States Code is hereby repealed.

(c) Section 6365 (a) of Title 26 United States Code is amended by inserting "Guam, the Virgin Islands, American Samoa, and" after "includes" and before "the District of Columbia".

(d) Section 935 of Title 26 United States Code is hereby repealed.●

By Mr. PELL (for himself and Mr. HATFIELD):

S. 2018. A bill to transfer unexpended balances of funds appropriated for salaries of Senate committee employees, and for other purposes; to the Committees on Rules and Administration.

● Mr. PELL. Mr. President, as chairman of the Committee on Rules and Administration, I am today introducing a bill and a resolution (S. Res. 281), for myself and Senator HATFIELD, to simplify and clarify the system by which Senate committees are provided funds for their operating expenses, including staff salaries.

The existing system is somewhat complicated and has proved particularly confusing to those who encounter it for the first time, although Senators and staff members who have had enough experience with it come to understand it very well. But for the taxpaying public and perhaps the press, it is unnecessarily complex and for all of us, considerable research and explanation is required when we seek to determine the precise total cost of any particular committee for a given period of time.

Present procedures were established by the Legislative Reorganization Act of 1946, and although that act has been amended from time to time since then, the basic plan has not been changed.

Part of the committee funds authorized under the act are provided through the annual Legislative Appropriation Act on a calendar year basis.

The larger part comes to the committees as "additional funding" for "inquiries and investigations" following hearings held every February by the Rules Committee on the "money resolutions" reported by each committee in January and referred by the Senate to this committee, on a March 1–February 28 or 29 basis.

The LRA authorizes an appropriation of $10,000 for "routine purposes" per Congress—not per year, as is the case with the other funding. This sum goes only to standing committees plus the Select Committee on Small Business and the Special Committee on Aging—not to other select committees.

These are but a few of the examples of differing procedures by which committee funds are provided, but they show why we feel simplification and uniformity of the system are urgently needed.

When the Rules Committee held hearings on the committee funding resolutions last February members of our committee raised many questions about the unnecessary complications and lack of uniformity of the present system. The committee directed the staff to prepare drafts of possible changes in the law and rules governing committee funding. The resulting proposals were discussed by the committee during March. Suggestions by members of the committee for possible changes included repeal of the $10,000 per Congress for routine purposes provision; simplification of the entire process by making all parts of it subject to annual review and approval by the committee and the Senate, including particularly repeal of the numerous permanent authorizations by statute and resolution for employees in addition to the basic 12 authorized by the Legislative Reorganization Act; possible repeal of the basic 12 provision itself; and possible inclusion of the Appropriations Committee on the same basis as the other committees.

The bill and resolution Senator Hatfield and I are introducing today reflect the various suggestions made earlier this year and constitute a starting point for a hearing to be held by the Rules Committee on proposed revision of committee funding procedures on Wednesday, November 28, beginning at 10 a.m. in the committee hearing room (301 Russell Senate Office Building).●

● Mr. HATFIELD. Mr. President, I am pleased to join with Chairman PELL today in the introduction of proposals for a badly needed update of Senate procedures for funding our committees. As a member of the Committee on Rules and Administration for 7 years, I have seen few Senate practices as jumbled as our present committee budgeting procedures. They are difficult to comprehend, they deny the Senate the opportunity to examine and set total committee funding levels annually, they make almost impossible meaningful comparisons between the funding levels of Senate committees, and they run counter to "sunshine" practices by shielding the true cost and size of the Senate organization.

At present, our committees derive funds for their operations in several ways. The Legislative Reorganization Act of 1946 authorizes each standing committee $10,000 for routine purposes. In 1946, this was perhaps a sufficient amount for transcript and other routine costs for a 2-year period. Now, although the amount is insignificant, it remains on the books as a separate item. That same 1946 act also authorizes most standing committees to hire six professional and six clerical staff members. The total maximum salary for these 12 employees has grown automatically over the years as staff salaries have been raised, and now approaches a half million dollars annually, per committee. Yet the Senate does not examine these positions or salaries. In addition, over the years, eight committees have sought and obtained Senate authorization for specific numbers of additional professional and clerical positions which, once again, are never examined by the Senate. The number of these positions ranges from 1 to 18, while 10 committees have none at all. These figures demonstrate the lack of uniformity in the present system.

Finally, Mr. President, the bulk of yearly committee funds are obtained through annual resolutions for investigations and inquiries, which are reported by the individual committees, examined by the Rules Committee, and voted upon by the full Senate. It is only this category of expenses which the full Senate sees on an annual basis.

In conclusion, Mr. President, our present system for committee budgeting is irrational and defies logic. It is the result of the incremental changes in our procedures in the 33 years since the last wholesale attempt to bring logic to the system. The proposal which Chairman PELL and I introduce today would simplify committee accounting and bookkeeping practices, put all committees on an even basis in their budget presentations, and most important, would enable this body to both understand the true size and cost of its committees, and determine that cost each and every year.

It is my hope that the Rules Committee and Senate can act expeditiously on these proposals, so that a new order can be in place for the budget cycle in our next session.●

By Mr. COHEN:

S. 2020. A bill to amend title 10, United States Code, to provide expanded opportunities for individuals to earn education benefits based on honorable active service in the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS EDUCATION AND TRAINING PROGRAM

● Mr. COHEN. Mr. President, I am introducing today legislation which would provide for a new GI bill, the "veterans education and training" (VET) program.

The need for this legislation is clear. Educational benefits have consistently been listed as one of the most popular incentives for joining the military.

Congress decision to eliminate the GI bill 3 years ago has been cited as one of the key factors in the perception of those in—or considering—military service that benefits are eroding. The veterans education assistance program (VEAP), a contributory program which replaced the GI bill, has not proven to be attractive to those in the military.

The purpose of my bill is to provide an opportunity for individuals to earn educational benefits based on honorable service in the military. It should encourage more top-quality young men and women to enlist and reenlist in the service.

Basically, the bill will provide education benefits at the same rate authorized veterans pursuing a program of education under chapter 34, title 38, United States Code.

The bill does not require a monetary contribution from the participant. It requires something more valuable—time. Eligibility for education under this proposal begins when the member has completed 2 years of honorable service. The maximum educational benefit cannot be earned in less than 48 months.

The program is a simple one. After completing 2 years of service, a member in a critical skill or combat arms position becomes eligible for 18 months of educational assistance. Those in noncritical or noncombat arms occupations earn 12 months of educational assistance.

Benefits continue to accrue beyond the 2-year point. Those with critical skills or in combat arms will earn the maximum 36 months of benefits in 4 years. For their noncritical/noncombat arms counterparts, the 36-month maximum may be earned in 6 years.

In the case of individuals choosing to serve the minimum 2-year active duty period or serving less than a full enlistment, the program requires that they be transferred to the reserve forces to help alleviate reserve manpower shortages.

Further, to reduce attrition figures, the bill will not, in most cases, allow military members to collect their eligibility if they fail to complete the first 2 years of their enlistment or re-enlistment. This is why it is called an "earned" educational assistance program. No education benefits are earned if the service obligation is not fulfilled.

For young people sincerely interested in attaining an educational goal, the bill offers a program of assistance for services rendered. It also provides for education loans and gives the eligible veteran 10 years from the date of last discharge from active duty to complete the education earned as a result of the proposal.

The program will produce a recruiting incentive aimed directly at a desirable target group—high school graduates not in college. These are the kind of committed, top-quality individuals that the services need to attract and retain.

While there is a cost involved in reestablishing this program of educational benefits, it is likely to provide far greater short- and long-term benefits. These benefits go beyond the quality of our defense forces. The U.S. Treasury as well should reap benefits from the veterans who use the program. Testimony before the Senate Veterans' Affairs Committee in 1975 illustrated the fact that: "Veterans using the GI bill return to the Federal Treasury more than the Nation invests in them to pay for 36 months of college."

The new GI bill I am introducing today will, I hope, serve as a reflection of the commitment of Congress to those who sacrifice years of their lives to serve in the Nation's defense. We must not forget the special sacrifices made by our young men and women in uniform, whether in peacetime or in war.

As was brought out during last week's debate on the Armstrong-Matsunaga amendment to lift the cap on military pay, the view of those in the military that their pay and benefits are eroding is more than mere perception. It is a reality.

Basic recruit pay is now only 83 percent of the minimum wage. The discrepancy between military and civilian wages is greatest in the 25 to 34 year old age group, where most enlisted members are in grades E–5 and E–6, with 6 to 15 years of service.

The average enlisted person makes only $9,900 a year. This compares with an income of $11,546, which the Bureau of Labor Statistics estimates a family of four needs to maintain a "lower level" standard of living. Since 1972, inflation has driven down the purchasing power of service personnel more sharply than civilians by amounts ranging from 7 to 20 percent.

Pentagon officials have recognized that there are significant problems with the existing compensation and benefits system. They have indicated that they are considering a variety of steps to upgrade that system.

One of the actions under consideration is a proposal to reinstitute education benefits in a program more attractive than VEAP. VEAP has been a failure. The reason why is clear. Its primary goal was to reduce the cost to the Government of post-service education.

VEAP was designed as the first veterans program in history which requires a monetary contribution from its participants. It is not surprising that only 16.8 percent of those eligible servicewide are participating in the program.

The monetary contribution, especially in a time of diminishing real wages, is a key reason why the program has failed. Under the law, participants must agree to contribute $50 to $75 per month for a minimum 12-month period. Basic monthly pay in the first 2 years of service is fixed around $500. Thus, individuals must agree to a minimum contribution of about 10 percent of their monthly pay.

Those who do participate will not receive a generous return. In fact, the maximum return is $225 a month for 36 months.

For every dollar the participant contributes to VEAP, the VA matches it with two. The maximum contribution by the veteran may not exceed $2,700; the maximum VA contribution is fixed at $5,400.

Participants must contribute for 12 months before they are permitted to withdraw from the program. Unless hardship can be proven, they may not request the return of the contribution, without interest, until discharge.

It is little wonder that military personnel have been reluctant to participate in the program. And it is easy to understand why recruiters suggest that a GI bill program would be of real help in attracting quality enlistees.

A recent U.S. Navy memo concluded:

> The quality high school graduate who lacked sufficient funds for a college education lost in essence a $4,000-plus enlistment bonus with the demise of the old G.I. bill.

The memo noted that passage of the law terminating the wartime veterans education benefits and replacing it with VEAP did nothing but work against the all-volunteer force.

Past and present studies illustrate the need for a new GI bill. Just 2 years ago, a survey of soldiers pointed out that educational benefits were the main reason for joining the Army. Today, the military services report that recruiters want education benefits on their list of recruiting inducements.

The old GI bill helped recruit 25 to 30 percent of the volunteers entering the armed forces. In December 1976, the last month for the old GI bill, a record 27,585 youths enlisted in the Army. The year before, only about half that many, 14,173 enlisted.

Organizations such as the Non-Commissioned Officers Association (NCOA) warned Congress that elimination of the GI bill could have serious negative repercussions on the quality and quantity of recruits for military service. Unfortunately, that prediction has been borne out. It is time that we acknowledge the mistake we made and that we take steps to correct our earlier action.

The approach embodied in the measure I am introducing today is, I think, one which will have far-ranging benefits for our young men and women considering military service, for our Armed Forces, and for the Nation itself. It will aid recruiting efforts, enhance the quality of our defense force, encourage educational advancement, and stimulate the economy. As the old GI bill did, my proposal will return far more than it will cost.

Perhaps the major difference from—and improvement to—the old GI bill is the provision that participants must serve a minimum of 2 years before they are eligible for benefits. This should serve to reduce the services' attrition problem. It will also insure that only committed, qualified young men and women who have given 2 or more years in service to their country will reap the benefits of the program.

Costs will thus be reduced in two ways. The Navy has estimated that each recruit dropout represents a $7,000-plus loss. For every individual encouraged to serve out the term of enlistment or reenlistment, a substantial saving accrues. Extending the minimum service time from 6 months to 2 years for benefits eligibility will limit participation to those most deserving and will bring costs down significantly.

I believe the program is a good one. It

represents the kind of direction that I think we should be moving in as we seek to strengthen our military forces. And it reflects my firm belief that the Nation should give proper recognition to those who have served in their Nation's behalf. We owe them a considerable debt. Reinstating educational benefits for veterans is one small way of repaying them for their military service.

The NCOA deserves great credit for its work on this legislation. The bill I am introducing today was first proposed by the NCOA. Representative BOB WILSON of California has introduced a similar measure, H.R. 4647, in the House. I am pleased to introduce this companion bill in the Senate. This approach has already been endorsed by the National Association for Uniformed Services. It is, I think, an approach that merits the fullest consideration by the Congress.●

ADDITIONAL COSPONSORS

S. 1179

At the request of Mr. BAYH, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1179, a bill incorporating the Gold Star Wives.

S. 1203

At the request of Mr. BAYH, the Senator from New Hampshire (Mr. DURKIN) and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1431

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1431, a bill to establish a Vietnam War Memorial in Eagle Nest, N. Mex.

S. 1660

At the request of Mr. SCHMITT, the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1660, a bill to amend the Federal Civil Defense Act of 1950 to provide for an enhanced civil defense program for fiscal years 1980 through 1986, and for other purposes.

S. 1936

At the request of Mr. KENNEDY, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 1936, the Handgun Crime Control Act of 1979.

SENATE RESOLUTION 277

At the request of Mr. STEWART, his name was added as a cosponsor of Senate Resolution 277, relating to the commitment to ease the human suffering in Cambodia.

AMENDMENT NO. 589

At the request of Mr. BENTSEN, the Senator from Georgia (Mr. TALMADGE), the Senator from Hawaii (Mr. MATSUNAGA, the Senator from Oklahoma (Mr. BOREN), the Senator from Montana (Mr. BAUCUS), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. PRYOR), the Senator from Arizona (Mr. DECONCINI), the Senator from Texas (Mr. TOWER), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. COCHRAN), the Senator from Idaho (Mr. MCCLURE), the Senator from Nevada (Mr. LAXALT), the Senator from Kentucky (Mr. FORD), and the Senator from Florida (Mr. STONE) were added as cosponsors of amendment No. 589 intended to be proposed to H.R. 3919, the Windfall Profit Tax Act.

SENATE RESOLUTION 281—SUBMISSION OF A RESOLUTION RELATING TO EXPENDITURES AND STAFFS OF SENATE COMMITTEES

Mr. PELL (for himself and Mr. HATFIELD) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 281

Resolved, That (a) effective March 1, 1980, paragraph 1 of rule XXVI of the Standing Rules of the Senate is amended by striking out "to make such expenditures (not in excess of $10,000 for each committee during any Congress) as it deems advisable" and inserting in lieu thereof "to make such expenditures out of the contingent fund of the Senate as may be authorized by resolutions of the Senate".

(b) Unexpended balances on March 1, 1980, of funds made available during the 96th Congress to standing committees of the Senate for expenditure under paragraph 1 of rule XXVI of the Standing Rules of the Senate, as in effect prior to the amendment made by subsection (a), may be expended on and after such date only in accordance with the provisions of such paragraph as amended by subsection (a).

SEC. 2. (a) Paragraph 1 of rule XXXI of the Standing Rules of the Senate is repealed.

(b)(1) Paragraph 2(a) of such rule is amended to read as follows:

"(a) Staff members appointed to assist minority members of committees pursuant to authority of a resolution described in paragraph 9 of rule XXVI or other Senate resolution shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.".

(2) Paragraph 2(c) of such rule is amended by striking out "personnel appointed pursuant to authority of paragraph 1 and".

(c) The repeal and amendments made by subsections (a) and (b) shall take effect on March 1, 1980.

SEC. 3. (a) The following resolutions are repealed:

(1) Senate Resolution 66, 81st Congress.
(2) Senate Resolution 342, 85th Congress.
(3) Senate Resolution 355, 85th Congress.
(4) Senate Resolution 30, 86th Congress.
(5) Senate Resolution 253, 88th Congress.
(6) Senate Resolution 224, 89th Congress.
(7) Senate Resolution 74, 90th Congress.
(8) Senate Resolution 66, 91st Congress.
(9) Senate Resolution 91, 94th Congress.

(b) Senate Resolution 193, 78th Congress, is amended—

(1) by inserting after "authorized and directed" in the first paragraph ", within the limit of funds made available by resolutions of the Senate,";

(2) by inserting after "authorized" in the second paragraph ", within the limit of funds made available by resolutions of the Senate,"; and

(3) by striking out all after "assistants" in the second paragraph through "$30,000" in the third paragraph.

(c) Senate Resolution 247, 87th Congress, is amended by striking out all after "*Resolved,*" and inserting in lieu thereof the following: "That the Committee on Foreign Relations is authorized from March 1, 1980, until otherwise provided by law, to expend not to exceed $25,000 each fiscal year to assist the Senate properly to discharge and coordinate its activities and responsibilities in connection with participation in various interparliamentary institutions and to facilitate the interchange and reception in the United States of members of foreign legislative bodies and prominent officials of foreign governments and intergovernmental organizations.

"SEC. 2. The Secretary of the State is authorized and directed to pay from the contingent fund of the Senate the actual and necessary expenses incurred in connection with activities authorized by this resolution and approved in advance by the chairman of the Committee on Foreign Relations upon vouchers certified by the Senator incurring such expenses and approved by the chairman.".

(d) The repeals and amendments made by subsections (a), (b), and (c) shall take effect on March 1, 1980.

(e) Until otherwise provided by law or resolution of the Senate, the provisions of the first proviso under the heading "Committee Employees" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1974 (87 Stat. 529), shall not apply after February 29, 1980.

SEC. 4. (a) Paragraph 9 of rule XXVI of the Standing Rules of the Senate is amended to read as follows:

"9. Each committee shall report one authorization resolution each year authorizing the committee to make expenditures out of the contingent fund of the Senate to defray its expenses, including the compensation of members of its staff and agency contributions related to such compensation, during the period beginning on March 1 of such year and ending on the last day of February of the following year. Such annual authorization resolution shall be reported not later than January 31 of each year, except that, whenever the designation of members of standing committees of the Senate occurs during the first session of a Congress at a date later than January 20, such resolution may be reported at any time within 30 days after the date on which the designation of such members is completed. After the annual authorization resolution of a committee for a year has been agreed to, such committee may procure authorization to make additional expenditures out of the contingent fund of the Senate during that year only by reporting a supplemental authorization resolution. Each supplemental authorization resolution reported by a committee shall amend the annual authorization resolution of such committee for that year and shall be accompanied by a report specifying with particularity the purpose for which such authorization is sought and the reason why such authorization could not have been sought at the time of the submission by such committee of its annual authorization resolution for that year.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1980, except that the provisions of paragraph 9 of rule XXVI of the Standing Rules of the Senate, as in effect on December 31, 1979, shall remain in effect through February 29, 1980, for the purpose of supplemental authorization resolutions for the period ending on February 29, 1980.

(See the remarks of Mr. PELL when he introduced S. 2018 earlier in the proceedings.)

SENATE RESOLUTION 282—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. LEVIN, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 282

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5269, a bill to authorize appropriations for the fiscal year beginning October 1, 1979, for the maintenance and operation of the Panama Canal, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The Panama Canal Act of 1979, P.L. 96–70, which required for the first time that appropriations for operation of the Panama Canal be previously authorized, was passed after May 15, 1979.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5269 as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENTS NOS. 627 AND 628

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

(The remarks of Mr. DOLE when he submitted the amendments appear earlier in today's proceedings.)

AMENDMENT NO. 629

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 630

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to H.R. 3919, supra.

● Mr. EAGLETON. Mr. President, today I am sending to the desk an amendment to the windfall profits tax bill, H.R. 3919. My amendment is a tax measure that would provide relief for small savers—some of you may recognize it as my "Aunt Hazel bill."

I have become increasingly concerned with the plight of the "small saver" in these times of rapidly escalating interest rates. A typical small saver is my Aunt Hazel who keeps all or nearly all of her life savings in a bank, a savings and loan association or a credit union. With interest rates between 5½ to 6½ percent per year, we do not need a calculator to know that she is losing money every day she keeps her savings in the bank. Like other small savers, she has no alternative source to invest her money—she does not have enough saved to invest in money market funds, Treasury bills and the like. In short, she has no recourse against rising inflation rates.

The purpose of this amendment is to provide relief for small savers. It would allow a tax exclusion on interest income earned only from passbook savings accounts at commercial banks, mutual savings banks, S. & L.'s and credit unions. Individuals would be allowed a deduction up to $500; married couples who file a joint tax return would be allowed to exclude $1,000. As a double test to insure that only the truly small saver will benefit from this exclusion, the amendment provides that only those taxpayers who earned an aggregate of $500 or less in interest and dividends—$1,000 or less for joint returns—from all reportable sources can qualify for the tax exemption. I propose this second test to preclude the case of an individual who may be earning a sizable return on high yielding investments and then decides to place some money in a passbook account to receive the tax benefit. The small saver does not have such an option—his only alternative is his passbook savings account. I believe that it is far more constructive to help the small saver in this manner—rather than at the expense of the S. & L.'s.

My amendment would specifically help the people I call the "Aunt Hazels" of the world, who have placed all or nearly all of their savings in an S. & L., a savings bank or a credit union. It is an effective means to assist the beleaguered small saver; I hope my colleagues will join me in supporting my "Aunt Hazel amendment." ●

AMENDMENT NO. 631

(Ordered to be printed and to lie on the table.)

Mr. BRADLEY (for himself, Mr. CHAFEE, Mr. NELSON, Mr. RIBICOFF, Mr. ROTH, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. DURENBERGER, Mr. WEICKER, Mr. MCGOVERN, Mr. TSONGAS, Mr. FORD, Mr. BIDEN, Mr. HART, and Mr. LEAHY) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

TAX ON TIER II OIL

● Mr. BRADLEY. Mr. President, on behalf of the Senator from Rhode Island (Mr. CHAFEE) and myself, and for Senators NELSON, RIBICOFF, ROTH, MOYNIHAN, PACKWOOD, DURENBERGER, WEICKER, MCGOVERN, TSONGAS, FORD, BIDEN, HART, and LEAHY, we introduce an amendment we intend to offer to H.R. 3919, the proposed windfall profits tax. This amendment would raise the rate of taxation on tier II oil from 60 percent, as proposed by the Finance Committee, to 75 percent. We ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The case for our amendment is clear and simple. Decontrol of oil prices will result in massive amounts of income being transferred from all sectors of our economy—large and small corporations, as well as consumers—to a single sector—the oil industry. This imbalance in the economy, which will amount to hundreds of billions of dollars in the coming decade, must be moderated. We must redirect some of those revenues to areas where it will do the Nation the most good. Among the purposes that should be served are greater production of oil, encouragement of conservation, development of alternative forms of energy, and relief for those segments of the population which are most severely injured by the resulting increases in oil and oil products.

In assessing the value of this and other amendments, we believe that the proper test to be applied is "How can the revenues best be used?" If the revenues can be put to use by the oil industry in the form of greater oil production, then the bill we enact should direct incentives in that direction. But if the payoff in new production is disproportionate the size of the incentive, the money should be taxed and redirected to where it can do more good to meet the energy crisis or other important material purposes.

In general, the committee's bill attempted to apply this test. In most respects the committee did far better than its severest critics expected, or have given it credit. But the test was not applied with the greatest of consistency, and often times the committee seemed prepared to accept little or no new oil production at too high a cost in terms of incentives. Thus, we and many of our colleagues on the committee have taken the position that the bill, while a good start, can stand some real improvement.

The amendment we offer today is one such improvement, and we believe, a very modest one. By all accounts I have seen, there seems to be general acceptance that the production of oil from tier 1 cannot be significantly improved by reducing the tax rate below the 75 percent recommended by the committee. This oil just is not price sensitive, certainly not when one considers the fact that it was profitable under controls, and the decontrol structure, even at this rate of tax, offers much more return than in the very recent past. Indeed, the Congressional Budget Office suggests in its report that an increase to 85 percent would add significant revenues, and would even result in more oil production in the latter part of the decade than the committee bill would stimulate.

By the same token, oil in the second tier, so-called new oil from wells drilled up to 1979, was just about as profitable under controls, and will be much more profitable with decontrol. An increase in the tax rate will reduce production over the decade by small amounts, so small that they become negligible, if indeed there would be any change at all. Because we think that the conclusions which led the committee to a 75 percent rate on the first tier are just as valid for second tier oil, we have proposed this increase. We urge our colleagues to consider the merits of our amendment, and to support us.

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

AMENDMENT NO. 631

On page 40, strike "and" on line 6, strike lines 7 and 8, and insert: "(2) 75 percent of the windfall profit on such barrel in the case of tier 2 oil, and

"(3) 60 percent of the windfall profit in the case of tier 3 oil." ●

AMENDMENT NO. 632

(Ordered to be printed and to lie on the table.)

Mr. HELMS (for himself, Mr. DOLE, Mr. HATCH, Mr. TOWER, Mr. MELCHER, Mr. RIEGLE, Mr. FORD, Mr. STEVENS, Mr. SCHMITT, Mr. GARN, Mr. HUMPHREY, Mr. STONE, and Mr. MORGAN) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENTS NOS. 633 THROUGH 642

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted 10 amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 643

(Ordered to be printed.)

Mr. BENTSEN (for himself and others) proposed an amendment to H.R. 3919, supra.

GI BILL AMENDMENTS ACT OF 1979—S. 870

AMENDMENTS NOS. 644 AND 645

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted two amendments intended to be proposed by him to S. 980, a bill to amend title 38, United States Code, to extend the delimiting date for veterans under certain circumstances; to limit the time for filing claims for educational benefits based upon disability; to modify the standards of progress requirements; to modify the 50 per centum employment requirements; to eliminate the requirements for counting BEOG's and SEOG's in the 85–15 enrollment ratio; to modify payment of educational benefits to incarcerated veterans; to permit certain foreign training; to pay benefits for certain continuing education programs; to strengthen statutory provisions on measurement of courses and on overpayment of educational benefits; to repeal the authority for pursuit of flight and correspondence training; to repeal the authority for pursuit of certain PREP training; and for other purposes.

NOTICES OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the previously announced hearings of the Senate Small Business Committee on Capital Formation on November 20, 27, and 28 will be postponed until a later time.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, November 19, 1979, to hold a hearing on the Human Rights Convention.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 20, 1979, beginning at 2 p.m., to hold a markup session on the International Sugar Agreement, various executive nominations, and other committee business.

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

ADDITIONAL STATEMENTS

OKLAHOMA CONSTITUENT RESPONSE TO SURVEY

● Mr. BELLMON. Mr. President, periodically I send out questionnaires to constituents in Oklahoma to provide an opportunity for them to express their views on issues of current interest.

In mid-October I conducted such a survey which produced some interesting results.

According to a random sample of the responses received, Oklahomans believe inflation is by far the most important problem facing the Nation today. Furthermore, they prefer balancing the budget instead of a tax cut as a means of controlling inflation.

The survey indicated concern among Oklahomans about Federal budget deficits, national defense, foreign policy, and energy.

In order to share these findings with my colleagues, I ask that a tabulation of the results of this survey be printed in the RECORD.

The tabulation follows:

SURVEY RESULTS

Following are the results of a survey conducted by Sen. Henry Bellmon (R–Okla.). Questionnaires were mailed in mid-October to 443,500 Oklahomans. These results are based on a random sample of approximately 50,000 responses. The survey was not intended to be a scientific test of public opinion but rather an opportunity for Oklahomans to express their views on a variety of current issues.

1. For the next fiscal year, Congress has the choice of balancing the federal budget in 1981 to help control inflation or enacting a tax cut. Which would you prefer?
Balanced budget, 83 percent.
Tax cut, 16 percent.
Don't know, 1 percent.

2. President Carter has been asking American workers and companies to follow voluntary wage-price guidelines. Do you favor a voluntary or mandatory wage-price program or neither of these?
Mandatory, 35 percent.
Voluntary, 40 percent.
Neither, 25 percent.

3. Should spending for national defense be cut, raised or kept the same as it is now?
Cut, 7 percent.
Raised, 66 percent.
Same, 27 percent.

4. President Carter recently increased the quota of Vietnamese refugees (boat people) allowed into the United States from 7,000 to 14,000 per month. Do you agree or disagree with this action?
Agree, 28 percent.
Disagree, 65 percent.
Don't know, 7 percent.

5. President Carter recently announced to the nation the actions he plans to take to deal with the revelation of Soviet combat troops in Cuba. Do you agree or disagree with his actions?
Agree, 21 percent.
Disagree, 64 percent.
Don't know, 15 percent.

6. President Carter has proposed an Energy Mobilization Board which would be empowered to cut through red tape holding back the development of energy facilities. Do you favor or oppose such a board?
Favor, 60 percent.
Oppose, 32 percent.
Don't know, 8 percent.

7. Do you favor or oppose placing an additional tax on energy companies' incomes which will rise as a result of the decontrol of oil prices?
Favor, 40 percent.
Oppose, 56 percent.
Don't know, 4 percent.

8. Would you favor or oppose such a tax if companies could reduce their tax bill by increasing domestic oil production?
Favor, 59 percent.
Oppose, 36 percent.
Don't know, 5 percent.

9. Do you favor or oppose giving the President the authority to impose gasoline rationing in times of serious shortage?
Favor, 62 percent.
Oppose, 35 percent.
Don't know, 3 percent.

10. Do you favor or oppose current efforts aimed at reducing American and Soviet nuclear armaments?
Favor, 49 percent.
Oppose, 44 percent.
Don't know, 7 percent.

11. Do you favor or oppose reinstitution of the military draft?
Favor, 64 percent.
Oppose, 29 percent.
Don't know, 7 percent.

12. Do you favor or oppose establishment of a registration system without the draft?
Favor, 62 percent.
Oppose, 31 percent.
Don't know, 7 percent.

13. To maintain the quality of military personnel, would you favor or oppose increased government spending for incentives to join the military in lieu of the draft?
Favor, 45 percent.
Oppose, 50 percent.
Don't know, 5 percent.

14. Do you favor or oppose legislation which would put a ceiling on doctors' charges?
Favor, 48 percent.
Oppose, 48 percent.
Don't know, 4 percent.

15. Do you favor or oppose legislation which would put a ceiling on the amount hospitals could charge for their services?
Favor, 54 percent.
Oppose, 43 percent.
Don't know, 3 percent.

16. In light of our nation's need for additional energy, do you favor or oppose building more nuclear power plants?
Favor, 70 percent.
Oppose, 21 percent.
Don't know, 9 percent.

17. Have you ever attended your political party's precinct meeting?
Yes, 39 percent.
No, 61 percent.

18 Do you believe you have a voice in deciding who your party's presidential nominee will be?
Yes, 38 percent.
No, 62 percent.

19. Would you favor or oppose a presidential primary in Oklahoma?
Favor, 59 percent.
Oppose, 28 percent.
Don't know, 13 percent.

20. Would you favor or oppose a regional presidential primary including Oklahoma and surrounding states?
Favor, 54 percent.
Oppose, 31 percent.
Don't know, 15 percent.

21. Would you favor or oppose the United States negotiating an agreement with other grain-exporting nations which prohibits countries from selling grain on the world market at a price below the cost of production?
Favor, 76 percent.
Oppose, 19 percent.
Don't know, 5 percent.

22. Do you favor or oppose formal U.S. recognition of the Palestine Liberation Organization?
Favor, 19 percent.
Oppose, 66 percent.
Don't know, 15 percent.

23. Do you favor or oppose foreign investment in the United States?
Favor, 35 percent.
Oppose, 60 percent.
Don't know, 5 percent.

24. Do you favor or oppose foreign ownership of U.S. farmland?
Favor, 15 percent.
Oppose, 81 percent.
Don't know, 4 percent.

25. What do you believe is the most important problem facing the nation today? (Choose only one.)

	Percent
Inflation	51
Taxes	2
Crime	2
Morality	10
Nuclear energy development	2
U.S. standing abroad	2
Federal budget deficits	11
National defense	5
Oil shortage	3
Unemployment	-----
Foreign trade	-----
Energy	6
Other (explain)	5
(including 1 percent "lack of leadership")	

Also listed: too much federal government control, federal regulations, foreign aid, population explosion, special interest politics, bureaucracy.●

STUDENT VISAS ARE PART OF BROADER IMMIGRATION PROBLEM

● Mr. HUDDLESTON. Mr. President, Americans are deeply frustrated as they are forced to sit helpless while their fellow citizens are held hostage in Iran. And, they are justifiably angered by the Iranian students in the United States who have demonstrated in support of Iran's deliberate violation of international law. Even though I too am incensed by these actions I join the President in urging Members of Congress, candidates for national office, and individual Americans to exercise restraint. To do otherwise would threaten the safety or lives of the hostages. However, rather than vent our frustrations by rhetoric about the senseless acts of the Iranians, we should take this opportunity to look more carefully at our total immigration policy, because the current situation graphically illustrates that the U.S. immigration system is in shambles. The extent of these defects is demonstrated by the fact that it takes an international crisis to force the Immigration and Naturalization Service to do the job it should have been doing as a matter of routine. Furthermore, there is serious concern that even with this concentrated effort the laws and resources may not be sufficient to do the job as it should be done.

This disarray has come about because of two important shifts in attitudes; one within our Government, and the other abroad. Within our own Government, we have abandoned the idea that immigration policy should be based on what is in the best interest of our own citizens. Virtually every important administrative, judicial, and legislative decision in the past decade has made it more difficult to prevent illegal entry, has restrained the enforcement of laws against illegal immigration with this country or has increased admissions.

For example, the Immigration and Naturalization Service (INS) has been the stepchild of the Justice Department for years. When Attorney General Bell first asked about the number, status, and whereabouts of Iranian students last year, the INS did not have the answer and could not find it in its manila folders; the INS is one of the last agencies to request and receive appropriations for computerization. The entire U.S. Border Patrol is smaller than the New York City Transit police force, and last year the Justice Department requested a decrease in its manpower. INS regulations require that illegal immigrants be advised that free, Government-supported legal services are available to fight and stall deportation. The enforcement officers assigned to investigating immigration lawbreakers in the United States has decreased by almost one-third since January 1, 1977. In recent hearings on immigration legislation there were constant questions about what would benefit other countries or special interest groups. However, there was very little reference to what would be best for the United States or its citizens as a whole.

In sum, we have abandoned the initiative in immigration policy to the increasing tide of immigrants, both legal and illegal. At the same time, the attitudes of many foreigners toward the United States has undergone a dramatic change. Potential immigrants in an earlier era saw us as a generous nation; they were grateful for the chance to come here; it is legendary that they were more law abiding than Americans who were citizens by birth.

Many of today's potential immigrants hold the United States responsible for all the world's ills, from political instability to lack of economic development. Far from being thankful for the opportunity to come to the United States, they are convinced that we are obligated to them. This attitude is illustrated by students who drop out of school or graduate and then stay in violation of their visas. Some of the Iranian demonstrators are such illegal immigrants, brazenly flouting our laws. It is further illustrated by recent immigrants who bring to this country their friends and distant relatives illegally, rather than have them wait their turns for legal immigration.

I would never question the good faith and loyalty of legal immigrants. Most have the traditional positive view of America as a nation of laws, not men. But a growing number of people throughout the world do not respect our right to limit immigration into this country.

Combined with the decline of our immigration policies, the results of these attitudes are serious indeed:

The original ceiling on immigration is riddled with loopholes; more legal immigrants come outside the ceiling than within it.

Illegal immigration is out of control; nobody claims to know how many illegal immigrants are in the United States or where they live.

Some well-meaning people are calling for the United States to embrace all of the world's refugees, in disregard of the size of the world's refugee problem and of America's limited ability to absorb them.

Immigration—legal and illegal—could add 45 million people to our population by the year 2000, in a time when we have an urgent need to conserve energy and resources.

It is time for the United States to regain control of its immigration policy, just as other major countries are doing. We can begin in Congress and the administration with a renewed commitment to protecting the interests of American citizens in making immigration policy. Our policies must not be determined by special interests or people in other lands. We need fundamental, comprehensive reform of our immigration laws, but that will take years to develop. In the meantime, I would recommend the following specific steps which can and should be taken by Congress and the administration.

RECOMMENDATIONS FOR RESOLUTIONS

ADMINISTRATIVE CHANGES

Return the priorities of the INS to the enforcement of immigration rather than processing paper.

Tighten loopholes in administrative regulations:

The ability of a student to support himself during his studies should be assured before a student visa is granted, to avoid his taking a job here. (This is a discretionary decision of the consular officer, who can even require the student to post a bond, if necessary, to insure his return.)

The ability of the student to speak English must be shown before a visa is granted; current examinations are inadequate. (This is another discretionary decision of the consular officer; as a result, many "students" cannot take classes, or fail in them, because they cannot understand.)

Both schools and students should not be allowed to fail to report the student's status; existing laws should be enforced. (INS does not even know how many are in the country; its estimates do not include those who get in on student visas, but do not sign up in school.)

PERSONNEL CHANGES

An experienced, tough administrator who knows the problems and issues of immigration must be appointed to head INS. Political and special interest group pressures must not be allowed to weaken enforcement and management priorities of the INS.

SHORT TERM LEGISLATIVE CHANGES

Section 245 of the I and N Act (adjustment of status section) should be changed to insure that students return home after their studies, rather than simply changing their status to that of legal resident aliens and remaining here.

Realistic penalties for schools that do not report the whereabouts of their foreign students should be enacted; the current penalty, removal of accreditation to receive foreign students, is so severe that it is never invoked. A varying scale of penalties, with fines for single abuses, and larger penalties for patterns of misconduct, may be a better way to enforce the requirement.

Limitations on the ability of the INS to grant waivers of visa conditions to students should be enacted, to prevent the current procedure in which a student's real condition is not checked before waivers for jobs or overstays are granted.

Penalties for employment of illegal aliens, including overstaying students, should be enacted.●

FIFTIETH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER

● Mr. HATFIELD. Mr. President, the relationship between Presidents and justices of the Supreme Court is inevitably intertwined with the doctrine of separation of powers. In the 1960's the Johnson administration was rocked by the revelation that the President had on occasion obtained the counsel of Justice Abe Fortas. It was contended at that time that the separation of powers doctrine forbids any such exchanges between the two branches. Such a firm position would create difficulties for a President whose trusted friend and adviser became a member of the Court.

President Herbert Hoover's personal relationship with members of the Court, his judicial philosophy, and his own appointments to the Court, are the subject of an essay by Dr. Francis William O'Brien. Dr. O'Brien holds the position of John Tower professor of political science at Southwestern University, named for our distinguished colleague, the senior Senator from Texas. Professor O'Brien's essay, "Herbert Hoover: The New Deal and the Court" is based on an article published originally in the 1975 Iowa Law Review. Professor O'Brien has submitted his revised paper to me for publication in the series of essays commemorating the 50th anniversary of the inauguration of Hoover as our 31st President.

Given his high profile in Government and outstanding reputation, it was inevitable that Hoover would have at least some acquaintance with Supreme Court justices when he assumed the Nation's highest office. In fact, he had warm friendships with a few. Hoover had a number of formal consultations with Justice Louis Brandeis during Hoover's years as Food Administrator and Director of American relief in Belgium. There were also many social get-togethers between the Hoover and Brandeis families. Brandeis remarked in 1917:

> In 1 hour I learned more from Hoover than from all the persons I had seen in connection with war materials heretofore.

Brandeis' opinion of and friendship for Hoover declined however and Brandeis termed him "generally disappointing" in 1931, although he had termed Hoover the man most fit for the Presidency in 1921.

Another justice with whom Hoover was well acquainted was Charles Evans Hughes, who was a former Supreme Court Justice when they joined the Harding Cabinet, Hughes as Secretary of State and Hoover at Commerce. According to Hughes' biographer, mutual admiration and interests brought the two men together frequently. In early 1929, President-elect Hoover consulted Hughes on his inaugural address, and accepted his advice. A year later, Hughes became Hoover's first nominee to the Supreme Court, as Chief Justice. He was the first of four Hoover nominees—including Benjamin Cardozo, John J. Parker, and Owen J. Owens. Owens was nominated and confirmed when Parker was rejected, for largely political reasons, according to Professor O'Brien. The first three all had prior judicial practice, which Hoover preferred, and all have been generally highly rated by legal scholars.

Hoover's closest friend on the Supreme Court was Justice Harlan Stone. Stone had been Attorney General in the Coolidge Cabinet, and the friendship between the two men did not cease when Coolidge nominated Stone to the Court in 1925. Justice Stone also helped Hoover with his inaugural address.

Letters between the two men demonstrate that their friendship continued during and especially after the Hoover Presidency. This may seem surprising, given Hoover's caustic criticism of the New Deal, and Stone's consistent position upholding New Deal legislation in Court tests. However, Stone's letters suggest that he may not have differed with Hoover's views, although he did not let his personal opinions obstruct his decisions on the constitutionality of the legislation being challenged.

Hoover shared Stone's dedication to the doctrines of judicial restraint, and independence of the Court. Hoover made an issue of a Roosevelt speech in 1932 in which the democratic nominee charged that the Republicans had control of all branches of Government in 1929, including the Supreme Court. Hoover attacked his opponent for this indication that it was the function of the party in power to control the Court, and charged that his opponent would attempt to make the Court subservient to the Presidency, if elected. Predictably, Hoover was strongly critical when Roosevelt in fact attempted to pack the Court in 1937.

Mr. President, I believe my colleagues will find Professor O'Brien's essay on Hoover's attitudes toward the judiciary, and on his relationship with some of its towering figures to be an excellent case study of ties between the executive and judicial branches. I request that the essay, plus a brief biographical sketch of its author, be printed in the RECORD.

The material follows:

BIOGRAPHIC SKETCH OF FRANCIS WILLIAM O'BRIEN

Born: 1917—Wilmar, Minnesota

Education: A.B. in Philosophy, Gonzaga University, 1941; M.A. in History and Political Science, Boston University, 1952; Certificat D'Etudes Francoises, Universite de Poiters, 1961: Ph.D. in Government, Georgetown University, 1956.

Professional Experience: Georgetown University, 1956–61, University of Lausanne, Switzerland, 1965–67, Rockford College, 1968–71, Senior Research Scholar, Hoover Presidential Library, West Branch, Iowa, 1971–72, Director of Academic Programs, Hoover Presidential Library, John Tower Professor of Political Science, Southwestern University, 1975—.

Publications: Author, The Hoover-Wilson Wartime Correspondence, Iowa State University Press, 1954, Two Peacemakers in Paris: The Hoover-Wilson Post-Armistice Letters, Texas A & M University Press, 1958, Divided Ireland: The Roots of the Problem, Rockford College Press, 1971, Was Justice Done?, Rockford College Press, Justice Reed and the First Amendment, Georgetown University Press, 1958.

HERBERT HOOVER: THE NEW DEAL AND THE COURT

(By Francis William O'Brien)

I. INTRODUCTION

For some time, most scholars have been in agreement as to the 11 presidents who deserve the accolade of "great" or "near great." [1] Recently, however, there has been a disquieting realization in academic circles that not a few presidents previously singled out for such rare distinctions actually won their place in history by bold and adventuresome acts which were, at least in the critical eye of many disillusioned scholars, of dubious constitutional validity.[2] Still, the country must have its heroes. If ribbons are to be reclaimed and chevrons stripped from the sleeves of the undeserving, then other men must be found upon whom these awards can be more safely bestowed. In short, today's historians are in search of a constitutional president.

But it is not the purpose of this brief work to join in such a quest. Let others participate in the pursuit. It will indeed prove rewarding to the quick in the field of history, even though dead Presidents may have little concern about improving their weekly ratings with contemporary pollsters.

The subject of this limited study is Herbert Hoover, the 31st President of the United States, who has not scored high with historians engaged in the rating game.[3]

But the centennial of his birth, celebrated in 1974, prompted a surprising number of academic people to address their scholarly attention to our engineer President.[4] And the recent fiftieth anniversary of Hoover's Inauguration as President in March, 1929, has added new momentum to the scholarly energy released in 1974; already a number of quality works have been undertaken by academicians in their efforts to reassess the unfortunate victim of the great Depression.

The following pages will confine themselves primarily to the study of Hoover and the United States Supreme Court from 1933 to 1943. There is justification for such a limited research. The awesome authority vested in the federal judiciary means that a President by his appointing prerogative alone can influence American policy, foreign and domestic, to a degree far beyond what any of his contemporaries can calculate. A few Presidents have stated without qualification that their appointments were intended to redirect the thinking of the High Tribunal.[5]

In 1937 President Franklin Roosevelt attempted to "pack" the high tribunal with men whose previous activities carried FDR's imprimatur for New Deal orthodoxy. Although his plan was aborted by hostile public opinion and a Congress resolutely opposed, Roosevelt soon won his war when death and retirement permitted him to fill vacated

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Footnotes at end of article.

chairs with persons committed to the New Order.[6]

Hoover—like every American Chief Executive—was undoubtedly concerned with the political philosophy of persons he placed on the Supreme Court and the lower federal tribunals, but this concern never prompted him to mount any major crusade to capture the judiciary for his brand of Republicanism. His first three nominees to the Supreme Court have been almost universally acclaimed as men of superb judicial qualities: Chief Justice Charles Evans Hughes, Benjamin N. Cardozo, and John J. Parker. The Senate rejected Parker, largely for political reasons. Whereupon Hoover nominated Owen J. Owens who quickly won approval from the Senate.[7]

It seems that sufficient introductory material has now been given before considering Hoover's relationship with three distinguished Supreme Court Justices, especially his relationship with the highly regarded Justice Harlan Stone. Constitutional purists may raise eyebrows in detecting here a slight penetration of the separation principle. They need not be scandalized; even President Wilson, an eminent scholar and practitioner in the art of Politics, consulted Justice Louis Brandeis on several occasions.[8] Apparently this respected authority on constitutional government saw no improprieties in such consultations.

II. HOOVER'S ACQUISITION OF A JURISPRUDENTIAL BACKGROUND

Herbert Hoover was not an attorney nor did he have any academic background providing the special skills of a professional constitutional lawyer or a constitutional historian. Indeed, his engineering studies at Stanford left him little time to acquire a truly broad liberal arts education.[9] Nevertheless, Hoover was fully aware of his need for such an education and soon made efforts to provide for the deficiency. Being a voracious reader, he privately studied the works of Adam Smith, Mill, Bagehot, the English novelist, and prominent economic theorists.[10] He reinforced his reading by years of travel and by living in many foreign lands. Possess a highly retentive memory and a faculty for clear expository discourse, Hoover's informal education in legally related subjects evidently was of use to him in his later political life. In January 1917, Justice Louis Brandeis remarked: "In one hour I learned more from Hoover than from all the persons I had seen in connection with war materials heretofore." [11] The observation was similar to those commonly made by people who spoke with Hoover.

Hoover's acquisition of a knowledge of the law and the workings of the American judicial system must be attributed primarily to the positions he held and the personal associations he made. First as Food Administrator, then as Director of American Relief in Europe, next as Secretary of Commerce for eight years, and finally as President for a four-year term, Hoover had perforce to deal with laws and with courts applying these laws in cases of his immediate concern.[12]

Many of Hoover's early associations also contributed to his understanding of the law and its importance to society. For many years some of Hoover's closest advisers and most intimate friends were members of the Supreme Court. His calendar reveals that during the first world war he and Justice Brandeis had a large number of formal consultations.[13] In addition, the Hoovers and the Brandeises were close socially, and frequently dined at one another's table.[14] Justice Brandeis found Hoover's conversation stimulating and enjoyed the exchange of ideas in the warm atmosphere of the Hoover home.[15]

In 1921 Hoover became Secretary of Commerce while Charles Evans Hughes, formerly a Supreme Court Justice, was named Secretary of State in the same Harding cabinet. Hughes' biographer, Merlo J. Pusey, states that "[m]utual admiration as well as mutual interest in foreign commerce brought Hughes and Hoover frequently together." [16] In early 1929 the President-elect consulted Hughes on his inaugural address and followed the counsel proffered.[17] In 1930 Hoover nominated him to be Chief Justice of the Supreme Court. Their correspondence continued long after Hoover had left the White House.[18]

Hoover's most intimate friend on the Court, however, was Justice Harlan Stone. The two established a close relationship during the years 1924 to 1925 when Stone served in President Coolidge's cabinet as Attorney General.[19] The association was not broken when in 1925 Stone donned the black robe and took his place on the bench of the Supreme Court. The families dined frequently together much to Stone's delight, for, in Stone's own words. Hoover was "always loaded to the brim with information about the current economics of the country" and "liked to have people around with ideas in their heads." [20]

From these associations with prominent Supreme Court Justices, it can be assumed that Hoover, always inquisitive and highly alert, acquired an appreciable amount of information about the Supreme Court and about the inner operations of the American constitutional system.

III. HOOVER AND THE SUPREME COURT: THE PRESIDENTIAL YEARS, 1928 TO 1932

Hoover's attainment of the nation's highest office in 1928 did not mark the end of his relationship with the members of the Supreme Court. Indeed, Justice Stone helped the president-elect with his inaugural address.[21] The able Justice later advised the president on appointments, and gave counsel on general policies.[22] During his years in the White House, Hoover frequently consulted Stone on presidential speeches [23] and even invited him to join the President's early morning "medicine ball cabinet." [24] Stone, although a Coolidge apopintee, did become allied with the Court's liberals and was somewhat critical of Hoover's views from 1930 to 1932.[25] Nevertheless, the personal relationship between the two men remained strong. When Roosevelt became President, Stone himself never really became reconciled to the "new order." [26] Until the Justice's demise in 1946, he and Hoover remained close personal friends and exchanged regular correspondence.[27]

While Hoover's relationship with Stone was enhanced during his presidency, his association with Justice Brandeis, established years earlier, slowly deteriorated. Brandeis had observed in 1917 that Hoover "seems to me the biggest figure injected into Washington life by the war." [28] In 1920 his enthusiasm was so great that he proposed Hoover as the man most fit for the Presidency.[29] However, his burning enthusiasm soon began to cool [30] and by 1931 he wrote that "Hoover has been generally disappointing." [31] This general deterioration of the Hoover-Brandeis relationship is perhaps best explained as a reaction of Brandeis to what he considered overly conservative politics on the part of the nation's chief executive.

Curiously, however, while Brandeis reproached Hoover for failure to adopt more progressive reform measures to meet the depression, others judged him a potentially dangerous radical. In November 1929 Chief Justice William Taft wrote, "[t]he truth is that Hoover is a Progressive, just as Stone is, and just as Brandeis is and just as Holmes is." [32] In April he had warned that "Hoover would put in [the Supreme Court] some rather extreme destroyers of the Constitution." [33] The only hope, he warned in December, was "for us to live as long as we can" and thus ward off "an attempted revolution." [34]

These statements by Taft appear somewhat enigmatic when viewed in relation to Hoover's belief in an independent judiciary and his later opposition to Roosevelt's court-packing plan.[35] While he was President, Hoover often expressed the opinion that Supreme Court appointments should not be made on grounds of political expediency. On October 28, 1932, shortly before the fateful November election that was to relegate Hoover to the role of "elder statesman," he spoke these words:

In Governor Roosevelt's address delivered on October 25th he stated:

"After March 4, 1929, the Republican Party was in complete control of all branches of the Government—Executive, Senate, and House, and I may add, for good measure . . . the Supreme Court as well."

I invite your attention to that statement about the Supreme Court. There are many things revealed by the campaign of our opponents which should give American citizens concern about the future. One of the gravest is the state of mind revealed by my opponent in that statement. He implies that it is the function of the party in power to control the Supreme Court. For generations Republican and Democratic Presidents alike have made it their most sacred duty to respect and maintain the independence of America's greatest tribunal. President Taft appointed a Democrat as Chief Justice; President Harding nominated a Democratic Justice; my last appointment was a Democrat from New York State whose appointment was applauded by Republicans and Democrats alike the nation over. All appointees to the Supreme Court have been chosen solely on the basis of character and mental power. Not since the Civil War have the members of the court divided on political lines.

Aside from the fact that the charge that the Supreme Court has been controlled by any political party is an atrocious one, there is a deeper implication in that statement. Does it disclose the Democratic candidate's conception of the functions of the Supreme Court? Does he expect the Supreme Court to be subservient to him and his party? Does that statement express his intention by his appointments or otherwise to attempt to reduce that tribunal to an instrument of party policy and political action for sustaining such doctrines as he may bring with him? [36]

On October 31 he returned to this charge and put this question to his New York audience:

"[I]s the Democratic candidate really proposing his conception of the relation of the Executive and the Supreme Court? If this is his idea, he is proposing the most revolutionary new deal . . . yet proposed by a Presidential candidate." [37]

This statement perhaps displays a degree of prescience of the Roosevelt court-packing plan of 1937. Hoover's concern, however, for maintaining a constitutional presidency extended beyond the realm of the separation of powers principle. During his tenure as chief executive, Hoover was reluctant to impose massive governmental controls on the private sector. Many years after he had left the White House, Hoover recalled that in September 1931 the President of General Electric had asked for a reorganization of American industry under the name of "economic planning." The Attorney General ruled the plan wholly unconstitutional after Hoover had submitted it to him with a note containing these words:

"This plan provides for the mobilization of each variety of industry and business into trade associations, to be legalized by the government and authorized to "stabilize prices

Footnotes at end of article.

and control distribution." There is no stabilization of prices without price fixing and control of distribution. This feature at once becomes the organization of gigantic trusts such as have never been dreamed of in the history of the world. This is the creation of a series of complete monopolies over the American people. It means the repeal of the entire Sherman and Clayton Acts, and all other restrictions on combinations and monopoly. In fact, if such a thing were ever done, it means the decay of American industry from the day this scheme is born, because one cannot stabilize prices without restricting production and protecting obsolete plants and inferior managements. It is the most gigantic proposal of monopoly ever made in history." [39]

Later in 1931 the president of the Chamber of Commerce had urged Hoover to propose the plan to Congress.[39] In September 1932 he had again pressed Hoover, observing that Roosevelt supported the proposal. However, Hoover replied that the plan would create monopolies.[40] In his 1952 *Memoirs*, he quietly remarked that "Mr. Roosevelt kept his pledge [to support the proposal] and the 'NRA' [National Industrial Recovery Act] was the resulting Frankenstein." [41] This conflict in governmental ideologies between Hoover and Roosevelt was to provide the impetus for many of Hoover's writings after leaving the presidency.

IV. HOOVER AS EX-PRESIDENT, NEW DEAL LEGISLATION, AND THE SUPREME COURT

Soon after Hoover's defeat in November 1932, he took up his pen to write a quasi-philosophical disquisition entitled, *The Challenge to Liberty*.[42] Much of the book is devoted to a discussion of the nature of freedom and to a contrast of the American system of democratic government with Nazism, Facism, Communism, and socialism.[43] Hoover was undoubtedly *in medias res* of this undertaking at the time of the epoch-making "hundred days" which ensued immediately upon Roosevelt's inaguration on March 4, 1933. Thus, *The Challenge to Liberty* is sprinkled with reference to the concentration of power in the executive,[44] to the threat to freedom posed by industrial codes,[45] by managed currency,[46] by measures regimenting agriculture,[47] and, in general, by "emergency acts" which tend to become permanent.[48]

Hoover sent an autographed copy of *The Challenge to Liberty* to Charles E. Hughes, Jr., lawyer-son of the Chief Justice then with a New York law firm. In his reply of November 17, 1934, the younger Hughes wrote:

"I have read it with interest and admiration, and am confident to say that it will have great influence in keeping to the ideal, however perplexing may be particular questions of its practical application." [49]

There is no clear indication in the documentary holdings of the Hoover Presidential Library that Hoover sent copies to Chief Justice Hughes or to Justice Stone. However, on March 29, 1935, Hoover penned these few lines to Stone:

"I have your kind note.

"There is a profound change going on in the public mind. It is moving away from white rabbits. I have the egotism to believe the little book has been some contribution, as over 120,000 have been distributed, and it seems to pass around as a sort of text book." [50]

The Stone note referred to in the above letter is not found in the Hoover Presidential Library, but from Hoover's words it would appear to have been Stone's letter of congratulations on *The Challenge to Liberty*.

In the meantime a number of monumental cases were wending their way to the Supreme Court, and there is abundant evidence that Hoover was intensely interested in the issues involved and in the decisions as they were handed down. The Hoover papers bulge with clippings on these cases culled from scores of newspapers.[51] The clippings include editorials, both complimentary and critical of the decisions, by-line articles on the Court, and several Court opinions printed in full in leading newspapers.[52] The scrapbooks also contain autographed articles sent to Hoover by men in tune with his thinking about the Supreme Court. In addition, the Hoover files contain a significant amount of correspondence with Justice Stone on pending cases.[53] On December 4, 1933, Stone wrote to Hoover, who was then in California, a letter containing this frank paragraph:

"There is every indication here that the country is becoming roused over the disposition of the administration to trifle with the currency. Unless the President recedes from the extreme position which he has been taking, which I think not impossible, we shall see a battle royal." [54]

Stone probably had in mind such matters as the Act of May 12, 1933, which authorized the President to adjust the gold content of the dollar and the Joint Resolution of Congress of June 5, 1933, to cancel the "gold clause" in private contracts and government bonds.[55] It may reasonably be inferred that Hoover and Stone both felt that such legislative actions might be interpreted by President Roosevelt to constitute a license to exercise broad executive power.

On September 18, 1933, Stone addressed a letter to Hoover in which he made several observations concerning Roosevelt's sweeping economic reforms.

"I have been watching with the greatest interest the progress of this NIRA. The signs multiply that the benefits are temporary. Those that are not temporary will I think prove to be illusory. Undoubtedly there is an increase of consumer buying much of which could not have been postponed without artificial stimulation but there is evidently much anxiety in Washington as to the extent and permanence of the gains.[56]

Three weeks earlier Stone had sent to Hoover a short note with an enclosed editorial praising a speech by Republican Governor Gaspar G. Bacon of Maine. Stone observed that the "editorial itself seems to contain some food for thought. I hope our Republican speakers have read it." [57]

The editorial pointed out, with evident approval, that Bacons speech was "a scathing review of what the new deal has cost the county. . . ." It also listed Bacon's proposals to "minimize federal supervision of the petty details of business; strip down the NRA to fundamentals; make the cities and states assume more of their obligation. . . ." [58] Such recommendations for governmental reform obviously mirrored the attitudes of Hoover; it is no wonder Stone chose to forward the editorial to the ex-President. The editorial further reported, however, that Bacon had not attacked the motives of the administration, nor condemned the experiments in their entirety. More important, Bacon had underscored the need for affirmative action from Republicans instead of indulging in uninstructive negative criticism. He urged all Republican critics firmly to resolve to supply alternative solutions for policies that had failed in such a demonstrable fashion.

Hoover, inspired by the Bacon editorial, was one of the Republicans who, with pen and tongue, continued to attack the Roosevelt administration. Consistent, however, with Bacon's admonition, he was constructive in his criticism, stressing that "it is the duty of the [Republican Party] to insist upon realist methods of recovery, real jobs for labor and real markets for the farmer." [59] Nevertheless, the furthest stretch of the Hoover governmental philosophy did not so much as touch, let alone embrace, many of the political theories embodied in the NRA.[60] Section 3 of the Act authorized representatives of the various interstate trades and industries to develop regulatory codes for their respective business.[61] Such codes purportedly had the force of law,[62] after approval by the President.[63] After such codes had been submitted to the President, he had unfettered discretion to modify them in any manner he felt would effectuate the policy of the Act [64]—the rehabilitation of industry.[65] Naturally, the creation of the NRA and its later developments were viewed with growing alarm by Hoover. Knowing that the Act would undoubtedly invite constitutional challenges, Hoover must have drawn much comfort from Justice Stone's observation in September of 1933 that there was "anxiety" in Washington over the signs that "the extent and permanence of the gains" from the NRA would be "temporary" and "illusory." [66]

In early 1934 Hoover prepared a manuscript against "planned economy" and sent it to the Justice for his appraisal. Stone replied that he fully agreed with Hoover's main thesis,[67] adding that he deplored "the steady absorption of power by the President, the failure of Congress to perform its legislative functions . . . the creation of drastic administrative procedures without legislative definition. . . ." Stone cautioned, however, that the world of 1934 was not the world that Jefferson knew, and that the development of vast corporations required considerably more restriction of individual liberty than had been necessary in the early 1800's.[68]

On May 15, 1935, Hoover called for abolishing the NRA, condemning it for saddling America "with the worst era of monopolies we have ever experienced." [69] He observed that "NRA codes have been crushing the life out of small business and they are crushing the life out of the very heart of the local community body. . . ." [70]

Just two weeks later, on May 27, a unanimous Supreme Court struck down the NRA because it was an unconstitutional delegation of legislative authority to the President and because, in the case before the Court, it regulated an activity that bore the character of intrastate commerce.[71] Hughes wrote the Court opinion and Justice Cardozo supported him in a concurring opinion which carried the pithy observation that "[t]his is delegation running riot." [72]

This decision had been foreshadowed in *Panama Refining Co.* v. *Ryan*,[73] the "hot oil" case, when an 8–1 Court struck down section 9 (c) of the NRA. That section of the Act purported to authorize the President to prohibit the transportation, in interstate and foreign commerce, of "petroleum and petroleum products which are produced or withdrawn from storage in excess of the amount permitted by state authority." [74] In pursuance of the Act's goals, the President was given unlimited authority to make policy decisions and to issue orders.[75] The Court held that section 9 (c) was an unconstitutional delegation of broad legislative powers of regulation without any statement of policy sufficient to prevent abuse of executive discretion.[76] Only Justice Cardozo dissented.[77] When the case was argued on December 10, 1934, the Justices were particularly disturbed to learn that criminal penalties attached to violation of the executive order involved, that the respondent, the original defendant, in the case had been jailed for violation of the order, and that, in general, a private citizen had no way of learning the contents of such orders or the dates they were issued.[78]

Nevertheless, on February 18, 1935, President Roosevelt won a noteworthy victory when the Supreme Court upheld the Joint Resolution of Congress of June 5, 1933, which nullified clauses in private contracts that required discharge of financial obligations in gold.[79] In this 5–4 decision, all three Hoover

Footnotes at end of article.

appointees—Justices Hughes, Cardozo, and Roberts—were in the majority which supported the government. Concurrently, however, in the other gold clause case, *Perry* v. *United States*,[80] the government suffered a setback when the Ccurt ruled that government bonds, as distinct from private debts, were contractual obligations of the government and that, therefore, the legislature could not vary the terms of such agreements to pay debts as stipulated.[81]

While it is beyond the scope of this Article to discuss all of the Court's rulings which were hostile to Roosevelt's recovery programs, mention should be made of *Humphrey's Executor* v. *United States*, also decided on that fateful May 27, 1935.[82] In that case, the Court struck at the President's pride and prestige when it forbade him power to remove from office a Commissioner of the Federal Trade Commission without a proven cause as stated in the law of Congress. It was a unanimous decision.[83]

In the following term, which commenced in October 1935, the Court continued its assault upon the New Deal. On January 6, 1936, a 6–3 decision in *United States v. Butler*[84] nullified the 30-month old Agricultural Adjustment Act (AAA) as being an unconstitutional use of the taxing power to regulate matters which lay within the province of the states.[85] Justice Hughes and Roberts helped make up the majority but Justice Stone filed a vigorous dissent.[86] Initially, Stone's agreement with the government in the case appears paradoxical in view of a letter Stone wrote to Hoover on November 19, 1935,[87] commenting on the latter's November 16 speech, entitled, "The Consequences of 'Economic Planning'." [88] A substantial portion of the speech addressed itself to "managed currency" and said nothing directly about the AAA. Nevertheless, Stone volunteered some gratuitous criticism about the Act:

"In the phrase of Justice Holmes, your speech was 'sockdological.' It was sound, courageous, well put, constructive, and will have great influence. I hope you will make others.

"The falacies of the economy of scarcity are a fruitful subject for discussion. Even the farmers should be made to understand the irretrievable loss of markets which is the consequence of artificial restrictions on production, and it is well to remember that considerably more than fifty percent of the population of this country is made up of consumers rather than producers.

"I think, too, that the country would be startled if it could know, in some detail, the truth about the bureaucracy which is being built up and the way in which it is operating. There should be organized research in governmental functions all along the line and the results, if expounded by one capable of handling facts as you handled them Saturday night, would have a profound effect. . . . I hope you will continue to speak." [89]

Arguments in the AAA case were heard on December 9, 1935,[90] but the Justices must have seen the briefs somewhat before that date, possibly even prior to November 19. On January 6, 1936, Justice Stone delivered his vehement dissent which endeared him to many liberals and which was interpreted by many as his complete endorsement of the New Deal.[91] Then, on January 16, 1936, Hoover gave a speech entitled "New Deal Agricultural Policies and Some Reforms." [92] It attacked the AAA as a "flagrant flouting of the Constitution" destined to bring "destruction to the farmers as well as to the nation." [93] Despite his dissent in *Butler*, Justice Stone's response of January 22 carried this direct message:

"I liked your Nebraska speech. I thought all the criticism of the A.A.A. was well taken. I suspect that much might also be said about the unfortunate effect of the curtailment of production on the home market if the statistics were available. I liked your constructive program because it was *constructive*, and because it did not go further than one could reasonably see ahead." [94]

The truth of the matter is that Stone had little regard for much of the New Deal and often said so privately to his close friends, as evidenced by his letters to Hoover. However, as a judge he refused to allow his distaste for any specific policy of Congress to be his sole guide for measuring the *constitutional* power of Congress to incorporate such policy into the law.[95] In other words, Stone embraced a philosophy of judicial restraint similar to that of Justice Holmes. It is clear that Stone, in upholding New Deal legislation which he personally deemed undesirable, was merely preventing his agreement or disagreement with the legislation from interfering "with the right of a majority to embody their opinions in law." [96]

V. HOOVER AND THE ROOSEVELT COURT-PACKING PLAN

In November 1936, Roosevelt won a resounding victory in the presidential and congressional elections. Armed with a new mandate, he resolutely determined to curtail the obstructive powers of the Supreme Court. The essential feature of the plan which he thus proposed on February 5, 1937, was a provision allowing him to enlarge the membership of the Court to as many as 15 Justices.[97] Hoover joined battle with great alacrity and issued a short statement that very day.[98] It praised as "admirable" some of Roosevelt's proposal for judicial reform, but condemned its substance.

"The Supreme Court has proved many of the New Deal proposals unconstitutional. Instead of the ample alternatives of the Constitution by which these proposals could be submitted to the people through constitutional amendment it is now proposed to make changes by 'packing' the Supreme Court. It has the implication of subordination of the court to the personal power of the Executive." [99]

This last sentence is reminiscent of Hoover's admonition of October 1932, that Roosevelt might attempt to gain control of the other branches of the government.[100]

On February 20, 1937, Hoover gave a more detailed critical analysis of Roosevelt's proposal,[101] and in the ensuing years, he touched upon the subject again and again.[102]

In the seven months following February 5, 1937, the country was presented with the spectacle of a whole nation torn asunder by the highly charged debate over the burning issue. Finally on August 26, Congress gave the proposal its *coup de grace;* having removed the central "court-packing feature," it passed the bill with some of its minor provisions still intact.[103]

There was some speculation during the long debate that Justice Stone was not entirely against Roosevelt's plan, but there is an abundance of evidence to rebut such speculation.[104] There is also an interesting letter from Stone to Hoover, written October 24, 1938, which, in spite of its generalities, might possibly be interpreted as proof of his dislike of the plan. In that letter he wrote:

"We enjoyed greatly your radio address the other evening, and are looking forward to the next one. It was a powerful speech and ought to arrest attention. There are good signs that the country is about ready to give thought to the dangers of our present situation." [105]

In Hoover's speech of October 17, 1938, three weeks before the congressional elections, he criticized at several points Roosevelt's attempt to change the Supreme Court.[106] Stone's letter could be construed as an endorsement of these critical remarks, although admittedly, the Justice may have been directing his praise merely to other portions of a fairly long phillipic against the Roosevelt administration. Hoover's address, entitled "Undermining Representative Government," was delivered at Hartford, Connecticut and was a plea for Americans to defeat all New Deal legislators and return a Republican Congress in November. The speech attacked nearly every aspect of the New Deal, "the malignant growth of personal power in this Republic," and the failure of Roosevelt to solve the unemployment problem and the economic depression.[107] In his final remarks, Hoover said:

"Under a screen of fair-sounding phrases we have seen the President of the United States steadily driving for more and more power over the daily lives of the people. We have seen him attempt to control the Supreme Court. We have seen his domination of Congress. We have seen personal control of expenditures. We have seen the attempt through the power of government expenditure to pollute the ballot. We have seen the attempt to mix in a system of free enterprise a system of creeping collectivism. We have seen a vindictive campaign to array class against class and group against group.

"All this is the destruction of freedom and prosperity. If freedom is to reign on this continent the American people have to attend to it themselves. They can no longer leave it to the government." [108]

Hoover's remark exhorting the American public to recognize "the dangers of [their] situation," echoed the thoughts expressed by Justice Stone in his letter of October 24, 1938.[109] Months before Congress decisively defeated Roosevelt's Court-packing plan, the Court itself, in a series of reversals, had begun to validate New Deal legislation.[110] In his *Memoirs* 1952 Hoover recorded the President's triumph in these laconic words: "Despite all this [opposition to the plan] it cannot be denied that Roosevelt accomplished his purpose of destruction of the independence of the Supreme Court." [111] There is manifest pain and a measure of suppressed chagrin in Hoover's observation that "[s]ome of these [1937] decisions were hardly consistent with the attitudes of some of the same judges in 1934–1936." [112] Just below the surface of these words seems to lie the poignant remembrance that two of the judges who had apparently changed their stance on New Deal legislation were Hoover's own appointees, Justices Hughes and Roberts, and that his third appointee, Justice Cardozo, had for some time been in general a New Deal supporter. Finally, Justice Stone, his closest intimate on the High Tribunal, had years earlier joined the liberal wing on the bench. Now the Roosevelt forces were quoting Stone in support of a consummation they so devoutely desired.

Of course, Hoover was fully aware of the judicial philosophy of Stone which prompted him to vote for New Deal legislation which actually solicited the Justice's skepticism and often his disapproval. Hoover might possibly have believed that the new voting habits of Hughes and Roberts were traceable to the same philosophic roots as those of Stone—a belief in judicial restraint.

When the older Justices died or retired and Roosevelt replaced them with avowed New Dealers, Hoover returned to the fray with a renewed crusading spirit against executive domination of the Judiciary. In Hoover's mind, this "packing" of the bench was even more reprehensible than Roosevelt's earlier "cowing of the Court." [113] By early 1939 the President had completely altered the nation's highest judicial body by the appointment of persons whom Hoover stigmatized with the epithet "New Dealer" or "Rabid New Dealer." [114]

Some might conclude that Hoover overreacted, but Roosevelt's general attitude toward the Court was indeed unconventional, and several of his nominees to the bench were endowed with somewhat questionable

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judicial qualifications. Years later, in 1972, a distinguished liberal constitutional historian thought Roosevelt merited the label "constitutional opportunist and pragmatist." [115] Another great admirer of Roosevelt, Arthur M. Schlesinger, Jr., had written twelve years earlier that "Roosevelt was under no illusion about the constitutional status . . . of his program." [116]

Hoover had made four nominations to the Supreme Court. Three of them had years of judicial experience on courts of high repute, and all four men were lawyers of unusual gifts.[117] Roosevelt's first five nominees had prior judicial experience which totaled only slightly more than zero.[118] Although two were highly knowledgeable in the law,[119] it was obvious to all that unquestioning fealty to the New Deal was really the badge which gave them access to the Court.[120]

Hoover seemed particularly upset by Roosevelt's first selection, Hugo Black. On August 21, 1937, he wrote to a correspondent that "the appointment of Senator Black indicates that we are not yet out of the woods over the S.C." [121] Other highly placed critics expressed a similar disquietude.[122]

VI. CONCLUSION

Sufficient evidence has been presented in this Article to prove that Hoover remained on the most intimate terms with Stone long after the Justice began to march to the beat of the liberal drummers.[123] When Hughes retired from the Court, Hoover wrote that "you have given the most distinguished service to America that she has had in your generation." [124] In a letter of June, 1941, Hoover even proposed that he and the retired Chief Justice should get together to discuss the nation's great crisis. He wrote:

"As this country is now at a great crisis than it has ever before been projected into, I am wondering if you would wish to discuss the subject with me at some early moment. I feel something must yet be done." [125]

It is unclear whether Hoover was referring to a wholly domestic crisis, one arising entirely from the country's steady drift into the Second World War, or one fostered by a combination of both domestic and international affairs. Although Hughes declined the invitation, for the stated reason that he still remained a member of the Judiciary,[126] the offer from Hoover testifies to his high respect for Hughes, long after the Justice had begun supporting the New Deal. Even after this mild rebuff, Hoover felt properly disposed to write Hughes in 1942 to ask him to read and criticize a manuscript which the ex-President had prepared for publication.[127] Actually Hughes' aid was minimal, but it is significant that Hoover solicited help from the former Chief Justice.

Hoover received much more cooperation from Chief Justice Stone, who read the manuscript carefully and submitted many suggestions which Hoover included in the book.[128] In a letter thanking Stone for his contributions, Hoover made these additional comments:

"It was very good of you to write me that letter on my speech of May 20th. It seems to have gone well with all except the left-wingers who have had a hard time to find anything wrong with it." [129]

In the speech to which Hoover alluded in his letter, he asked for general support of Roosevelt and the Congress during the war.[130] Nonetheless, the address was punctuated with some stinging remarks about the President's conduct of the war, and contained a plea that the "Fascist economic measures," admittedly necessary during the combat, "not [become] frozen into American life, but [be allowed to] thaw out after the war." [131]

Hoover's personal interest in Harlan Stone and in domestic relations also continued unabated. When Roosevelt named Stone Chief Justice on June 13, 1941, Hoover wrote the latter congratulating him on his appointment:

"My dear Mr. Chief Justice: I do not know of anything that has given me more pleasure in this time of general gloom than your appointment. It gives me some hope that the Supreme Court will have real independence and function as it should.

"As you know, I have never been one who felt it was the business of the Court to fasten the present on to the past in such a fashion as to block all progress. On the other hand, I have always felt that the Court must be independent of all the other arms of the Government and independent of influence from all other branches.

"I again congratulate you and the entire country on your appointment.

"With kind regards to both you and Mrs Stone, I am

Yours faithfully,

Herbert Hoover," [132]

Hoover's letter is of great interest because Stone's appointment by Roosevelt was a clear indication that the incumbent Democratic President was completely satisfied with the views publicly expressed by his choice for Chief Justice. Indeed, it was nothing less than an award for Stone's solid support of New Deal legislation.

In the next few years Hoover and Stone continued to exchange a number of warm personal letters.[133] The correspondence did not cease until Stone's death in 1946. On the surface, it is surprising that Hoover continued to display every sign of deep and warm friendship for a man who had been so largely responsible for winning judicial imprimatur for the New Deal. However, closer analysis suggests that the relationship was based on firmer ground than mere commonality of political ideology. As noted above, Justice Stone was an apostle of judicial restraint, much like his predecessor, Justice Holmes. He and Hoover spent considerable time together in friendly social conversation, for the two found great satisfaction in exchanging views on a variety of topics. It is not difficult to imagine Stone elaborating in these conversations on his letters which spoke so sharply against the New Deal. The tone of those writings must have sounded a sympathetic chord in Herbert Hoover. Nevertheless, Stone was also a former professor of law and "gladly would he teach." Undoubtedly he used his pedagogical skills to instruct the former President on constitutional law and judicial restraint. Hoover, one might reasonably surmise, became a convert, albeit an unwilling one. If not a convert, he must have at least learned to tolerate this philosophy when expounded by such a learned and sincere friend as Harlan Stone.[134]

FOOTNOTES

[1] Those presidents who are considered "great" include Lincoln, Washington, F. D. Roosevelt, Wilson, and Jefferson. Although there is not a consensus, most historians consider Jackson, T. Roosevelt, Cleveland, J. Q. Adams, Polk, and Truman as "near great" presidents. For example, *see* M. Borden, America's Eleven Greatest Presidents (1971); Maranell, *The Evaluation of Presidents: An Extension of the Schlesinger Polls*, J. of Am. Hist., June, 1970, at 104.

[2] *See generally*. T. Bailey, Presidential Greatness: The Image and the Man From George Washington to the Present (1966); M. Pusey, The Way We Go to War (1969); J. Javits, Who Makes War (1973); A. Schlesinger Jr., Imperial Presidency (1973).

[3] He has been placed low among the "average" Presidents by the pioneer pollster, Arthur S. Schlesinger, Sr. See his Path to the Present 96 (1949). In his 1962 poll, Schlesinger found that among 75 historians replying, Hoover was rated only slightly higher, but somewhat above Eisenhower. Maranell, *Supra*, n. 1.

[4] A small sample of the books produced since 1974 are; J. Wilson, Herbert Hoover: The Forgotten Liberal (Boston: Little, Brown & Co., 1975); D. Burner, Herbert Hoover: The Public Life (1978); F. O'Brien, the Hoover-Wilson Wartime Correspondence, (1974); and F. O'Brien, Two Peace-Makers in Paris: The Hoover-Wilson Post-Armistice Letters, (1978).

[5] Richard Nixon comes first to mind, but all Presidents have—with only rare exceptions—filled the federal benches with men of their own party whose decisions and opinions would, hopefully, reflect their own political philosophy. Washington appointed Federalists and Republican Jefferson and Madison considered party loyalty one of the cardinal criteria for a judicial appointment. When in 1810, William Cushing, the last survivor of Washington's original Supreme Court Justices, died, Jefferson wrote thus to a leading Republican: "I observe old Cushing is dead. At length, then, we have a chance of getting a Republican majority in the Supreme Court." Quoted in F. O'Brien, The Nine Rejected Men, 19 Baylor Law Review 4–5 (1967).

[6] S. Wasby, The Supreme Court in the Federal Judicial System 6 (1978). Hoover preferred that his nominees to any federal court have previous judicial experience. His first three nominations to the Supreme Court were so qualified. Eleven of his sixteen appointees to the courts of appeal came from district courts. Thus he far outdid President Eisenhower who also looked for previous judicial experience in his nominees. *Id.* 88.

[7] Professor Henry J. Abraham has the highest praise for Hoover's first three nominees and expresses regret that Parker was rejected. He writes that Roberts had many genuine qualities but opines that his actual performance on the Court would have been excelled by Parker. See Abraham, Justices and Presidents: A Political History of Appointments to the Supreme Court 185–190 (1974).

[8] A. Mason, Brandeis: A Free Man's Life 526–527 (1946) (hereinafter cited as Brandeis); R. Baker, Woodrow Wilson: Life and Latters 242, 401 (1939).

[9] 1 Herbert Hoover Memoirs 28 (1951).

[10] *See generally id.*

[11] Brandeis, *supra* note 8, at 519.

[12] *See generally* E. Lyons, Our Unknown Ex-President: A Portrait of Herbert Hoover (1948).

[13] Hoover Calendar, 1917–1978, kept at the Hoover Presidential Library, West Branch, Iowa [hereinafter the Library will be referred to as HPL]. When citing documents maintained at the HPL, reference will ordinarily be given to the file in which the documents may be found.

[14] Brandeis, *supra* note 8, at 519.

[15] Information supplied in private interview conducted in September, 1973, with Lewis L. Strauss, formerly Hoover's secretary.

[16] 2 M. Pusey, Charles Evans Hughes 427 (1951).

[17] *Id.* at 649.

[18] *See* documents contained in Post-Presidential Individual File, Box 75, HPL.

[19] J. Kane, Facts About the Presidents 203 (1959).

[20] A. Mason. Harlan Fiske Stone: Pillar of the Law 263 (1956) [hereinafter cited as Stone].

[21] *Id* at 266.

[22] *Id.*

[23] *Id.* at 270.

[24] *Id.* at 270–71. This activity, designed to keep participants in proper physical condition, was conducted on the White House lawn. It was followed by breakfast in the Executive mansion. *Id.*

[25] His basic criticism seems to have been that Hoover lacked political acumen. *Id.* at 283–87.

[26] *Id* at 289.

[27] *See* Commerce Papers, Box 283, Post-Presidential Individual File Box 178, Folder 1787, HPL.

[28] Brandeis, *supra* note 8, at 520.
[29] *Id.* at 530.
[30] *Id.* at 532.
[31] *Id.* at 601. It appears that Brandeis' only letter to Hoover after that statement is a note of October 31, 1931. President's Personal File, "Brandeis," HPL.
[32] A. Mason, The Supreme Court from Taft to Warren, 69 (1958).
[33] *Id.* at 66.
[34] Stone, *supra* note 20, at 275.
[35] *See* notes 98-116 *infra* and accompanying text.
[36] H. Hoover & C. Coolidge. Campaign Speeches of 1932, 164-65 (1933).
[37] *Id.* at 187.
[38] 2 H. Hoover. Memoirs 334 (1952).
[39] *Id.*
[40] *Id.*
[41] *Id.* at 335.
[42] H. Hoover. The Challenge to Liberty (1935).
[43] *See generally id.*
[44] *Id.* at 76-78.
[45] *Id.* at 80-85.
[46] *Id.* at 90-101.
[47] *Id.* at 85-88.
[48] *Id.* at 192-93.
[49] Letter from Charles E. Hughes, Jr. to Herbert Hoover, November 17, 1934, on file in Post-Presidential Individual File, Box 255, Folder 901, HPL.
[50] Letter from Herbert Hoover to H. Stone, Mar. 29, 1935, on file in Post-Presidential Individual File, Box 178, Folder 1787, HPL. *See* note 67 *infra.*
[51] Documents on file in Post-Presidential File, Box 255, HPL.
[52] *Id.*
[53] Documents on file in Post-Presidential File, Box 178, Folder 1787, HPL.
[54] Letter from H. Stone to Herbert Hoover, Dec. 4, 1933, on file in Post-Presidential File, Box 178, Folder 1787, HPL.
[55] *See* A. Kelly & Harbison, The American Constitution: Its Origin and Development, 684-685 (1976).
[56] Letter from H. Stone to Herbert Hoover, Sept. 18, 1933, on file in Post-Presidential Individual File, Box 178, Folder 1787, HPL.
[57] Document on file in Post-Presidential Individual File, Box 178, Folder 1787, HPL.
[58] Boston Herald, Aug. 22, 1934, at 14.
[59] H. Hoover, *Responsibility of the Republican Party to the Nation,* in 1 Addresses Upon the American Road, 1933-1938, at 42 (1938).
[60] Hoover expounded on his political philosophy most fully in two major works. *See* H. Hoover. The Challenge to Liberty (1935); H. Hoover, American Individualism (1922).
[61] *See* Schechter Poultry Corp. v. United States, 295 U.S. 495, 521-25 (1935).
[62] *Id.* at 529.
[63] *See id.* at 537-38.
[64] *See id.* at 538-39.
[65] *Id.* at 536.
[66] *See* text accompanying note 56 *supra.*
[67] Stone, *supra* note 20, at 371. It is likely that this manuscript became Hoover's 1935 book, H. Hoover. The Challenge to Liberty (1935). *See* notes 42-50 *supra* and accompanying text.
[68] Stone, *supra* note 20, at 371-72.
[69] 2 H. Hoover, Memoirs 126 (1952).
[70] *Id.*
[71] Schechter Poultry Corp. v. United States, 295 U.S. 495, 542, 544-48 (1935).
[72] *Id.* at 551, 553 (Cardozo, J., concurring, joined by Stone, J.).
[73] 293 U.S. 388 (1935).
[74] *Id.* at 414, 415.
[75] *Id.* at 415.
[76] *Id.* at 432-33.
[77] *Id.* at 433.
[78] Stone, *supra* note 20, at 387-88. Counsel for respondent argued thus in oral argument before the Court: "The President, or his nominees, may subject any violator to criminal procedure. Thus the Act delegates . . . to him and his nominees the power to create and define offenses against the United States." 293 U.S. at 396.

Hughes was apparently impressed, for in his opinion for the Court, he paraphrased the above argument in these words: "[I]t gives to the President an unlimited authority to . . . lay down the prohibition . . . and disobedience to his order is made, a crime punishable by fine and imprisonment." *Id.* at 415.
[79] Norman v. Baltimore & Ohio R.R., and a companion case, United States v. Bankers Trust Co., 294 U.S. 240, 313-16 (1935).
[80] 294 U.S. 330 (1935).
[81] *Id.* at 349-51.
[82] 295 U.S. 602 (1935).
[83] *Id.* at 618-19, 632.
[84] 297 U.S. 1 (1936).
[85] *Id.* at 70.
[86] *Id.* at 78.
[87] Letter from H. Stone to Herbert Hoover, Nov. 19, 1935 on file in Post-Presidential Individual File, Box 178, Folder 1787, HPL.
[88] 1 H. Hoover, Addresses Upon the Road, 1933-1938, 75-86 (1938).
[89] Letter from H. Stone to Herbert Hoover, Nov. 19, 1935, on file in Post-Presidential Individual File, Box 178, Folder 1787, HPL.
[90] 297 U.S. at 1.
[91] *See* note 86 *supra* and accompanying text.
[92] 1 H. Hoover, Addresses Upon the Road, 1933-1938, 101-13 (1938).
[93] *Id.* at 101-02.
[94] Letter from H. Stone to Herbert Hoover, Jan. 22, 1936, on file in Post-Presidential Individual File, Box 178, Folder 1787, HPL.
[95] For a good exposition of this view, see Stone, *supra* note 20, at 409-16. Stone's philosophy is also reflected in these words: "[C]ourts are concerned only with the power to enact statutes not with their wisdom." United States v. Butler, 297 U.S. 1, 78 (1936) (Stone, J., dissenting).
[96] Lochner v. New York, 198 U.S. 45, 75 (1905) (Holmes, J., dissenting).
[97] W. Leuchtenburg, Franklin D. Roosevelt and the New Deal 232 (1963).
[98] 1 H. Hoover, Addresses Upon the Road, 1933-1938, 228 (1938).
[99] *Id.*
[100] *See* notes 36-37 *supra* and accompanying text.
[101] 1 H. Hoover, Addresses Upon the Road, 1933-1938, 229-36 (1938).
[102] 1 H. Hoover, Addresses Upon the Road, 1933-1938, 350 (1938); 2 H. Hoover, Addresses Upon the Road, 1938-1940, 15, 25, 27 (1940); 2 H. Hoover, Memoirs 376-77 (1952).
[103] W. Leuchtenburg, Franklin D. Roosevelt and the New Deal 238 (1963).
[104] Stone, *supra* note 20, at 446-52.
[105] Letter from H. Stone to Herbert Hoover, Oct. 24, 1938, on file in Post-Presidential Individual File, Box 178, Folder 1787, HPL.
[106] 2 H. Hoover, Addresses Upon the Road, 1938-1940 23, 35, 36 (1940).
[107] *Id.* at 22.
[108] *Id.* at 36-37.
[109] *See* text accompanying note 105. *supra.*
[110] The leading case was NLRB v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937).
[111] 2 H. Hoover, Memoirs 377 (1952).
[112] *Id.*
[113] *Id.* at 378.
[114] *Id.*
[115] P. Murphy, The Constitution in Crisis Times: 1918-1969 246 (1972).
[116] A. Schlesinger, Jr., The Politics of Upheaval 260 (1960).
[117] Nothing need be said about Cardozo and Hughes to support this statement. Owen J. Roberts had an LL.B from the University of Pennsylvania, where he also taught law for 20 years. He had had a successful law practice and had been active as prosecuting attorney in many important federal criminal cases. John J. Parker had been active in the law ever since he graduated from the University of North Carolina Law School in 1907. He served as circuit judge in the United States Fourth Circuit Court for six years. Stone, among most other knowledgeable persons, had great respect for his legal skills. *See* Stone. *supra* note 20, at 299-300.
[118] Only Black and Murphy had had any previous experience. *See* note 120 *infra.*
[119] Frankfurter had been a highly respected Harvard law professor and Douglas had taught law at Yale. All of Hoover's four nominees, including Parker, receive high praise for their judicial endowments from a respected student of the Court, Henry J. Abraham. *See* H. Abraham, Justices and Presidents 186 (1974).
[120] Frank Murphy had been judge on a Recorder's Court in Detroit. Hugo Black had been a police judge for 18 months, but both had been strong New Dealers.
[121] Letter from Herbert Hoover to Bergman, Aug. 21, 1937, on file in Post-Presidential Individual File, Box 255, HPL.
[122] Stone, *supra* note 20, at 467-70; *see id.,* 472-76 for what other Supreme Court Justices of Black's legal skills. See also Hughes' speech to the American Law Institute for May 12, 1938, in which he mentions the harm done by certain judges "with their conspicuous ineptness." New York Herald Tribune, May 13, 1938, at 1-2. Many at the time interpreted this statement as a shaft at Justice Black and other Roosevelt appointees.
[123] *See notes* 50-56, 89-94 and accompanying text *supra.*
[124] Letter from Herbert Hoover to C. Hughes, June 3, 1941, on file in Post-Presidential Individual File, Box 75, Folder 900, HPL.
[125] *Id.*
[126] Letter from C. Hughes to Herbert Hoover, June 5, 1941, on file in Post-Presidential Individual File, Box 75, Folder 900, HPL.
[127] *See* letter from Herbert Hoover to H. Stone, June 7, 1941, on file in Post-Presidential Individual File, Box 178, Folder 1787, HPL. Hoover complained to Stone that although he had sent Hughes a copy of the manuscript, the help received was only minimal. *Id.*
[128] *Id.*
[129] *Id.*
[130] 3 H. Hoover, Addresses Upon the Road, 1941-1945 160-71 (1946).
[131] *Id.* at 162.
[132] *See* documents contained in Post-Presidential Individual File, Box 178, Folder 1787, HPL.
[133] In early 1942, Hoover prepared a manuscript which he thought would supply ground work for solutions to problems certain to arise upon the conclusion of World War II. The manuscript became the small book, *The Problems of Lasting Peace* (1942). Hoover sent Stone this manuscript and the Justice on April 15, 1942 replied with a four-and-a-half page single-spaced letter filled with suggestions. On June 7, 1942, Hoover wrote Stone a letter in which *inter alia* he asked him to approach Hughes with a request for "four or five lines" which could be used to publicize the book. "He could electrify the public if he believes in it." However, on June 23, Stone, now Chief Justice, replied that "As I fully expected, my suggestion that our mutual friend say something publicly in support of your book did not meet with a cordial reception. I can understand how he feels about it, but I really think he could render a useful public service by saying something for it." For these letters, see Post-Presidential Individual File, Box 75, Folder 900, HPL. After these exchanges there are merely personal letters with a few references to world problems and none to domestic politics or domestic problems. Hoover seems to have written no letters expressing his views on presidential power in the area of foreign affairs although the Court rendered highly significant decisions in such cases as *United*

States v. *Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936), *United States* v. *Belmont*, 301 U.S. 324 (1937), and *United States* v. *Pink*, 315 U.S. 203 (1942). These all fell within Hoover's active literary period and while Stone was on the bench. Hughes was also still on the Court for *Belmont* and *Pink*. *See id.*

[124] This essay is a revision of an article which originally appeared in 61 Iowa L. Rev. 397–417 (1975). Appreciation is expressed for permission to print here much that appeared in that article.●

THE COURAGE OF LOCAL 12

● Mr. KENNEDY. Mr. President, I would like to inform my colleagues of a recent action by American longshoremen on behalf of their fellow workers in Chile. During the week of October 15, 1979, Local 12 of the International and Longshoremen's and Warehousemen's Union, of North Bend, Oreg., refused to unload a vessel loaded with lumber from Chile.

This action was in keeping with a pledge by the ILWU at last year's Chile Legislative Conference, American longshoremen expressed their solidarity with their fellow workers in Chile, and called for a boycott of Chilean goods being brought into the United States.

On October 17, 1979, a log shipment of 5½ million feet of Chilean Monterey pine arrived in Coos Bay, Oreg., to be milled. A picket line was established by local citizens protesting the human rights record of the Chilean junta—including repression of trade unions in Chile. Immediately, the members of local 12 decided to respect the picket line, and refused to unload the cargo. "I guess you could say we lost a day's pay," said local president Joe Jakovac, "but we are very supportive of the 'Free Chile' movement."

Mr. President, this action by these Oregon longshoremen is an example of the American people's concern for the basic human rights of others, and their willingness to back this concern—at considerable personal sacrifice—with effective action. I want to commend the members of ILWU Local 12, of North Bend, Oreg., and its president, Joe Jakovac.

I would also like to bring to the attention of my colleagues the resolution on Chile that was unanimously adopted by the Oregon AFL–CIO Convention in North Bend, Oreg., on September 19, 1979. I ask that this resolution be printed in the RECORD at the conclusion of my remarks.

If the world only shared the concern of local 12 for the plight of others, and was willing to make such sacrifices to act on this concern, surely violations of human rights such as those in Chile today would be a thing of the tragic past.

The resolution follows:

RESOLUTION

Whereas the democratically elected government of Chile was overthrown by a military coup; and

Whereas the military now ruling Chile have been responsible for the death of 40,000 people, the abrogation of the human rights of the Chilean people, and the suppression of the trade union rights of the Chilean workers; and

Whereas three officials of the Chilean military have been indicted for the brutal murders of Orlando Letelier and Ronni Moffitt in our nation's capitol, and the Chilean government has refused to allow extradition of those officials; and

Whereas Congressman Thomas Harkin and 35 members of Congress, including Congressman Jim Weaver of Oregon, have written President Carter stating that our government must demand extradition of those officials because no single crime of the Chilean military dictatorship has been punished by a Chilean military court, and that passivity on the part of our government can only be perceived as a signal that the U.S. will compromise on our resident's and citizen's most basic right—the right to live;

Therefore, be it resolved that the Oregon AFL–CIO go on record to support Congressman Harkin and those other members of Congress who are urging strong measures to ensure the extradition of the indicted officials, and be it finally resolved, that the Oregon AFL–CIO urge the National AFL–CIO Convention to ask President Carter that if the Chilean government refuses extradition and continues to suppress the human rights and free trade union rights of Chilean workers, the U.S. government exercise the diplomatic, legal, economic and political sanctions at our disposal.

THE LEADERSHIP CHALLENGE

● Mr. SCHMITT. Mr. President, Joe Badal, one of the new leaders in the business community of the Southwest, has made a perceptive analysis of the leadership challenge facing young New Mexicans. This analysis can well be extended to many other States, and I call the attention of my colleagues to it.

I request that Mr. Badal's article from the September, 1979 issue of the New Mexico Business Journal be printed in the RECORD.

The article follows:

THE FUTURE OF NEW MEXICO BUSINESS

(By Joe Badal)

The future of business in New Mexico means absolutely nothing unless the subject is viewed in light of two factors:

The nature of the business climate in general.

The attraction of New Mexico for bright, aggressive, imaginative young people.

Let's look at the first factor. New Mexico has incredible reserves of natural resources and tremendous beauty. In a multitude of ways New Mexico has opportunities for environmentally sound new growth and expansion. There exist untapped opportunities all over our state for those with guts and imagination. We are the 5th largest state by land mass and have one of the smallest, but fastest growing, populations in the nation.

According to Bob Grant, author of "Energetic New Mexico . . . the Power State," New Mexico ranked eighth nationally of all non-nuclear energy producing states as of 1975. By adding nuclear power, New Mexico moves into third position in U.S. energy production, providing 5 percent of all U.S. fuel needs. One way to look at it is that 0.6 percent of the American people will support 5 percent of the American people.

We are:

1. 6th in the nation in oil production.
2. 7th in crude oil reserves.
3. 6th in natural gas reserves.
4. 4th in natural gas production.
5. 12th in coal and lignite production.
6. 1st in uranium reserves.
7. Additionally, we are in the forefront in solar energy, second only to southern Wyoming in surface winds (a form of solar energy), and a forerunner in geothermal research. Most of New Mexico, including most of the population centers along the Rio Grande, has a virtually inexhaustible supply of fresh water.

I have dwelled here on energy resources and don't want to leave the impression that other industries are unimportant. Agriculture, government, commerce, banking, mining are all vital to the growth of our state. I do, however, want to describe for you how much opportunity exists here in New Mexico just in light of energy alone. You then can see that by adding to the energy scene all other business areas, our future is exceptionally bright.

Try to imagine a state with less than 1,500,000 people, with resources which can support tens of millions of people. Imagine a state with an exceptional climate and natural beauty. Picture a state with many kinds of relatively inexpensive recreational opportunities. And throw into your analysis the fact that jobs will be increasingly available as energy-related resources are further developed. Think of the opportunities that will occur in such a state in every area of society. Banking will expand as business grows; retail shops will proliferate to handle the needs of an expanded population; recreation-oriented enterprises will grow to cope with the demands of the larger population; the society will grow in sophistication, offering its citizens further chance for self-betterment and self-fulfillment. We could go on and on painting our picture of Shangri-La. Think about it! All of what I've just said pertains to New Mexico. No, we don't walk on water, but we may be the next best thing since sliced bread, as far as capacity to grow is concerned.

Before I become too melodramatic about New Mexico's assets, I believe that we should look at the negative aspects of our New Mexico market place. There are several factors in New Mexico which contribute negatively to our present situation as well as to our future.

We continue to see a major part of our natural resources exported to other states for secondary and tertiary refining or processing. This represents a significant drain of potential construction, employment, taxes, etc.

There is a general feeling of distrust and a lack of understanding on the part of the average citizen toward business and the free enterprise system. This is not a condition specific to New Mexico alone. In many ways this situation is aided and abetted by state and federal government in an effort to create a scape goat for government's own failures. A case in point is, "Impugn the character and motives of oil companies to cover up government's failure in establishing an energy policy." The prevalence of the public's negative attitude toward business is in many ways also due to the stupidity, laziness, or even immorality of a few business people. The business community is concerned about the public's faith in it, and, rightfully, it should be concerned. New Mexico, the U.S., or even the smallest economic community, cannot operate well without public trust in its institutions and its leaders. Business is a critical part in a healthy social structure. It matters significantly that a dominating force in society, like business, exercises its authority according to legitimate claims or whether the public regards business' role as illegitimate.

The American and New Mexican businessperson has the major challenge before him not only to explain himself better, but to demonstrate that he takes the public's concerns and critiscisms seriously. This is, in part, why Business Week was initiated.

There is an increasingly obvious trend for government to infringe on the autonomy of the business system. This situation, if it continues, can mitigate, or obviate, the rosy business climate I proposed earlier. Not only

can this hamper each of your opportunities, but it can also help to destroy our freedom. Business can contribute to the preservation of a free market, competition, economic freedom and a free society only if it manages to stay alive.

Another problem in New Mexico is that support systems for economic growth are in many instances deficient. For example, when you talk of constructing a uranium mill, you are discussing the allocation of hundreds of millions of dollars. The largest financial institution in the state can lend a maximum of only about $6 million to any one borrower.

Transportation systems are lacking in many respects, San Juan County, one of the largest tax bases in the state, has no railroad and is served by some of the worst highways in the southwest.

Permanent financing particularly in today's market, is nearly impossible to acquire for moderate sized projects. Many leaders outside New Mexico have little knowledge of Albuquerque, let alone Grants, Hobbs or Las Cruces.

Perhaps, the most detrimental influence on New Mexico's future is the negative migration of many of our brightest young people to other states. This point leads us to the second of our original two factors affecting the future of business in New Mexico: the attraction of the state for bright, aggressive, imaginative young people.

Even with the negative points noted earlier, our state is a tremendous business environment. A recent study showed New Mexico to be the fifth best state of the 48 contiguous states as to conditions beneficial to business. How does all of this affect you? You are good or you wouldn't be here. There's nothing wrong with being good—you should flaunt it, not apologize for it. You owe it to yourself to be better than you are.

In this room are potentially the future leaders of not only New Mexico but even of our country. You're ambitious, farsighted, driven to do better. I don't know one of you personally, but I can assume all of this because you're here, working hard to learn. You've taken, by being here, one more step toward self-betterment. As you have the right to stagnate, to become a terminal dodo, you also have the right to be better.

All of this leading up to the assumption that most of you will go on to college; (How many of you plan on doing so?), and that most of you have well-known, out-of-state universities in mind; (How many of you see an out-of-state university as your first choice?). You obviously opt for Stanford, Harvard, Penn or University of Chicago because those schools offer opportunities over and above New Mexico institutions. If you're going to strive to be the best, then your choice is obvious, and I'm not going to insult your intelligence by recommending that you pick a New Mexico college over one of the calibre that I just mentioned. On the contrary—make the most of your opportunities. Be the best! Get your degree or degrees, expose yourself to other environments, acquire experience in sophisticated cultural and business areas.

Then stop and think! Where can you have the most influence, the biggest effect, the highest level of success. I submit that New Mexico is the place. You don't have to fight the high levels of inertia evident in major population centers in political, financial, or social circles. You don't have the problems here that other states have—problems which create corrective or backward thinking versus forward, innovative thinking. I'm not asking you to cop out nor am I supporting the big fish in a little pond syndrome—you will all be big fish in any sized pond. I am suggesting that you can realize your true potential by applying a first class education and sophisticated work experience to a venture in New Mexico. It is here that you are needed, it is here that you can contribute, it is here that you can realize many kinds of rewards. All the assets that our state has are meaningless without people like you. The permanent drain of our best young men and women to other states is the worst form of natural resources waste in New Mexico today. You see, the future of business in New Mexico is you—the system works and the economic environment, all in all, has the potential to get better and better. But, like the Porsche Turbo Carrerra that has no ignition key, and no driver, the system and the economic environment are useless unless there are enough qualified leaders to start the ball rolling and to keep it on course. You are the key—you are, again, the future of business in New Mexico.●

EFFORTS OF REPUBLIC OF CHINA TO ASSIST PEOPLE OF SOUTHEAST ASIA

● Mr. STONE. Mr. President, in the past several months, we have all become acutely aware of the hardships and suffering that millions of people in Southeast Asia must endure as a result of forces beyond their control. We have been working in the Congress, along with thousands of our citizens, to provide for swift relief to aid these victims of political terrorism.

In accordance with decisions made at this year's Tokyo Economic Summit, we realize that this remains a question requiring effective international cooperation and response. I am pleased to learn of new efforts on the part of the Republic of China on Taiwan to carry their share of the collective responsibility. Mr. President, in view of this, I would like to share a recent announcement by Yun-Sugn Sun, Premier of the Republic of China, concerning that nation's efforts and request that it be printed in the RECORD.

The statement follows:

TEXT OF PREMIER SUN'S ANNOUNCEMENT

The Republic of China is deeply concerned about the plight of Indochinese refugees.

As of mid-November, we had accepted eleven thousand of these refugees. We donated ten thousand tons of rice and five hundred thousand U.S. dollars for their support.

Now our government has decided to accept another two thousand Indochinese refugees. Some of these will come from Vietnam. The International Red Cross is being asked to arrange for transportation of refugees from Vietnam to Bangkok, and we will charter planes to bring them from Thailand to Taiwan.

All of the Republic of China's vessels at sea have been alerted to be on the lookout for boat people and take them aboard.

Our government also is donating another ten million U.S. dollars worth of rice for the support of refugees.

Taiwan has one of the highest population densities in the world. We have nevertheless welcomed one hundred and sixty-seven thousand refugees from the Chinese mainland over the years and are accepting as many Indochinese refugees as we can.

The Republic of China hopes international relief organizations will immediately arrange to send our rice to the refugees. We also hope other free countries will do more to help them.●

SOVIET EFFORTS TO INTENSIFY EMBASSY CRISIS IN TEHRAN

● Mr. HUMPHREY. Mr. President, on several occasions I have addressed this distinguished body concerning the underhanded nature of Soviet foreign policy. Earlier this year, it became painfully clear that the Soviets, on the one hand, had warned the United States not to interfere in Iran on behalf of the Shah, while with the other, encouraged through clandestine radio broadcasts anti-American sentiment in Iran. Some analysts feel these broadcasts may have served as a catalyst for the critical—albeit brief—takeover of the U.S. Embassy in Iran last February. That takeover, it will be remembered took place in tandem with the brutal murder of our ambassador to Afghanistan—an incident which the Afghanistan police force, under Soviet technical advisors, did little if anything to prevent.

More recently, I have drawn my distinguished colleagues attention to Soviet duplicity in SALT I, and to Soviet attempts through the forgery of statements by top level U.S. officials to foment anti-American sentiments in Greece, one of our most important allies on NATO's southern flank. Despicable as these maneuvers are, they do not begin to compare with Soviet underhandedness in the latest and increasingly volatile crisis in Iran. It is now clear, Mr. President, that the Soviets are working behind the scenes to intensify, rather than calm, the crisis in Iran.

On the surface, Mr. President, the Soviet Union has joined the rest of the international community in deploring the takeover of the U.S. Embassy in Iran and the detention of U.S. Embassy personnel.

Last week, for example, Soviet Ambassador Oleg Troyanovsky stated before the U.N. Security Council that diplomatic immunity from force or takeovers should be "adhered to strictly and in all cases in all countries." With the rest of the world watching Ambassador Troyanovsky joined other members of the Security Council in insisting that the U.S. diplomats held in Tehran be released immediately, because embassies are sovereign territory.

It has been known for some time that the Soviets, with varying degrees of success, have made a concerted effort to woo the Ayatollah Khomeini at the expense of United States-Iranian relations. Recently, however, Soviet-Iranian relations had taken a turn for the worse. According to Kevin Klose's recent article in the Washington Post, Izvestia recently went so far as to label the Iranian revolution a "disaster that has brought only chaos, political persecution, and fanatical repression of national minorities in Iran." Nevertheless, the Soviets, Mr. President, have been quick to seize upon the opportunities presented by the Embassy takeover.

Evidence now exists that while the Soviet Union deplores the Embassy takeover in their public statements, they are working behind the scenes to intensify the crisis which, if not handled properly and expeditiously, will threaten the lives of innocent U.S. personnel, the flow of oil to the West and Japan, and perhaps even the stability of the entire Persian Gulf region. I refer my distinguished colleagues attention to the following translation by the highly respected "For-

eign Broadcast Information Service" (FBIS) of a November 7, 1979, Soviet Persian language broadcast to Iran concerning the Embassy takeover:

(Text) Dear friends, there are reports and news coming in from Tehran about a new wave of protest against interference by U.S. imperialists in the affairs of your country. The anti-U.S. demonstrations the youth are currently carrying out in Tehran are related to the start of great protests by the youth against the regime of the Shah and U.S. imperialism in Iran (words indistinct) . . . One of the things the demonstrators are demanding is the handing over of the deposed Shah, who is presently residing in the United States. The Shah himself, however, is not their only object. The issue involves the fact that the United States received the executioner of the Iranian people, thus showing a harsh policy toward the Iranian revolution and U.S. imperialism's intentions to interfere further in Iran's affairs. Neither in Iran nor in other countries, can anything good be expected from the U.S. imperialists. In this respect the anger of the Iranian nation and its youth, who ask that a stop be put to U.S. imperialist interference in the country's affairs, is totally understandable and logical.

The Soviets have made even more blatant and inflammatory broadcasts into Iran, on November 5, 1979, from their clandestine station in Baku. This station, masquerading as the "National Voice of Iran" (NVI) has called the U.S. Embassy in Iran the "center of corruption and anti-Iranian conspiracies." NVI stated further that—

In Tehran, struggling and enthusiastic young people occupied the building of the U.S. Embassy . . . and in this way, they reflected the anti-imperialist feelings of our homeland's peoples. The reason for the climax of these anti-American struggles in our country should be sought most of all in the conspiracies of U.S. imperialism against the Iranian nation and revolution.

Mr. President, it is time that we insist that the Soviets act more responsibly, particularly in this case, where so many American lives are at stake. I never cease to be amazed by Soviet disregard for this country's sensitivities. This was demonstrated earlier this fall when the Soviets completely shrugged off our concern over the stationing of combat troops in Cuba. Playing with the lives of diplomatic personnel, who are protected by international law, is despicable, and the United States should not tolerate Soviet efforts to provoke further tension between the United States and the Iranian Government.●

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT

● Mr. HOLLINGS. Mr. President, now that the House of Representatives has passed the reauthorization and expansion of the Public Works and Economic Development Act, it is essential that a conference be immediately convened to work out a final bill. We must maintain the momentum so that we on the appropriations committee can complete our work and have a timely commencement of the important new activities the legislation will authorize.

This program, which is administered by the Economic Development Administration in the Department of Commerce, will more than double the authorizations for public works projects which will lead to new permanent private sector jobs; it will increase by some three times authorizations for direct loans and loan guarantees to the private sector to maintain and expand jobs. It will provide important new authorizations for interest rate subsidies. As the Nation enters into what may be a severe test of its economic strength, it is absolutely essential that we have this ability to help areas of the Nation which have high unemployment rates or low per capita income levels.

This greatly expanded, but tried and tested, economic development program was submitted to the Congress by the administration in April. This body completed its work by passing S. 914 on August 1. Now that the other body has passed its version (H.R. 2063), it is imperative that we get started on a conference. I hope that the conferees will move resolutely and quickly to agreement so that we can do our work in appropriations and enable the administration to get the new program going.

As chairman of the Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies that has jurisdiction over the EDA, I have tried to keep us ready to make the necessary appropriations. We have had four separate hearings on EDA this year, with the last one on September 14, 1979, devoted entirely to the funding of the programs to be authorized by the New Public Works and Economic Development Act. We are ready to appropriate within the amounts allocated in the second concurrent budget resolution for the EDA.

We have already lost 2 months of the fiscal year and the economic development program is limping along. Personnel needed to administer the new and expanded authorities cannot be hired. With key aspects of the legislation still unsettled, regulations and forms cannot be completed. Precious time is being lost.

Assistant Secretary Hall, who manages the Economic Development Administration, assures me that advance planning has been going well. His EDA staff is poised and ready to go to work to make the benefits of this new legislation available to help the lagging economies of the Nation as quickly as possible.

Now it is up to us in the Congress to do our job and complete the authorization and appropriation process. I urge my colleagues on the authorizing committees to give their priority attention to the convening of a conference and to attainment of a speedy conference agreement. On our part, I pledge early action on getting the necessary action in our appropriations committees, particularly in enlisting the vital assistance of our House colleagues in our effort to make the appropriations before this session of Congress adjourns.●

OIL PROFITS IN PERSPECTIVE

● Mr. ARMSTRONG. Mr. President, today I received a most interesting letter on the subject of profits in the oil industry. My friend Al Saterdahl has thoughtfully and forcefully debunked many of the myths about oil profits and has prepared a useful and significant analysis. Mr. Saterdahl is chairman of the Public Affairs Committee, Colorado section, American Institute of Professional Geologists. He is a man of vast experience and expertise and his analysis makes sense. I commend his comments to my colleagues.

ANALYSIS

The word profits has been so terribly abused and misunderstood that it probably ought to be banished forever to the back rooms of the accountants' offices.

Our position with regard to corporate profits is that what is really important is "who benefits from them" and not how big they are or how fast they are growing. This should be particularly important to the consumer.

The composition and disposition of "profits" in the accounting sense, which is what we see reported, is tied to the functions of "profits" which our accountants tell us is threefold:

(1) Payment of long-term debt;

(2) Payment of dividends;

(3) Creating of a surplus which is usually used for expansion of business.

From a practical standpoint, the only part of "profits" which leaves the area of corporate business is dividends on common and preferred stock. Everything else is recycled within the business and this is the single most important factor in creating additional productive jobs in the United States.

With this in mind, we have tabulated the 1978 profits of the seventeen largest U.S. oil companies as reported in the May 7, 1979 issue of Fortune.

The important results of this tabulation are as follows:

(1) Net income (profits) as a percent of sales averaged about 5 percent;

(2) Common stock dividends as a percent of sales averaged about 2 percent (Standard & Poor Stock Guide, October, 1979);

(3) Assuming a 40 percent state and federal tax rate, the net paid to holders of common stock was about 1.15 percent of sales. (preferred stock not considered because not a major factor.)

To us the results indicate that almost 99 percent of the sales dollar in 1978 for these companies was consumed in operating and expanding their businesses. This means it went to pay state, federal, and local taxes; to pay wages and salaries; to purchase supplies; to pay debts, and to create new job opportunities by expanding the business.

Assuming that "profits" for the full year increase at the rate of the recently reported third quarter, then the average increase would be 76.5 percent (Wall Street Journal, October 31, 1979). (Reference to full year is for the year 1979.)

Assuming further that the increased profits would flow through to dividend payments in proportion to the increase in profits, then the dividends paid out for the seventeen companies tabulated, in 1979, would be about 3.4 percent of sales before taxes and about 2.0 percent of sales after personal income taxes.

The 2 percent figure is probably optimistic as companies do not usually increase dividends until the continuance of the incresed rate is assured. Also, if sales also increase along with profits, the 2 percent figure would be high.

Mr. Nader and others who preach nationalization of industry—or otherwise increasing government involvement in industry—should realize that the maximum amount they can save the consumers, whom they profess to represent is realistically under 2 percent of sales.

It doesn't take much of a drop in efficiency in the production process to exceed 2 per-

cent, and a study we are now making would indicate that government operating costs will be anywhere up to 150 percent higher than the selling cost by industry in creating the identical product or service.

It would probably be ultra conservative to assume that government can produce a product or service for anything less than 125 percent of the cost of the same provided by industry. The net cost to the consumer under the above assumptions for a product that currently sells for $1.00 would be $1.00 − $.02 + $.25 = $1.23—an increase in cost to the consumer of 23 percent—hardly a saving.●

SENATOR CULVER SPEAKS ON SOIL CONSERVATION

● Mr. EAGLETON. Mr. President, the Agriculture appropriations bill recently signed by the President contains a higher level of funding for soil erosion control programs than the Congress has made available in many years. The bill funds, for the first time, a new experimental rural clean water program designed to control water pollution from agricultural runoff.

As chairman of the Agriculture Appropriations Subcommittee, I am pleased to have played a part in the formulation of this appropriations bill and believe that this action represents a renewed commitment by the Congress to adequate public assistance in preserving our vital soil and water resources.

Americans today and in generations to come have a critical stake in the effectiveness of our soil conservation policies and programs. The need for the Congress, and indeed the Nation, to renew our commitment to soil conservation was the subject of the keynote address by Senator JOHN CULVER of Iowa at the National Conference on Soil Conservation Policies here in Washington on November 15.

Senator CULVER's address, "Soil Conservation: A Partial Commitment Is Not Enough," presents a warning to the Nation of the consequences of continued complacency toward soil erosion. I would like to commend the senior Senator from Iowa's remarks to the attention of my colleagues and ask that a copy of Senator CULVER's address be printed in the RECORD.

His keynote address follows:

REMARKS OF SENATOR JOHN CULVER

SOIL CONSERVATION: A PARTIAL COMMITMENT IS NOT ENOUGH

As an Iowan who has long believed that soil conservation is our most underrated national priority, I am privileged to participate in this national conference on soil conservation policies.

You have set forth the keynote of this conference and of our common endeavor in soil conservation with exquisite precision in your conference program:

"Since the Dust Bowl in the 1930s, many policies have been written and myriad institutions created to protect soil productivity and enhance environmental quality. But more topsoil is now lost from agricultural land each year than was lost in the worst of the Dust Bowl years . . ."

We have the know-how, but the incentives for farmers and ranchers have not been great enough and the governmental programs have not been effective enough to protect the productivity of our most basic resource and enhance environmental quality for the good of our country and of the entire world.

I come here today not as a soil conservation expert but as an angry advocate for a total commitment by our nation to this priority problem. You people who have devoted your lives to good conservation practices have done your job well. We have had good government programs that will work if properly used. But it has all been too little—and if we wait much longer, it will be too late.

The message is clear: A partial commitment to this national priority is not enough. Until at long last we get this message to the American people, our best efforts will not suffice.

In 1976, a young reporter from the Des Moines Register won, for the first time in history, a grand sweep of the four most coveted journalistic awards for his writing on the grain inspection scandals. This year he won a second Pulitzer prize, this time for his great series on conservation. It is evident that the Pulitzer committee made this award not only on the quality of his research and writing but on the commanding importance of his subject.

If Jim Risser could see it and the Pulitzer committee could recognize it, then I think that all of us working together, with passion as well as knowledge, should be able to get the message through to Congress, the Administration and the American people.

In recent years, Americans have become aware for the first time that the natural resources of the world are not unlimited. At the present time we are acutely concerned about the depletion of energy resources. Even though we have not yet bitten the bullet on the imperative need for energy conservation, long gas lines and rapidly rising prices have driven the urgency home.

Some of you have heard me before draw the comparison between the oil reserves of the OPEC countries and our own "black gold" in the form of irreplaceable topsoil. The Arab wells will inevitably be depleted at some point in the future. But sound conservation practices can preserve our soil indefinitely.

Everyone recognizes the critical importance of our agricultural exports in offsetting the huge energy import bill. As the OPEC countries continue to raise their prices for crude oil, we have recently heard cries from some quarters of "a bushel for a barrel." This concept has disqualifying practical if not ethical drawbacks. I acknowledge that it may be a far-out thought, but it would be the ultimate irony if the Arabs elected to conserve their oil while we continued to export our topsoil to the Gulf of Mexico—and ran out of topsoil before they ran out of oil.

In Iowa, I am proud to say, conservation of our natural resources has been a religion since anyone can remember. But, as with most religions, it is more easily preached than practiced.

Only one-third of Iowa's 27 million acres of rich cropland is adequately protected against soil erosion, despite the fact that we have conservation programs that are second to none and great people to administer those programs.

The review draft of the Resources Conservation Act study shows that among all the states, Iowa has the largest acreage of cropland with excessive erosion rates. So we Iowans are not pointing a finger at other states; we all share the responsibility together.

While everybody professes undying allegiance to sound soil conservation, it is no secret that as a political issue it has little glamor or sex appeal. As a consequence, soil conservation programs are a perennial early target of the budget cutters. Seldom, if ever, in recent history have these programs been anywhere near adequately funded.

We began in the Dust Bowl days of the 1930s with the creation of the Soil Conservation Service and the Agricultural Conservation Program. In the early years, the ACP received appropriations of $500 million a year—a sum that today would be the equivalent of well over $1 billion annually.

Yet today the Agricultural Conservation Program receives $190 million—and getting that much is like pulling teeth. Again, I am not pointing a finger at anyone. With all of the immediate demands for public funds, it is not easy to dramatize the urgency of a crisis that is long-term rather than short-term.

The gradual, inching nature of soil erosion is both a blessing and a curse. It is a blessing that we do have time. Nor is the expense required to get the job done all that great, compared to the cost of dealing with other priorities. Today we do not need an expensive crash program for soil conservation. Our national security is not imminently jeopardized as it is by energy shortages. But we do need to move to take the reasonable, feasible measures required to protect our future.

The process of erosion is invisible to most people—invisible unless you walk across a field that has lost 40 tons of topsoil per acre to spring rains or you observe the brown color of soil-polluted streams. Because erosion is gradual and invisible to most people, we have a sense of complacency about it. Statistics stir the blood of only a handful—and that handful cannot do the job alone.

When the dust clouds of the plains settled on the cities of the eastern seaboard in the '30s, statistics suddenly became a reality for millions. Today, those statistics are comparable, if not worse. Iowa is today losing as much or more topsoil as did Kansas and Oklahoma in 1934.

Much of that soil, together with tons of fertilizer and pesticides, finds its way to the Missouri and Mississippi Rivers. It flows through Kansas City, St. Louis, Memphis and New Orleans. It goes largely unnoticed, yet it poses a greater threat to the health and livelihood of more Americans than did the dust that powdered the nation in the '30s.

Scientists looking ahead to the coming decades point out that the most critical shortage of the year 2000 may well be water, rather than oil. This is the other imperative need for sound, nationwide soil conservation practices—to protect the quality of the water of our streams and lakes from the number-one pollutant.

We have come a long way in soil conservation, and I commend all of you for your dedication and untiring effort. Millions of acres of cropland are being farmed with good conservation measures, thanks to technical and financial assistance programs and educational efforts aimed at the farm community.

But we have been shortsighted in directing all of our attention to the farmer. The lack of understanding and concern about soil erosion among the general public has robbed our conservation efforts of the nationwide support needed to assure adequate funding.

Most farmers have a basic commitment to good stewardship of the land they farm. But it is hard to blame a farmer for not investing in conservation practices that don't pay a reasonable return on the investment. You can't blame farmers for being confused by the conflicting admonitions to "produce more now" yet "conserve your land's productivity for the future." Those of us familiar with the problem have long known that significant incentives are needed and that these are not a crass give-away but a prudent public investment.

A number of plans have been suggested in recent years to keep the farmer on the conservation track even during times when

there is a demand for greater production. One, which I personally don't like, is a proposal that participation in commodity programs be made contingent upon a farmer carrying out a good conservation plan.

A better alternative to this rather coercive approach would be to reward good conservation by providing higher loan rates and target prices to those who practice it. This approach would provide the economic incentive that is needed to cover the costs of conservation measures. It would do so without undermining other incentives for farmers to participate in these programs.

Another suggestion was recently brought to my attention by the Iowa Agricultural Stabilization and Conservation State Committee. It suggests that a special conservation set-aside payment be made on lands that needs extensive conservation work. Where extensive work is needed, the few weeks prior to and following the growing season are insufficient time to get the job done. If a special set-aside program were offered, farmers could hold such land out of production for one season. They could install the needed conservation structures and return the protected land to production with the knowledge that this particular land would remain productive for generations to come.

We have also discovered that there are many incentives and disincentives to good conservation embedded in tax law. Tax credits for expenditures on conservation merit serious consideration. Estate tax and capital gains provisions should also be considered with a view to their potential contribution to improved conservation.

Not all changes in programs or tax law to stimulate conservation efforts entail big new outlays of funding. A good example of this is an amendment I introduced to the Revenue Act of 1978. This amendment, which became effective on October 1 of this year, excluded from gross income cost-sharing payments made for conservation purposes. The tax code required farmers to pay taxes on parts of the money they received from the government as an incentive to install conservation measures. This was a classic case of two public laws working in diametrically opposite directions.

Our resources are limited. Making the most cost-effective use of the resources that are available must be a prime concern of all public officials. We must also be alert to new sources of funding.

In this regard, I would suggest that we have failed to tap all of the voluntary resources that could be directed into conservation improvements.

In recent testimony before the House Agriculture Committee, presented by the Land Improvement Contractors of America, a proposal was made that could greatly expand the potential sources of conservation funds. Patterning its proposal after the National Endowment for the Arts, LICA recommended a National Endowment for Public Conservation. Such an institution could be integrated with existing federal, state and local programs in many different ways and, through tax-deductible contributions, could tap private resources not now available to our conservation efforts.

New approaches, new initiatives are needed. We do have time to reverse the trend of declining productivity of our soil and, at the same time, to preserve the quality of our fresh waters. But the time is not unlimited and the clock is running. This is the message we must get to the American people.

When the great New England poet, Robert Frost, accustomed to the rocky acres of Vermont, first visited Iowa, he stared at the black, alluvial topsoil and said: "That soil looks good enough to eat without being processed through vegetables."

Well, we can't eat the soil, but the people of America and hungry peoples throughout the world can eat the food that soil produces.

We can't eat the soil, but we can and must stop wasting it. This the American people need to know, and it is your job and my job to see that they do.●

ADDITIONAL VIEWS ON IDAHO WILDERNESS BILL (S. 2009)

● Mr. GARN. Mr. President, my colleague, Mr. McCLURE will offer amendments to an Idaho wilderness bill (S. 2009) when it is scheduled for consideration on Tuesday, November 20. I ask that his additional views as set forth in Senate Report 96–414 be printed in the RECORD at this point, along with his memo on the subject.

The material follows:

CENTRAL IDAHO WILDERNESS LEGISLATION
(ORIGINAL BILL S. 2009)

On November 5, the Energy and Natural Resources Committee ordered reported to the Senate legislation to create a Central Idaho Wilderness of about 2.1 million acres; add 105,600 acres to the existing Selway-Bitterroot Wilderness; and add 125 miles of the main Salmon River to the Wild and Scenic Rivers System.

This comprehensive legislation is of vital interest to all Idaho citizens, as well as many others throughout the country. I am sending you my additional views on this legislation which will be published as a part of the Senate Report. I urge you to read carefully these views, as they represent a most important part of my responsibility to represent the people of Idaho on this long-standing issue.

I feel the bill as approved by the Committee lacks the necessary balance it should have for resource allocation decisions. My additional views spell this out in detail and explain my plans to improve this legislation through my offering of two amendments when the bill comes to the Senate floor. One amendment deals with "release language in statute" to assure that lands studied for wilderness and rejected for this designation, are by law protected against further wilderness consideration unless brought up by Congress at some future date. The other amendment seeks designation for a Panther Creek Conservation Area. This area contains a promising cobalt mineral belt, and is also an important bighorn sheep range. My amendment directs the land manager to prepare carefully a plan that permits conservation and use of both resources, without sacrificing one for the other. Again, my attached additional views spell this out in more detail.

I appreciate your continued interest in this vital issue.

The bill as approved by the committee majority lacks the balance essential to resource allocation decisions. It does not meet the tests of equity for the economy of the local area and the jobs and community stability so vital to the Idahoans affected. Neither does it meet the test of national security with respect to minerals vital to our national defense of resources essential to our economy and affecting our balance of payments problems.

In any major land allocation decision there are critical trade-offs to be considered. This bill gives lip service to that requirement, but fails any real, objective test.

Cobalt is essential to our security and our national economy. Cobalt is used in a number of strategically important applications, including high-temperature alloys for jet engines, magnets for measuring instruments and cemented carbides for metal cutting and drilling. It is also used in the environmentally important application of de-sulphurization of crude oil. This use will expand due to the combined impact of more stringent emission standards and need to use higher sulphur crude oil.

The U.S. is entirely dependent on imports for its supply of primary cobalt. Statistical data is given in the Mineral Commodity Profiles prepared by the U.S. Bureau of Mines and the Minerals Exploration Coalition. The majority of these imports comes from Zaire and Zambia. The supply from both Zaire and Zambia comes from the Shaba province. Supply from both countries is highly vulnerable to disruption. This vulnerability has been exposed in 1978 and 1979. Scott Sibley of the U.S. Bureau of Mines stated:

"The situation in Zaire is so volatile that companies should be concerned about immediate and distant cobalt supply. . . . If I owned a company, I would not want to rely on available supplies for an indefinite period."

Charles Carson of General Electric stated:

"For these industries (aircraft engines and gas turbines, highspeed tool steels, cemented carbides and magnets), there is no need as acute as cobalt right now." (Business Week, August 28, 1978, p. 40E)

Business Week reported:

"Even slowdowns in the delivery of electronic components are starting to threaten production schedules and worry buyers . . . part of the problem here is a shortage of cobalt, used not only in making integrated circuits and motors, but also in the alloys used in high-speed tools." (Business Week, September 18, 1978, p. 36)

There are several undeveloped applications with major energy implications. Magnets using cobalt have ten times the energy density of previous magnets and have been used to make a DC electric motor ten times lighter than existing motors. These motors are important in any electric vehicle program. In addition, these motors may be used in airplane actuator motors, where an all-electric system would have better reliability than hydraulic systems. Cobalt catalysts may be used in the liquefaction of coal.

The cobalt reserves in Idaho are far and away the most significant in the U.S. Reserves may be sufficient for 50 years' operation at a rate adequate for U.S. self-sufficiency and longer at lower mining rates. Therefore, extension of the Idaho wilderness area has a major adverse impact on U.S. cobalt consumers.

The Committee report says that the mining company's current "estimate of known reserves is in excess of 4 million tons of ore. The ore contains some 0.73 percent cobalt. Thus, the known reserves of cobalt metal are in excess of 30,000 tons. The known reserves at the mine are sufficient to support a 2,000 tons of contained cobalt per year operation for a period of 15 years."

The facts are this. Mining at the rate of 1,000 tons of ore per day will result in a yearly production of 350,000 tons. At 100 percent efficiency this would yield approximately 16,660 tons of cobalt concentrate, which is reduced to 2,000 metric tons of cobalt metal, or 4,400,000 pounds. However, the operating efficiency is approximately 80 percent, or a net of 3,520,000 pounds. At an annual consumption of 20,000,000 pounds, this provides the United States with about 17.6 percent of our needs with a mine life of about 11 years. At a mining rate of 3,000 tons of ore per day, we could meet 52.8 percent of our national needs, but the life of the mine would be reduced to slightly less than four years.

Equally important to us in Idaho is the bighorn sheep herd in the West Panther Creek area which is traversed by the cobalt belt. There can be no doubt, either, of the national interest in that important resource. Other wildlife and wilderness values are also

high, but not unique. There should be no doubt of my determination to give the best possible protection to the bighorn sheep herd, which is unique, but at the same time to recognize the vital national interest in a mineral deposit that occurs nowhere else in the United States.

The committee response was to put the area in the wilderness but permit exploration and mining without any surface disturbance. That is totally infeasible and they know it.

My amendment to establish a "Panther Creek Conservation Area" from the land included in the RARE II area northern portion of W4–504 West Panther Creek containing about 35,000 acres was considered by the Committee but rejected. This amendment recognized the national importance of a favorable cobalt mineralized belt which is our only domestic occurence known to date of major significance.

It is an extension of cobalt mineralization to the south where past mining activity has taken place and is being revived. Cobalt reserves outside the West Panther Creek area are estimated to be ten to fifteen years duration. However, in today's unsettled world that is simply not a sufficient supply for our long term needs. Our sources for importing cobalt are Zaire and the Soviet Union which give no assurance at all!

The key wildlife consideration in West Panther Creek is the management of bighorn sheep from which surplus animals are taken annually for stocking other areas in Idaho.

My amendment would emphasize the bighorn sheep resource and the cobalt mineral resource be given important and equal consideration during the preparation within three years of a land management plan by the Forest Service.

One resource need not be sacrified for the other. We should have enough collective brains to devise a plan that will permit us to develop domestic cobalt potential on a long range basis and at the same time successfully manage an important wildlife resource.

We must not lose sight of the fact that we are a nation that does not have an assured supply from foreign sources for all of our resource needs. Every opportunity we have to develop domestic mineral supplies for our long range needs must be protected.

If other resource values, such as wildlife, enter the picture and deserve careful consideration, this challenge to accommodate both resource needs can and must be met.

We are not so fortunate a nation that we have the option to foreclose a long range source of cobalt—absolutely necessary for the production of military and civilian jet aircraft engines as well as new/magnetic technology in other fields—from domestic sources. Experience in development of the Alaskan pipeline demonstrate that caribou and development can coexist. We must reject the idea that prudent mining and wildlife management can't coexist.

The bill as ordered reported by the Committee contains some provisions in Section 5 that are unworkable. The proviso dealing with the exercise of valid existing mineral rights goes beyond the provisions of the 1964 Wilderness Act. Section 5(d) calling for all underground mining as well as access only from outside the wilderness boundary is from an economic, safety, practical, engineering, geologic, or other prudent test completely not possible.

During Committee debate the statement was made that there are many examples of mining in a wilderness. The Bureau of Mines advises they know of but one small gold mining operation in an area designated as wilderness. Despite the language in the 1964 Wilderness Act (78 Stat. 894.), concerning ingress and egress regarding mineral activity, agency regulations have not in fact provided for reasonable access for mining purposes in wilderness as contemplated in the original Act.

The second major flaw in the legislation is its almost total failure to balance wilderness designation with appropriate direction for management of areas not included within the wilderness boundaries. Over two million acres will be added to the national wilderness system with only a token suggestion for multiple-use management! That cannot be balanced!

If we are to maintain a forest industry vital to the people in the area and vital to the hopes for affordable housing in our nation's cities, we must balance restrictive management decisions on some of our public lands with clear statutory direction for multiple resource management on other public lands.

During the Committee consideration of the bill, a great deal of discussion took place on the subject of "release language" concerning areas that had been considered for wilderness, but not placed within the wilderness preserve.

I offered an amendment that would release all roadless areas that had been inventoried in the RARE II program of the Forest Service, and not made part of the Central Idaho Wilderness. This release language would be in the statute.

My Idaho colleague argued that release language on these areas would be sufficient if included in the report. I feel strongly that to provide for a truly meaningful release of areas no longer to be considered for wilderness, it is necessary to accomplish this by statute.

During the debate on my "release in statute" amendment, the argument was made that the other body would reject this legislation if it contained statutory release language: It is my view that we in the Senate should totally reject the argument presented by certain members of the other body that we should not send legislation to them from the Senate unless it meets their demands. To knuckle under to this kind of argument makes the Senate hostage to the House!

I will offer amendments on both these subjects and my support for the bill can be given only if the Senate acts favorably on these amendments.

Finally, I must note that there is interest in placing portions of the lower Salmon River down to the confluence with the Snake River in the Wild and Scenic Rivers System. While the Committee decided to include the portion of the Salmon from the North Fork down to Long Tom Bar, I feel any consideration of the lower portion should be done in the future, and on the merits of that issue after interested persons have a chance to present testimony and examine such a proposal in depth.●

POLITICAL KIDNAPINGS ARE TERRORISM

● Mr. CHURCH. Mr. President, on Sunday, November 11, Congressman Javier Ruperez of the Spanish Parliament was kidnaped in Madrid. Congressman Ruperez, at the time of his kidnaping, was on his way to the closing ceremonies in Madrid of a Summit of Centrist Political Parties of Latin America.

On November 12, the basque terrorist organization ETA claimed responsibility for the kidnaping. Congressman Ruperez is a member of the Union of the Democratic Center (UCD). He is the Secretary in charge of foreign relations for the UCD.

This terrorist act has been widely condemned. Secretary Gen. Kurt Waldheim, strongly condemned the kidnaping as an act of terrorism and asked for the immediate release, unharmed, of Congressman Ruperez.

Pope John Paul II has made a public appeal to the kidnapers asking them to release Congressman Ruperez unharmed. The Pope said:

I want to emphasize that this act has been condemned categorically by public opinion. I want to express my deep concern for this new act of violence against the dignity of a person which offends all mankind. I implore to the Lord to lighten your wisdom and your heart so that guided by the convivial principles and humanitarian feelings, the responsible persons liberate willingly Mr. Ruperez ending this way his anguish and that of his family. I invite you to meditate that no just and human solution can be reached using violent ways. No one, much less those who claim to be Christians can follow these methods.

The Secretary General of the Organization of American States has stated that the holding of Mr. Ruperez by ETA is one of those acts of violence and terrorism so repudiated by the inter-American system. He labeled as repulsive the kidnaping of a man like Javier Ruperez who has shown such deep interest for Latin America and its people.

Many European Governments, as well as many persons and institutions around the world, have repudiated this act of terrorism.

As chairman of the Senate Foreign Relations Committee, I too want to condemn the wanton act of kidnaping Mr. Ruperez. I urge Congressman Ruperez' kidnapers to release him immediately unharmed, and I express my heartfelt sympathy for Congressman Ruperez' family.●

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL SKI PATROL SYSTEM RECOGNITION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 439.

There being no objection, the Senate proceeded to consider the bill (S. 43) to promote safety and health in skiing and other outdoor winter recreational activities, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 10, line 14, strike "(49)" and insert "(50)";

On page 11, line 7, beginning with "The" strike through and including the period in line 9;

On page 11, line 12, beginning with "The" strike through and including the period in line 13;

So as to make the bill read:

That this Act may be cited as the "National Ski Patrol System Recognition Act of 1979".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that—

(1) more and more Americans are taking up winter sports for both pleasure and exercise;

(2) there may be a direct correlation between citizens' enjoyment of skiing and winter sports and the presence of trained safety officials to enforce safety rules and render emergency aid;

(3) the National Ski Patrol System is the only volunteer organization in the country founded for this purpose having been established in 1938;

(4) the National Ski Patrol System has a national membership of over twenty-three thousand and chapters in forty-two States;

(5) the National Ski Patrol System has worked closely with Federal agencies as well as the American Red Cross to promote safety and assist in such operations as first aid, rescue, evacuation, and avalanche control;

(6) the National Ski Patrol has helped to foster friendly relations with other nations by its exchange of training information, and techniques; and that,

(7) the National Ski Patrol System has been exemplary in its dedication and effectiveness in insuring safety and as such was selected by the 1980 Winter Olympic Committee to provide Nordic Ski Patrollers for the 1980 Olympic games at Lake Placid, New York.

CORPORATION

SEC. 3. The following persons: J. Scott Grundy, Fairbanks, Alaska; Robert S. Morely, Saginaw, Michigan; Donald C. Williams, Birmingham, Michigan; Walter A. Gregg, Whitmore Lake, Michigan; Donald Page, East Greenbush, New York; James O. Hubbard, Carson City, Nevada; Dale Williamsen, Idaho Falls, Idaho; James Whitlock, Hamilton, Montana; Gary Burke, Bellevue, Washington; Larry Morris, Arvada, Colorado; David P. Dillard, Summerfield, North Carolina; William Bozack, Moretown, Vermont; Audrey Adams, Burlington, Wisconsin; Hilbert H. Finn, Pittsfield, Massachusetts; Carrington B. Day, Saginaw, Michigan; Robert D. Hall, Old Forge, New York; Marlen Guell, Spokane, Washington; Donald Bushey, Clausen, Michigan; Tyler Davis, Uniontown, Pennsylvania; Robert Ashcraft, Long Beach, California; Robert Hoffman, San Jose, California; Lou Livingston, Boulder, Colorado; Donald L. Dietsch, Boise, Idaho, and their successors, are created and declared to be a body corporate by the name of the National Ski Patrol System, Incorporated (hereafter in the Act referred to as the "corporation"), and by such name shall be known and have perpetual succession, and the powers, limitations, and restrictions herein contained.

COMPLETION OF ORGANIZATION

SEC. 4. A majority of the persons named in section 3 of this Act are authorized to complete the organization of the corporation by the selection of officers and employees, the adoption of bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary to carry out the provisions of this Act.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 5. The purposes of the corporation shall be to promote, in any and all ways, public safety in skiing, including, without limiting the generality of the foregoing, the dissemination of information with respect thereto and the formation of volunteer local patrols, consisting of competent skiers trained in the administration of first aid, for the purpose of preventing accidents and rendering speedy assistance to persons sustaining accidents; to solicit contributions of money, services, and other property for, and generally to encourage and assist in carrying out, the foregoing purposes in every way.

CORPORATE POWERS

SEC. 6. (a) In furtherance of the corporate objects and purposes, the corporation shall have power—

(1) to sue and be sued, complain and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal;

(3) to appoint and fix the compensation of such officers and employees as its business may require and define their authority and duties;

(4) to adopt and amend bylaws, not inconsistent with this Act or any other law of the United States or any State in which it is to operate, for the management of its property and the regulation of its affairs;

(5) to make and carry out contracts;

(6) to charge and collect membership dues, subscription fees, and receive contributions or grants of money or property to be devoted to the carrying out of its purposes;

(7) to acquire by purchase, lease, or other legal means, such real or personal property, or any interest therein, wherever situated, necessary or appropriate for carrying out its objects and purposes and subject to the provisions of law of the State in which such property is situated (A) governing the amount or kind of real or personal property which similar corporations chartered and operated in such State may hold, or (B) otherwise limiting or controlling the ownership of real or personal property by such corporations;

(8) to transfer, lease, and convey real or personal property;

(9) to borrow money for its corporate purposes, issue bonds therefor, and secure the same by mortgage, deed of trust, pledge, or otherwise, subject to all applicable provisions of Federal or State law; and

(10) to do any other acts necessary and proper to carry out its objects and purposes.

(b) For the purpose of this section, the term "State" includes the District of Columbia.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 7 (a) The principal office of the corporation shall be located in Denver, Colorado, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place, but may be conducted throughout the United States.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation. Service upon, or notice mailed to the business address of, such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP

SEC. 8. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as set forth in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 9. (a) Upon the date of enactment of this Act the membership of the initial board of directors of the corporation shall consist of the following named persons: J. Scott Grundy, Fairbanks, Alaska; Robert S. Morley, Saginaw, Michigan; Donald C. Williams, Birmingham, Michigan; Walter A. Gregg, Whitmore Lake, Michigan; Donald Page, East Greenbush, New York; James O. Hubbard, Carson City, Nevada; Dale Williamsen, Idaho Falls, Idaho; James Whitlock, Hamilton, Montana; Gary Burke, Bellevue, Washington; Larry Morris, Arvada, Colorado; David P. Dillard, Summerfield, North Carolina; William Bozack, Moretown, Vermont; Audrey Adams, Burlington, Wisconsin; Hilbert H. Finn, Pittsfield, Massachusetts; Carrington B. Day, Saginaw, Michigan; Robert D. Hall, Old Forge, New York; Marlen Guell, Spokane, Washington; Donald Bushey, Clausen, Michigan; Tyler Davis, Uniontown, Pennsylvania; Robert Ashcraft, Long Beach, California; Robert Hoffman, San Jose, California; Lou Livingston, Boulder, Colorado; Donald L. Dietsch, Boise, Idaho.

(b) The initial board of directors shall hold office until the first election of a board of directors. The number, manner of selection (including filling of vacancies), term of office, and powers and duties of the directors shall be set forth in the bylaws of the corporation. The bylaws shall also provide for the selection of a chairman and his term of office.

(c) The board of directors shall be the governing board of the corporation, and a quorum thereof shall be responsible for the general policies and programs of the corporation and for the control of all funds of the corporation. The board of directors may appoint committees to exercise such powers as may be prescribed by the bylaws or by resolution of the board of directors.

OFFICERS; ELECTION OF OFFICERS

SEC. 10. The officers of the corporation shall be those provided in the bylaws. Such officers shall be elected in such manner, for such terms, and with such duties, as may be prescribed in the bylaws of the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 11. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director or be distributable to any such person during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of reasonable compensation to officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the corporation's board of directors.

(b) The corporation shall not make loans to its members, officers, directors, or employees. Any director who votes for or assents to the making of such a loan, and any officer who participates in the making of such a loan, shall be jointly and severally liable to the corporation for the amount of such a loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 12. The corporation and its officers and directors as such shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 13. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 14. The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 15. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having authority under the board of directors, and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 16. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(50) National Ski Patrol System, Incorporated".

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 17. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with this Act, the bylaws of the corporation, and all other Federal and State laws applicable thereto.

EXCLUSIVE RIGHT TO NAME

SEC. 18. The corporation shall have the sole and exclusive right to use the name "National Ski Patrol System, Incorporated". Nothing in this section shall be construed to interfere or conflict with established or vested rights.

ANNUAL REPORT

SEC. 19. The report shall be made available to the appropriate State officials and if accepted by a State, shall be counted as fulfillment of the State's reporting requirements. In addition, officers and directors of the corporation shall furnish to the Congress on call other information which may be desired at any time.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 20. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

Mr. HATCH. Mr. President, it is not my intention to take much of the Senate's valuable time in discussing this legislation, but I did want to point out once again how much this charter will mean to the National Ski Patrol System and its 23,000 volunteer members, the ski area operators, the U.S. Olympic Committee, the American Red Cross, our military and Government employees overseas, and millions of competitive and recreational skiers and winter sports enthusiasts throughout the United States.

I would reiterate briefly, for the record, that this measure meets all of the criteria for Federal charters established in 1969 by the Judiciary Committee. The National Ski Patrol System was measured against that criteria during a hearing in September by the Judiciary Committee.

The NSPS has been in continuous operation since 1938 and has held a charter from New York State since 1948. However, since the topography of the country lends itself to the Ski Patrol's organization by region rather than by State, a Federal incorporation is most appropriate. There are 10 such divisions which encompass 42 States. A European division helps provide necessary services to U.S. Government personnel and American vacationers on the slopes in West Germany, Italy, Spain, and Israel.

The situation has become critical, however, in that the necessity for the NSPS to register as a foreign corporation in every State besides New York is causing a great paperwork burden.

As a nonprofit, volunteer organization, the National Ski Patrol simply does not have the financial or personnel resources to comply with these requirements. A Federal charter would mandate the NSPS to file an annual report to Congress which would be acceptable to the States. By reducing the amount of reporting, the charter can reduce the amount of money needed for the Ski Patrol to operate. I hasten to add that this bill does not authorize a single dime of Federal funds and that the National Ski Patrol does not expect any monetary assistance from the taxpayers.

The National Ski Patrol System clearly fulfills a national need. It is the only organization in America founded for the purpose of promoting safety in skiing and winter sports and for rendering emergency aid to the injured. The members of the NSPS have been credited many times for saving lives both on the ski slopes and off. Many of their contributions to our Nation's health and safety have been on our highways or beaches. The formal statement of understanding with the American Red Cross and the recognition of the National Safety Council, the National Highway Traffic Safety Administration, the U.S. Forest Service and various law enforcement agencies, exemplifies the commitment the NSPS has to serving our citizens.

Mr. President, I promised not to take much time, but allow me to add one more thing. I feel very strongly that one of the things that Congress will do in approving this charter bill is pay tribute to the spirit of volunteerism and community service in our country. Our Nation has thrived on this spirit and has often been preserved by it in times of crisis, sickness, depression, or emergency. It is totally within our leadership role, here in the U.S. Senate, that we recognize the achievements of organizations like the National Ski Patrol System.

I share the concern of my colleagues in wanting to reserve the privilege of a Federal charter, the epitome of recognition, for special cases, such as the Ski Patrol, in which the spirit they operate on is being squelched by redtape, but I believe it is wholly appropriate for us to hold up the efforts of our citizens helping each other.

This bill, the National Ski Patrol System Recognition Act, has been a personal enjoyment to work for. We have 62 cosponsors, 34 Republicans and 29 Democrats. It is good to have so much agreement amid the adversity of windfall profits legislation or budget resolutions. I have appreciated the support and cooperation I have received on this legislation and would like to especially thank the distinguished chairman of the Judiciary Committee and his staff, Patti Saris and Rubye Connatser. I wish to thank the majority and minority leaders for their expeditious and thoughtful consideration of the bill here on the floor.

● Mr. COHEN. Mr. President, I rise in support of S. 43, a bill to incorporate the National Ski Patrol System.

I am pleased that 6 long years after the proposal was introduced, the Senate will have an opportunity to act on this important measure, which would grant a Federal charter to the National Ski Patrol System.

NSPS was founded in 1938 and functions in cooperation with the U.S. Forest Service, the American Red Cross, the Department of Transportation, and local law enforcement agencies. It has active chapters in 42 States, including my own State of Maine.

For the last 40 years, the NSPS has provided life-saving emergency services to accident victims at no charge. It has never requested Federal funds.

Recently, however, the NSPS has experienced financial difficulty due to the reporting and registration paperwork and fees required in each State in which patrol units operate. A Federal charter would cut the waste of resources caused by redtape and free the patrol to spend more time and effort on its primary function, which is to make skiing safer.

In addition to recognizing the exemplary achievements of the NSPS and its dedicated service to skiers, a charter would also make the group directly accountable to the Congress and to the Federal Government for financial reporting, taxes and other requirements. This would reduce the amount of time the Patrol must spend and the money it must raise in order to stay solvent. The Judiciary Committee, which reported out S. 43, found the NSPS clearly meets the standards for granting a Federal charter.

The NSPS provides important health and safety services. As a nonprofit institution, it has served the public not only by providing emergency aid to the sick and injured, but by promoting safety in skiing and winter outdoor sports through enforcement of safety rules, instruction and equipment checks.

Agriculture Secretary Robert Bergland, whose Department is responsible for the recreational uses of U.S. forests and works closely with the NSPS, told the Judiciary Committee that the patrol activities are important to the "long-term stability of winter safety programs at ski areas where many employees change seasonally."

Moreover, the ski patrol performs important civic functions. It is the only organization presently engaged in avalanche control. It fulfills important civil defense functions, and has been called upon during several crises to rescue citizens in need, to render first aid, and to transport the injured by snowmobile and skis to the nearest aid stations.

Promoting ski safety is vital to States such as Maine. The 21 Maine ski patrols, as well as the many others in other States, deserve, after all these years, recognition for their contribution to the health and safety of skiers.●

The amendments were agreed to.

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

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

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTEREST RATE MODIFICATION ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate H.R. 5811, and I ask for its immediate consideration.

There being no objection, the Senate proceeded to consider the bill H.R. 5811, an act to allow the Interest Rate Modification Act of 1979, passed by the Council of the District of Columbia, to take effect immediately, which was read twice by title,

Mr. EAGLETON. Mr. President, H.R. 5811 would waive the usual congressional review period required for acts passed by the District of Columbia City Council to permit the Interest Rate Modification Act of 1979, passed by the Council on November 6, to take immediate effect. This legislation passed the House on Tuesday, November 13, and I support its passage today.

By making the District-passed law immediately effective, H.R. 5811, when signed by the President, will have the effect of raising the permanent usury ceiling in the District from 11 percent to 15 percent. This, in turn, should relieve the current complicated legal situation, which I will explain below, and put the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corportation (Freddy Mack), and other lenders back into the business of making home loans in the District.

Many of my colleagues are generally familiar with the current mortgage crisis in the District. Under the District of Columbia Self-Government and Governmental Reorganization Act, better known as the Home Rule Act, the District of Columbia can enact permanent legislation, which becomes law only after a period of congressional review passes—30 legislative days—both Houses have not passed a concurrent resolution of disapproval. However, the Home Rule Act also recognizes that in exceptional situations, the District government must be permitted to act rapidly and have legislation take effect immediately with no congressional layover. Therefore, the law provides that two-thirds of the District Council can pass "emergency legislation" which takes effect without congressional review and stays in effect for 90 days. The Home Rule Act is silent on whether the emergency legislation may be renewed.

The District government, however, has repeatedly renewed emergency legislation, a practice which led indirectly to the current lending crisis. On October 19, 1979, a District of Columbia Superior Court judge struck down the repeated renewal—10 times—of emergency legislation on the subject of condominium conversions, as exceeding the District's proper authority under the emergency provision. In light of that decision, Fannie Mae and Freddy Mack feared that the legality of recent loan agreements in the city—loans made under a 15-percent usury ceiling passed twice as emergency legislation—would be challenged. Consequently they pulled out of the Washington market. They have indicated that before they reenter the Washington market, they need permanent legislation raising the usury ceiling in the District to 15 percent. H.R. 5811 provides that, making the District's November 6 legislation immediately effective.

The clear and immediate need for this legislation was expressed at a hearing of the Subcommittee on Governmental Efficiency and the District of Columbia which I chaired on November 14.

At that time, the subcommittee heard from Mayor Marion Barry, D.C. Council Chairman Arrington Dixon, and representatives of Fannie Mae, Freddy Mack, the Mortgage Bankers Association, the Washington Board of Realtors, and the area's savings and loan associations. They indicated that the District's mortgage market has been virtually paralyzed since Fannie Mae and Freddy Mack withdrew from the Washington market. Since together they provide the single largest source of home mortgage money in the city, about 11 percent. Both institutions operate in what is commonly called the "secondary market," meaning that Fannie Mae and Freddy Mack purchase from local savings and loan associations and mortgage banking firms loan agreements which the local firms make with individual borrowers.

The money the local firms receive from these sales then provides the local firms with additional mortgage funds. During the first 9 months of this year, Fannie Mae purchased 370 conventional home mortgages in the District with a value of $18.4 million, while during the same period, Freddy Mack bought about $66 million worth of mortgages from the city's 16 savings and loan associations. The total was $84.4 million.

However, when Fannie Mae and Freddy Mack refuse to purchase loans, as they now have, savings and loan associations and mortgage banking firms, by losing the major purchasers of their loans, must also refuse, to extend home financing.

As of this morning, every major savings and loan association and mortgage banker in the District had severly curtailed its lending activity. Obviously, the financial community and the real estate industry suffers immediately, but the most severe repercussion falls directly on the individual homeowner: the person who already purchased a home but now finds he cannot go to settlement; the person who just moved to Washington hoping to buy a home but who learns that financing has "dried up," and the person who took a job in Texas and must sell here to buy there. The seriousness of the situation cannot be overemphasized.

Parenthetically, I must point out, though, that with the interest rates climbing faster than ever, even the relief I propose today for the District may prove insufficient. The District of Columbia has asked us to quickly approve permanent legislation that sets the usury rate in the District at 15 percent. In my mind, there is a strong argument for following the lead of many States, including my home State of Missouri, and either abolishing interest ceilings altogether or floating the ceiling by tying it to the prime rate. However, I am advised that the District considered that and decided to pursue another course.

Today we are here to support the course the District chose to follow and implement the 15 percent usury ceiling as quickly as possible. If the normal congressional review period were required, the Interest Rate Modification Act of 1979 would be subject to a review period extending for 30 legislative days. Since weekends, holidays, and recesses by both Houses do not count as legislative days, the practical effect of the layover period is a congressional review period of approximately 90 calendar days. The situation in the mortgage markets is simply too serious to require that the District wait until mid-December or early January at the earliest before the 15 percent usury ceiling becomes permanent.

I must emphasize, however, that this waiver of the Home Rule review procedure should not set a precedent. The Home Rule Act foresaw emergencies arising in the District and gave the District legislative authority to deal with them. The interest rate crisis should not have occurred, nor would it have been brought to the attention of the Congress, if the emergency section of the Home Rule Act had consistently been implemented solely for emergencies.

For that reason, I have found it difficult to review the sequence of events without concluding that some basic change in the emergency provision of the Home Rule Act is needed. I introduced legislation (S. 1999 and S. 2005) which proposed a badly needed amendment, as well as dealing with the interest rate problem. Because of the need for immediate action, I have agreed that the Senate should join the House in enacting H.R. 5811, today, and find a legislative solution to the problem of the District's emergency powers in the coming weeks. I believe that problem is acute, and I am committed to solving it.

The Constitution mandates that Congress exercise ultimate authority over the District of Columbia. For nearly 200 years, that constitutional requirement translated into direct congressional rule over the District. In 1973, in a change of historic proportions, Congress passed the Home Rule Act establishing a city government headed by an elected mayor and city council. However, the Congress chose to carry out its constitutional mandate by retaining the power to review District legislation before it became law. To compensate for this, the legislation included the emergency provision, thereby recognizing that there could be situations where delay would seriously jeopardize achievement of the legislative objectives.

We all recognize the unique burden the provision for congressional review places on the District. However, the burden was not imposed unthinkingly. Congress wanted to take a major step toward self-government for the District, but, given its constitutional mandate, was not ready to reach full and complete home rule. The statutory requirement for a congressional layover period before District legislation could take effect represented the chosen middle course.

In 1978, 5 years after home rule began, Congress received recommendations for changes in the law from the Presidential Task Force on the District

of Columbia. The task force report included several significant suggestions concerning the operation of legislation for the District, including the conclusion that the period of congressional layover was injecting uncertainty and imprecision into the operations of the District government.

In Public Law 95–526, Congress considered the task force's recommended changes and reduced the layover period from 30 days when both Houses had to be in session to 30 days when either House could be in session, thus reducing the effective layover period. Congress took this action prompted by the recognition that the "unpredictability—of the review process—has forced the District to enact an inordinate amount of temporary emergency legislation" (S. Rept. 95–1291, p. 2).

Acknowledging that the task force recommended 60 calendar days, Congress approved the committee's conclusions that "30 calendar days, excluding weekends, holidays, and recesses or adjournments over 3 days, will allow sufficient time for Congress to act on a disapproving resolution, if one were introduced." (S. Rept. 95–1291, p. 3). Obviously, Congress considered Public Law 95–526 a solution to the District's reliance on emergency legislation.

Regrettably, passage of this legislation did not change the situation. Despite informal expressions of concern by the House and Senate committees, the Council's resort to the device of emergency legislation has increased.

In the past year, 69 percent of the legislation passed by the District was adopted by the emergency route. Emergency legislation has become the rule, rather than the exception. It is hard to avoid the conclusion that the District government has used the emergency route in order to circumvent the congressional review process. Perhaps the provision also gives the District government a way of resolving controversial issues otherwise resistant to legislative solutions, since opposition groups may accept temporary legislation where they would not agree on a permanent solution. Either way, it is clear that the current provision of the Home Rule Act dealing with emergencies has proven too attractive an alternative to the regular legislative process.

My legislation would change this. It would accommodate the legitimate needs of the District to move rapidly in an emergency without waiting for congressional review, while insuring that emergency legislation will not stay in effect indefinitely, or become a regular alternative to the ordinary legislative process. While I am confident that the proposal would have greatly improved upon the current situation, both the District government and key Members of the House urged that my proposal, and variations upon the same theme, deserved further study.

In a meeting this morning, Congressmen RONALD DELLUMS and WALTER FAUNTROY and I agreed upon a compromise course of action to resolve the District of Columbia's current mortgage problem now and address the emergency power issue in the coming weeks.

The two Congressmen share my concern over the District Council's use of the emergency legislative power, and they agree that the District could find itself in a chaotic situation if Judge Revercomb's decision invalidating the condominium conversion law is upheld. They share my view that Congress must act to clarify the District's emergency legislative powers, and that such action should come quickly.

The two Congressmen have given me their assurance that the House District Committee will hold hearings on this issue shortly after Thanksgiving, and will use my proposed Home Rule Act amendment on emergency powers as the legislative vehicle for their hearings. I also have assured the two Congressmen that the Senate D.C. Subcommittee will continue its hearings on the emergency legislative power, and will report corrective legislation very soon.

Throughout these proceedings, it has been my belief that we should deal with both the current mortgage rate crisis and the District's misuse of emergency powers immediately and simultaneously, rather than passing the waiver and letting the question of emergency powers be put off indefinitely.

I have been concerned that once the current crisis was resolved, the sense of urgency would fade and the District would be back to "business as usual" as far as the emergency powers are concerned.

Representative DELLUMS and Delegate FAUNTROY have assured me that this will not be the case. They recognize the fact that an affirmation of the Revercomb decision could cast doubt on the legality of the many pieces of emergency legislation now on the D.C. statute books, and they acknowledge the overreliance by the District on the emergency power.

I still feel that the people of the District would be best served by immediate action to revise the emergency powers. However, the two Congressmen and Senator MATHIAS and I all agree that it would be unwise to allow our disagreement on timing to further paralyze the mortgage market in the District of Columbia.

The hundreds of innocent citizens trying unsuccessfully to settle on new homes or to obtain mortgage money in the District of Columbia are not responsible for the D.C. Council actions which brought on this crisis, and it would be unfair to penalize them on account of it.

Mr. President, I urge the immediate enactment of H.R. 5811. I ask my colleagues future support for legislation clarifying the limits on the District government's power to pass emergency legislation.

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

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

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

The motion to lay on the table was agreed to.

FORMER INSPECTOR GENERAL OF HEW TOM MORRIS

Mr. HARRY F. BYRD, JR. Mr. President, I learned this morning that Mr. Tom Morris is no longer Inspector General for the Department of Health, Education, and Welfare.

Why do I mention this to the Senate and what is my interest in this matter? First, let me say that I do not know Mr. Morris. I do know, however, that on March 3, 1978, he, as Inspector General of HEW, presented a report to the Department showing that between $6 billion and $7 billion of tax funds had been misspent through waste, mismanagement, or fraud.

I repeat—the Inspector General's official report showed that the Department of HEW misspent through waste, mismanagement, or fraud between $6 billion and $7 billion.

What passed through my mind at the time, and that was just a little over a year ago, was that, perhaps, Inspector General Morris would not be around too long.

But then, as the months went by, I gave it no further thought. Today, however, at a meeting of the Senate Committee on Finance at which there were witnesses from the Department of Health, Education, and Welfare, including a new acting Inspector General, I learned that Mr. Morris no longer is Inspector General of that Department.

I inquired a bit, and was told that he voluntarily wanted to go to another agency. Then, on inquiring a little bit more, another witness said that he and Mr. Califano had come to an agreement that he would be assigned to another position in HEW.

I do not know just what the situation is. As I say, I know nothing about it. But I do know that an inspector general of HEW who issued an official report saying that that Department had misspent, through waste, mismanagement, and fraud, $6 or $7 billion is no longer Inspector General of that Department.

I appeared before the subcommittee of the Finance Committee this morning for one reason: I wanted to voice the view of one Senator that what this Government needs—each Department of the Government—is an inspector general who has both the ability and the courage to bring out the facts where there is abuse of the use of public funds.

I rather suspect that the fact that Mr. Morris is no longer in the position he held when he issued that report will dampen the ardor of other inspectors general and the inspectors general of other departments. If such is the case, I think that would be too bad.

I do not know whether Congress agrees or whether the White House agrees—certainly the Departments do not agree, but I think the American people agree—that there is vast waste of public funds by the Departments. I think the American people feel, and certainly the Senator from Virginia feels, that there is great waste in the handling of tax funds. We need inspectors general with courage, who will state the facts as they see them, even though it might not be beneficial to their own Departments.

Congress has established the position of inspector general. I do not know that it is going to do much good, however, if the inspectors general either are intimidated or lack the desire to ferret out the facts. I hope that there are none in that category, but I begin to question whether it is wise for the Departments to have control over their own inspectors general.

Why should not the Congress make that appointment? Then an inspector general would not be subject to transfer or what have you.

THE STATE OF SELECTIVE SERVICE

Mr. HARRY F. BYRD, JR. Mr. President, the nominee for the position of Director of Selective Service, Mr. Bernard Rostker, appeared before the Senate Armed Services Committee today on his nomination. A number of questions were put to him. He has spent 10 or 12 years in dealing with personnel matters in the Defense Department.

The Senator from Georgia (Mr. NUNN) put this question to him:

Senator NUNN. Will you give us your opinion right now on what would happen if we had a war tomorrow morning in regard to the Selective Service operation?

Mr. ROSTKER. As best I understand it at this point, it would not be able to respond to the manpower needs of the Defense Department.

Senator NUNN. We would be in a real mess, would we not?

Mr. ROSTKER. I think so, Senator.

Mr. President, the Senate Armed Services Committee, for several years now, has been calling attention to the very serious situation which exists in regard to the calling up of needed military personnel in the event of an emergency. Yet the administration has taken no steps to rectify this situation. As a matter of fact, the only program which has been indicated to Congress is one which the Armed Services Committee thought was so foolish that it has now been withdrawn.

The new nominee for the position of Director of Selective Service has promised that he will submit a program to Congress in January. I am hopeful that he will do just that, and that it will be one that will have merit, contrary to the other one. I think that we are in a very serious situation with respect to manpower in the event of an emergency, and, to put it the way Mr. Rostker put it today, we would be in a "real mess" should the Selective Service System be called upon to provide adequate personnel for defense purposes.

THE UNMAKING OF TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Times-Dispatch of October 20 published an excellent editorial captioned "Unmaking of Treaties." I ask unanimous consent that the editorial be printed in the RECORD at this point.

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

UNMAKING OF TREATIES

Morally, President Carter was wrong, in our view, to proceed on his own last Dec. 15 to break the 25-year-old Mutual Defense Treaty with Taiwan, a loyal ally, in order to accede to the conditions for exchanging ambassadors laid down by the People's Republic of China.

Legally, it was an open question—but one of potentially grave significance for the stability of American foreign relations. If one president could unilaterally declare the Taiwan pact null and void, a future president could just as easily pull out of the North Atlantic Treaty, or scuttle treaties with such important allies as Japan, South Korea, the Philippines, Australia and New Zealand without being required to show that any support whatsoever existed in Congress for his actions.

The Constitution is clear in stating that the president's treaty-making power is circumscribed by the need to obtain the "advice and consent" of the Senate, with the proviso that "two-thirds of the senators present" must concur. As to unmaking treaties, the Constitution is silent.

When first asked to consider the suit brought by Sen. Barry M. Goldwater, R-Ariz., and 23 other congressional conservatives, challenging Mr. Carter's attempted treaty abrogation, U.S. District Judge Oliver Gasch showed an understandable—even commendable—reluctance to step into the unprecedented conflict, in the absence of any expression of the full Senate's position on its constitutional role. But when the Senate then voted 59–35 in support of the Goldwater view that it shared in treaty-unmaking power, the way was clear for the judge properly to adjudicate the dispute.

Judge Gasch's decision Wednesday voiding President Carter's action (which was scheduled to become effective Jan. 1) was in accord with the constitutional principle of checks and balances on the exercise of power by the three branches of the federal government. He held that a president "alone cannot effect the repeal of a law of the land which was formed by joint action of the executive and legislative branches, whether that law be a statute or a treaty."

President Carter is appealing the decision, and it is possible a majority of the Supreme Court justices will eventually agree with him. But such an outcome would be injurious to the position of the United States in world affairs. It would tell our allies that the adherence of the U.S. to its solemn treaty commitments rested on nothing more substantial than the inclinations of the man occupying the presidency at a particular time.

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FORD). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

SHODDY WORKMANSHIP AT MARBLE HILL

Mr. FORD. Mr. President, the nuclear power situation in this country is getting out of hand. Every week we hear of troubles at yet another facility, whether it is undergoing construction or is in actual operation.

Setting aside the obvious example of Three Mile Island, one such plant is Marble Hill, in Madison, Ind., 30 miles from the Kentucky border and from Louisville, the largest city in the State. Because of shoddy workmanship and poor quality control all safety-related construction work has been halted by the Nuclear Regulatory Commission until the licensee, Public Service of Indiana, can prove that adequate corrective measures have been taken. In its present condition, Marble Hill portends nuclear disaster.

The root of Marble Hill's problem is that PSI is unfamiliar with the ways of nuclear energy. The nuclear field is too technical, too complex, too risky for any but the most skilled, highly trained, and well qualified personnel to deal with, whether it be oversight of construction or everyday operation. PSI has been far too cavalier in its approach to building a nuclear facility, a subject about which we cannot afford to be relaxed and I am not confident that the defects in Marble Hill will ever be satisfactorily corrected.

That is why I have suggested to PSI's officials that they convert Marble Hill to a coal-fired plant. Coal is a power source with which we are all familiar. It contains no surprises and we can with confidence offset its adverse environmental effects by using special equipment such as scrubbers and tall stacks.

But there is also another reason for conversion to coal. America's need for nuclear power has been greatly overestimated. The national growth rate in electric use has fallen annually from 5.3 percent to 4.8 percent. Concommitantly, the industry's reserve margin of generating capacity has climbed from about 20 percent to over 30 percent, an unnecessary excess that costs the consumer.

Area utilities are already feeling the effect of reduced demand. Pepco has indefinitely deferred a pair of nuclear power plants it has planned to build at Douglas Point, Md. Vepco has made a similar decision, abandoning its Surry 3 and 4 units. But more significantly, Vepco is considering converting two of its partially constructed nuclear power plants to coal.

I strongly urge that all public utilities with either partially constructed or planned nuclear power facilities take a long, hard look at Vepco's example. Why should we put money into nuclear power when increased capacity is not in demand? Why should we not use a safer, familiar source of power for generating what electricity we do need? Three Mile Island shows that major engineering changes may be necessary in the design of nuclear plants. The question of what to do with radioactive nuclear waste remains unsolved. Public confidence in nuclear energy has been soundly shaken.

In the name of common sense, in the name of public safety, I repeat my suggestion that America's public utilities examine the option of coal power instead of nuclear power. It is not too late to switch.

I ask unanimous consent that several articles from the Kentucky and Washington press be printed in the RECORD.

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

[From the Washington Post, Oct. 16, 1979]

ESTIMATES OF FUTURE A-PLANTS REVISED DOWNWARD

(By Thomas O'Toole)

The Three Mile Island accident has forced the Energy Department to revise sharply downward its estimate of how many nuclear power plants will be running in the United States in the year 2000, in part because it believes Congress will declare a moratorium on new nuclear construction.

In a memorandum circulated throughout the department by its Policy Office, the latest estimates of the number of nuclear power plants operating in the United States at the opening of the next century range from 150 to 200, which is 50 to 100 fewer than it figured in estimates made before Three Mile Island.

The memo circulated by Energy's Policy Office states: "Nuclear capacity expansion assumes only those plants under construction are completed by 2000." Does that mean the Policy Office believes that Congress will call at least a temporary halt to nuclear construction? "For planning purposes," one energy source said, "that is correct."

There is a debate in both houses of Congress on the pros and cons of a morartorium on nuclear construction. The Senate subcommittee on nuclear regulation has said it will demand a moratorium if the Carter administration does not come up with a national plan it can implement by 1985 to dispose of nuclear waste. The House subcommittee on energy and the environment says it will wait until the presidential commission investigating Three Mile Island reports its recommendations to the White House next week.

The Kemeny commission, as the presidential commission is called after its chairman, Dartmouth College President John G. Kemeny, will not make any formal recommendations for a nuclear construction moratorium. It is almost sure, however, to call for sweeping revisions in nuclear regulation that, if implemented, would greatly slow nuclear construction.

Just how President Carter might respond to the recommendations of the Kemeny commission is anybody's guess, though he has said he will act on all their recommendations "if they are practical."

White House sources say the president is acutely aware of how countries like Japan, France and Germany depend on nuclear power and that this dependence is sure to influence the path he takes after the Kemeny commission makes its report.

"These countries are our friends and the president knows they look to us for leadership in the nuclear field," one White House source said. "A moratorium of any serious length of time might not only hurt U.S. relations with those countries, it might put a crimp in their energy plans."

In effect, there is already a moratorium on new nuclear construction in the United States. Only two new orders for nuclear power units have been placed in the United States in the last three years, those by a single electric company, Commonwealth Edison Co. of Chicago.

Seventy-one nuclear power plants now operate in the United States, and another 95 are in various stages of construction. About six of those plants are so far along in construction that they have applied to the NRC for operating licenses. The NRC has said it will not grant any new operating licenses until the Kemeny commission makes its recommendations on nuclear safety.

The electric power industry has told Congress it is impossible to assess the impact of a formal moratorium on new nuclear construction, even a short halt of six months.

It has estimated that a moratorium would force cancellation of about 10 nuclear projects now on the drawing boards and force some switches to oil from nuclear projects that are in the early stages of construction. At the very least, the industry has argued, these changeovers would mean higher electric prices to consumers.

Whether a nuclear moratorium would mean electricity shortages in the future, the Energy Department has said, is also impossible to assess. One reason is that growth in electric power consumption has slowed greatly in the last few years, meaning that industry has not needed as much new electricity as it forecast it did.

VEPCO TO STUDY SHIFTING TWO NUCLEAR PLANTS TO COAL

"GROWING UNCERTAINTIES" BEHIND UTILITY'S DECISION

(By Jerry Knight)

After a decade of promising its customers that nuclear power would give them lower electric rates, Virginia Electric and Power Co. yesterday announced it is considering converting two partially built nuclear plants to coal.

Vepco has already spent nearly half a billion dollars on the two plants, but may have to change them because of "growing uncertainties" about nuclear power, Vepco President Stanley Ragone said at a Richmond press conference.

No other utility company has ever switched a plant from nuclear to coal power at such an advanced stage of construction, nuclear industry sources said.

Although Ragone insisted Vepco has not abandoned its decade-long commitment to nuclear energy, the announcement was seen as another major setback for the nuclear power industry, already reeling from the Three Mile Island accident.

The two nuclear plants Vepco is considering converting to coal are located at North Anna, 70 miles south of Washington. Both were designed by Babcock & Wilcox, the same company that designed the Three Mile Island plant near Harrisburg, Pa.

A federal study under way at the Three Mile Island accident last March could force Babcock & Wilcox to make major changes in the design of its plants.

The problem, the soaring cost of building nuclear plants and growing apprehension about the federal government's commitment to nuclear power are the main reasons Vepco plans to study switching to coal, Ragone said.

"It's pretty obvious the government right now is not content with the nuclear power option," Ragone said, adding, "There is no doubt in my mind that with a proper national policy, nuclear is the way to go."

The study, expected to take six to 12 months, will look at North Anna units 3 and 4, a pair of 938,000 kilowatt power plants. They are part of a complex that includes two nuclear plants and was planned to have four.

Virtually all of the $485 million worth of work done so far on North Anna 3 and 4 will be usable if the plants are switched to coal, Ragone added.

Ragone said Vepco does not yet know what effect switching the plants to coal will have on electric bills of Virginia residents. "That's what the study will try to determine," he said.

Starting this month, Virginia consumers are paying an average of $5.50 a month more on their electric bills because of Vepco's problems with its nuclear power plants.

The first unit at North Anna is shut down for refueling, a three-month job that started Sept. 25.

North Anna, recently constructed, has never started up because of a Nuclear Regulatory Commission moratorium on licensing new nuclear plants. North Anna 1 and 2 were built by Westinghouse not Babcock & Wilcox but new nuclear plants have been held up by the Three Mile Island incident.

At Vepco's other nuclear power complex, in Surry, Va., 130 miles south of Washington, one plant is shut down for piping repairs and another is idle while a new steam generator is being installed. It is unclear when either will resume operation.

Without its nuclear plants to generate power, Vepco has been forced to make electricity by burning coal and oil—both of which cost more than nuclear fuel—and to buy electricity from other utilities, also at a higher cost than nuclear power.

The Virginia State Corporation Commission last month agreed to let Vepco raise electric bills by $37 million over the next three months to pay for the higher power costs. Vepco has already warned that it may have to ask for another increase in bills starting in January if its nuclear plants are not in operation by then.

If Vepco backs off from completing the North Anna atomic plants, it will be the second time the utility company has abandoned a pair of nuclear projects.

The Surry complex originally was to have four units, but the third and fourth plants were scrapped in 1977 after Vepco had invested $164.5 million in them. That cost was tacked on to consumer's electric bills and spread over a 10-year period, until 1987.

Vepco abandoned the Surry 3 and 4 units because declining demand for electric power made them unnecessary.

For the same reason, Vepco is studying selling part of the $1 billion project it is building in Bath County to store power for peak periods of use, Ragone disclosed yesterday.

Vepco has offered to sell part of the project to American Electric Power Co., and to Alleghany Power System, Ragone said.

Scheduled for completion in 1982, the Bath County project is called a pumped storage facility and has two large lakes, one several hundred feet above the other. Water flowing from the upper lake to the lower one will run turbines to provide electricity during periods of heavy use.

At night—when Vepco produces more electricity than its customers consume—the excess power will be used to pump water back into the upper lake, so it can come down again the next day.

The Bath County project—like the defunct Surry units 3 and 4—was planned several years ago, when the demand for power by Vepco's customers was growing at a rate of 10 percent per year.

Vepco now is projecting a 4 percent growth rate in maximum power consumption. That figure may be reduced again when a new forecast of electrical demand is completed in December, Vepco sources said yesterday.

The sources said, however, that the North Anna plants will still be needed and there are no plans to abandon the project. Work on North Anna 3 and 4 started in 1971 and has been delayed several times. Completion is expected sometime in the early 1980s.

Switching North Anna 3 and 4 from nuclear power to coal requires replacing the "burner" that heats water to make steam to power a turbine generator. The turbine is the same, regardless of its source of fuel.

While coal burning plants are generally cheaper to build than nuclear plants, coal, besides being several times more expensive than the uranium fuel for a nuclear plant, requires expensive pollution control equipment.

Vepco says it costs 1.21 cents to produce a kilowatt-hour of electricity from its nuclear plants, compared to 2.27 cents from coal and 2.57 cents from oil. Both fuel and plant

construction costs are included in those figures.

Last year Vepco produced about 35 percent of its power from nuclear plants, 26 percent from coal and 36 percent from oil. The remainder came from hydroelectric power or was purchased from other companies.

[From the Kentucky Press, Sept. 22, 1979]

UTILITY'S STUDY OF CONVERTING N-PLANT TO COAL IS A FIRST

(By Howard Fineman)

WASHINGTON.—For the first time a utility has announced that it will seriously consider converting an unfinished nuclear power plant to coal.

Should the Virginia Electric Power Co. decide to make over its North Anna Units Nos. 3 and 4 to use coal, a new market could open up for at least some Kentucky coal.

More importantly, industry observers say, a reversal by VEPCO would be a turning point in the tug-of-war between the use of nuclear fuels and coal for power plants.

The VEPCO announcement led at least one coal-industry ally—Kentucky Democratic Sen. Wendell Ford—to revive the idea of converting the Marble Hill Nuclear Power Plant in Southern Indiana to coal.

Ford called on the utility building Marble Hill, Public Service Indiana, to "seriously consider following VEPCO's lead and immediately investigate the possibility of converting to coal."

But PSI officials said that they had already looked at the idea and had rejected it as impractical.

Joel Price, a Wall Street coal-industry analyst, said, "It's premature to draw any conclusions from the VEPCO announcement. But I think you're going to see more like it."

At a press conference in Richmond, Va., last week, VEPCO President Stanley Ragone said that the company faced "growing uncertainties" about nuclear power—especially about government attitudes toward it.

VEPCO has had more than its share of problems with the four nuclear units it has already completed. North Anna Units Nos. 1 and 2 and Surry Units Nos. 1 and 2.

The two North Anna reactors were completed recently but have not been started up because of a nationwide moratorium on new operating licenses imposed by the Nuclear Regulatory Commission in the wake of the accident at Three Mile Island near Harrisburg, Pa.

The commission is the federal watchdog over the domestic nuclear industry.

VEPCO has experienced operating problems at the two Surry units. One unit at the plant is shut down to repair leaking pipes. The other is closed for installation of a new steam generator.

As if that weren't enough, two former Surry employees tried to damage uranium fuel rods at the plant—an act they said they were driven to by the company's lack of concern for safety.

Last year VEPCO decided to cancel plans to build two more nuclear units at Surry. The company said that demand for electricity in Virginia hadn't grown as fast as had been estimated.

With all of this experience apparently in mind, Ragone said that VEPCO would study whether the partially built units 3 and 4 at North Anna could be converted to coal.

Virtually all of the $485 million worth of work already done on the two units—estimated to cost $1.7 billion if finished with nuclear reactors—could be salvaged for use in coal-fired units, Ragone said.

Even though Ragone said he had no doubt that nuclear power was "the way to go," he said that "it's pretty obvious the government right now is not content with the nuclear power option."

Ragone also noted that construction costs for nuclear plants continue to soar. Prices are going up for coal-fired plants too, he said, but nuclear plants have higher "front end" construction costs than coal-fired ones—a particularly painful fact at a time of rising interest rates on loans.

"Every time there is a regulatory delay by the NRC, it costs these guys money," said Price, a coal analyst for Dean Witter in New York and a consultant to VEPCO.

"They're saying, 'Nuclear may be too——— much aggravation. We know coal; let's look at it again.' "

VEPCO already operates three coal-fired plants, including a large "minemouth" plant at Keyser, W. Va.

If the two units at North Anna are converted to coal, the move would create the first combination coal-and-nuclear generating station in the nation, if not the world.

The idea seems just fine to Ford, a relentless advocate of coal use, particularly Kentucky coal. Kentucky coal operators would love to bid for the right to sell coal to a plant at Marble Hill, being built near Madison, Ind., 31 miles up the Ohio River from Louisville.

In a letter to PSI President Hugh Barker, Ford praised VEPCO's decision to study the conversion option and said PSI should do the same.

"There are many similarities between the dilemma facing VEPCO and the problems PSI is now encountering," said Ford, a member of the Senate Energy Committee.

"I am of the option that PSI, like VEPCO, has reached the point where it must reexamine its commitment to nuclear power."

Jack Bott, PSI's nuclear licensing manager, said that the company had already done so at the request of Indiana state Sen. Mike Kendall, D-47th District.

"We're not planning any detailed study that I know of," Bott said. "We've looked at the idea, and it's obvious what the practicalities are—pretty low."

Bott said that only the transformer switching yard and cooling towers of the Marble Hill plant could be salvaged for use in a coal plant. Everything else, he said, would be useless.

Because of different types of steam systems in nuclear and coal-fired plants, he said, the company would have to completely change the design of turbines and pipes to carry heat away from the boilers.

"We'd have a real plumbing problem," Bott said.

Also, he said, the Marble Hill plant is being built near several existing and planned coal-fired plants—a fact that would make it hard to win government approval for another.

"There is already a high degree of pollutant emissions in the area," Bott said. "I'm not certain we'd be able to get the permits we'd need."

[From the Washington Post, Oct. 21, 1979]

DECREASES IN DEMAND LEAVING UTILITIES WITH UNNECESSARY CAPACITY

(By Jerry Knight)

When the engineers at Potomac Electric Power Co. sat down a decade ago to plan for the Washington area's electricity needs for the 1970s and 1980s, they were under intense pressure from government regulators.

"Even under the best conditions, Pepco's generating capacity is now barely adequate to meet peak demands on its system," the District of Columbia Public Service Commission warned the power company in January 1970. "That situation can only be overcome by an aggressive program of construction and improvement to meet growing demands."

With that mandate and a forecast from the Pennsylvania—New Jersey—Maryland Interconnection power pool that electricity consumption would increase at least 10 percent a year, Pepco drew up a plan to build 10 power plants in the next 10 years and to increase its generating capacity by 7,100 megawatts by 1981.

It never happened. During a decade of oil boycotts, energy crises and cost consciousness, Pepco has scrapped almost 85 percent of its construction program. By 1981, Pepco will have added only 1,100 megawatts of power output compared with the planned 7,100, and that may prove to be more than its customers can use.

For reasons that are mostly beyond the control of utility companies, demand for electric power is continuing to fall, creating new problems for the power company and the customers who pay electric bills:

Pepco recently scaled down its forecast of peak-demand growth to 2.2 percent a year, leading District of Columbia People's Counsel Brian Lederer to complain that the company still is building new power plants faster than needed.

Baltimore Gas & Electric Co. cut its projection again last week and now is planning on increasing capacity by 3.6 percent a year through the 1980s. At that rate, BG&E said it will have no need for the $1 billion coal burning power plant that it planned to build in Montgomery County in partnership with Pepco.

Virginia Electric & Power Co., which had been counting on growth of 4 percent a year, is revising its projections right now. Last week Vepco offered to sell part of a mammouth hydroelectric plant it is building in southern Virginia to two other companies because it won't need all the power the plant can produce.

Nationally the growth rate in electric use has fallen from 5.3 percent to 4.8 percent a year in the latest forecast put out by the Edison Electric Institute, the utility industry trade association. The utility growth rates are based in increases in demand at peak times—the hottest day of the summer in Washington.

As the growth rate of electrical consumption has slowed, the industry's reserve margin—generating capacity beyond what is needed to meet current use—has climbed from about 20 percent to more than 30 percent, EEI officials say.

That is more reserve capacity than is needed to protect against power failures, and this excess costs customers money, contend industry critics such as Lederer, whose job as D.C. People's Counsel is to represent the public interest in utility matters.

In a report to the D.C. PSC last week, Lederer contended that Pepco, which plans to spend $520 million on new plants in the next three years, should be cutting its construction budget. "A mere $20 million reduction per year will save, in present dollars, $129 million in rates to all Pepco customers," Lederer noted.

Pepco corporate affairs director David Boyce said the company already has cut its construction plan by more than $1 billion—from $1.8 billion to $730 million. Pepco deferred indefinitely a pair of nuclear power plants it planned to build at Douglas Point, Md., delayed several smaller projects and dropped some entirely.

Boyce said Pepco officials don't yet know how their construction plans will be affected by the decision of BG&E to drop out of the joint effort to build a major powerplant at Dickerson on the Potomac River.

When Pepco drew up its construction plan for the decade, the Dickerson plant was scheduled to be in operation by 1976. Although preliminary work is under way, construction still hasn't started, and the current completion date is 1987.

Pepco contends that the cutbacks and de-

lays in construction of new plants have saved customers money. When the company dropped plans for its two nuclear plants, it already had contracted to buy the uranium fuel to run them. Because uranium prices had jumped, Pepco was able to sell the uranium at a $40 million profit that was paid back to customers in lower bills.

A similar decision by Vepco, however, cost customers money. The Virginia utility already had spent $167 million on two nuclear plants before it decided they no longer would be needed. The Virginia State Corporation Commission nevertheless allowed the investment to be charged to Vepco customers.

Vepco spokesman August Wallmeyer said the company does not yet know the financial impact of selling part of its Bath County, Va., hydroelectric project.

Vepco is trying to sell part of the project to American Electric Power and Allegheny Power System, two West Virginia utilities. If the company is lucky, it may be able to sell shares in the project at a profit; if not, Vepco customers could wind up paying for a $1 billion project that is rarely used.

Like many other utility construction projects that now face cancellation or delays, the Bath County project was planned before the energy crisis.

Throughout the 1950s and 1960s, the biggest problem that utilities faced was building new generators fast enough. Vepco and Pepco were among the fastest-growing utilities in the country then.

The problems began when the Arabs cut off the oil; in 1974, electrical demand fell for the first time ever. Electric use rebounded, but the utility business has never been the same.

The Washington area utility companies have seen some of the sharpest cuts in use in the country as the thermostats have been turned back in federal facilities.

CAMBODIA

Mr. LEVIN. Mr. President, earlier today we adopted a resolution relative to Cambodia. All possible avenues must be taken to keep the pressure on the powers that control that country to allow food to be brought in.

As part of that effort, a number of Senators, during a 24-hour period, have signed a letter directly addressed to Anatoly Dobrynin, the Ambassador from Russia.

I ask unanimous consent that this letter be printed in full in the RECORD.

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

U.S. SENATE,
Washington, D.C., November 16, 1979.

ANATOLY F. DOBRYNIN,
Ambassador, The Embassy of the Union of Soviet Socialist Republics, Washington, D.C.

DEAR MR. AMBASSADOR: We would like to take this opportunity to express our strong feelings about the tragedy unfolding in Cambodia.

We ask that you convey to your government our belief that, at this time, the Soviet Union should take a major humanitarian step by urging that the Heng Samrin government increase its cooperation with international relief organizations working to distribute food and medicine throughout Cambodia. For instance, we ask your government to support the efforts of international organizations to establish a land bridge from Thailand into Cambodia. This land bridge could deliver 30,000 tons of supplies monthly and is the most effective means of getting the most food and medical supplies to the most people in the least amount of time.

World-wide attention remains focused each day on the developments within Cambodia. As you are aware, the Senate of the United States recently acted as a body to express its unanimous view that it is the moral obligation of the supporters of Cambodia, such as the Soviet government, to take the necessary action to prevent a Cambodian holocaust.

The Soviet Union is in a unique position to discuss with Phnom Penh officials ways to allow the world community to effectively deliver desperately needed humanitarian assistance. If further mass death is to be avoided in Cambodia, it is imperative—regardless of political considerations—that the Soviet Union join other nations and millions of individuals around the world in the international effort to alleviate this widespread human suffering.

Sincerely,

Rudy Boschwitz, Jacob Javits, Carl Levin, Sam Nunn, Dale Bumpers, Thad Cochran, David L. Boren, Nancy L. Kassebaum, Howard M. Metzenbaum, Roger W. Jepsen, Warren G. Magnuson, Robert Dole, Bill Bradley, Paul Laxalt, Harrison H. Schmitt, John Heinz, J. James Exon, Donald W. Riegle, S. I. Hayakawa, Richard Stone, Charles H. Percy, Bob Packwood, Walter D. Huddleston, Harrison A. Williams, Malcolm Wallop, Daniel K. Inouye, J. Bennett Johnston, Richard S. Schweiker, Alan Cranston, William S. Cohen, David Durenberger, Lawton Chiles, Thomas Eagleton, Lloyd Bentsen, Gordon J. Humphrey, William Armstrong, Strom Thurmond, John Glenn, Birch Bayh, Ted Stevens, Henry M. Jackson, Paul Tsongas.

Mr. LEVIN. Mr. President, I also ask unanimous consent that a "Dear Colleague" letter, which was presented at the meeting of the aforementioned Senators, also be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., November 15, 1979.

DEAR COLLEAGUE: As the horrors of famine and civil war in Cambodia become more grave with each passing day, it becomes more and more important that the international relief effort, which has begun slowly, proceed as quickly as possible. At this time, while our nation and many other nations of the world are responding with a massive relief effort, we have learned that not all of the aid being sent to the people of Cambodia is reaching that country as rapidly as it is needed. We are informed that this is primarily because the authorities controlling most of Cambodia, the Heng Samrin regime and its Vietnamese protectors, have refused to allow the international aid organizations to establish a "land bridge" from Thailand as a distribution route. This land bridge is considered the most effective means of providing food and medical supplies to the largest number of Cambodians. As Heng Samrin and the Vietnamese play politics with the food and medical supplies, thousands of people who might be saved are dying.

Many people have begun to realize that the intransigence of the Heng Samrin government with its 200,000 Vietnamese troops, is being supported, at least indirectly, by the Soviet Union, which is also giving vast amounts of military aid to these forces under the treaty of friendship and cooperation between the Soviet Union and Vietnam. Deputy Assistant Secretary of State Robert Oakley told the Foreign Relations Subcommittee on East Asian and Pacific Affairs on September 27 that "We think up to three million people are suffering a very uncertain fate now resulting from famine and disease. Much of it is indeed due to the efforts of the Vietnamese to consolidate their control over the country."

It is for these reasons a group of private citizens have decided to appeal directly to the Soviet government urging it to tell its allies to let the food into Cambodia by all available routes.

These citizens will hold a rally on Sunday, November 18, at 1 p.m. near the Soviet Embassy, at 16th and M streets. Some of the sponsors of the rally are Lane Kirkland, Secretary-Treasurer of the AFL–CIO, Douglas Fraser, President of the UAW, Bayard Rustin, the noted civil rights leader, and Leo Cherne, of the International Rescue Committee.

I am sending a letter to Ambassador Anatoly Dobrynin protesting the implicit Soviet support for the Vietnamese/Heng Samrin policy of not allowing the use of the land bridge, the most effective means of providing food to the people of the Cambodian countryside, and for not cooperating more quickly with the international relief effort to bring in food more rapidly.

I hope that you will join me in signing the letter to Ambassador Dobrynin, a copy of which is attached. If you would like to cosign the letter or any further information on the rally, please call Eric Hockstein at ext. 43267 before noon on Friday, November 16. I intend to enter the letter in the RECORD on Friday afternoon.

Sincerely,

CARL LEVIN.

Mr. LEVIN. Mr. President, I thank the Senator from Minnesota (Mr. BOSCHWITZ) and the Senator from New York (Mr. JAVITS) for their efforts in working with me in preparing and circulating this letter in this very short period of time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CORRECTION ON SENATE RESOLUTION 274

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on page 12, line 1 of Senate Resolution 274, approved November 14 after the word "day" to insert "(the end of the morning hour);" this makes no substantive change, it merely defines the 2 hours as the morning hour, and has no effect on procedure.

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar with the exception of Calendar Order No. 466, under the Environmental Protection Agency.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the distinguished acting minority leader has no objection, that the nominations be considered and confirmed en bloc.

Mr. STEVENS. There is no objection.

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

The nominations considered and confirmed en bloc are as follows:

FEDERAL EMERGENCY MANAGEMENT AGENCY

Gloria Cusumano Jimenez, of North Carolina, to be an Associate Director.

DEPARTMENT OF THE INTERIOR

William Edward Hallett, of Colorado, to be Commissioner of Indian Affairs.

COUNCIL ON ENVIRONMENTAL QUALITY

Robert H. Harris, of Maryland, to be a member of the Council on Environmental Quality.

DEPARTMENT OF ENERGY

Ruth M. Davis, of Maryland, to be an Assistant Secretary of Energy (Resource Applications).

William Walker Lewis, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation).

FEDERAL ENERGY REGULATORY COMMISSION

Charles B. Curtis, of Maryland, to be a member of the Commission.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the vote by which the nominees were confirmed en bloc.

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

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

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

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

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

SENATOR ROBERT C. BYRD'S ADDRESS BEFORE THE AFL–CIO

Mr. RANDOLPH. Mr. President, during several days of this week, an important convention of the members of the AFL–CIO has been in progress in the city of Washington, D.C. There have been many speeches delivered to those who come from all parts of the country who hold positions of responsibility in the organized labor movement of the United States of America. I interpose, before making further comment and a request for a speech by our majority leader to be printed in the RECORD, to indicate that I feel that one of the most important legislative enactments in the Congress of the United States was the creation of the National Labor Relations Board in 1933. It was my privilege and responsibility to be in the House of Representatives at that time and to vigorously support the proposal. In a sense, it was something new in this country, but it was an indication that the Congress and the people generally, throughout the Nation, felt that there was every right for the workers of this Nation to have the opportunity to bargain collectively with management.

This was not an attempt to have a polarization of labor as against management and management as against labor, but it was the opportunity which has strengthened the labor movement and, I think, has been a very strong element in the continuing productivity of the American working men and women.

I do say that I think one of the problems that we face today is a greater productivity of our work forces, organized and unorganized, in the United States of America.

I specifically wish to call attention, Mr. President, to the address by the able majority leader of this body, the U.S. Senator from West Virginia (Mr. ROBERT C. BYRD). I feel that it is also, perhaps, an occasion when I can say that Senator BYRD is the only West Virginian in the history of our State who has had the opportunity to bring his career to that point where he would be the majority leader of the U.S. Senate. He is the first legislator from West Virginia to hold that honor and to discharge the responsibilities of that office in a way which has properly earned for him the confidence of his colleagues on both sides of the aisle in this Chamber.

Senator BYRD, in speaking to approximately 2,000 men and women of the AFL–CIO earlier today set forth, I think, provocative statements and presented a meaningful message (I think back there) to those in attendance. He said, in part:

However, the challenges confronting the United States today are as great as at any time in our past, and I am certain that the AFL–CIO will be an active participant in seeking solutions to the problems that beset us.

For the better part of three-and-one-half decades, this country has largely set the agenda for the non-communist world. Domestically, we have made significant strides in improving the lives of millions of Americans. In addition, during that period, Americans have been responsible for some of the most spectacular technological advances in human history. Moreover, continued our leader, the average citizen of the United States has enjoyed and come to expect a standard of living undreamt of in prior ages.

Then the leader discussed the problems of the energy dilemma, the soaring and, as he said, seemingly chronic rate of inflation. He spoke of the Cuban-Soviet or the Soviet-Cuban imperialism, of international terrorism, and of competition from abroad.

He discussed the economic power of OPEC and he was very frank to say that there are problems which clamor for our attention. He meant the Members of the Senate, the Members of the Congress, and, of course, the people of the United States.

He asked for the counseling of our citizenry and he spoke of the work of the Congress of the United States through action last week, when, in this body—as the able Presiding Officer, the Senator from Kentucky, well knows, since he was a part of that effort—we approved a $20 billion development fund for synthetic and alternate fuels, as well as a program to help the poor pay for their heating bills this winter.

So he spoke of what has been done, but he spoke of the challenge and the potential which is constantly ahead of us. I, of course, know of the early days of the majority leader. When, we think of the coal miner, his foster father was a coal miner. Erma, the good helpmate of Senator BYRD, is the daughter of a coal miner. I want to say that I believe it is important to tell my colleagues that the majority leader labored in the shipyards at Baltimore, and at one time, of course, he was a butcher, working in one of the stores of our State.

So Senator BYRD spoke as one who understands the problems of labor and of the men and women who toil in all the areas of the productive life of American society from the standpoint of that which we have the determination to place in the mainstream of the products that serve our people and other peoples throughout the world.

He expressed a sincere admiration for George Meany and, of course, that was done by the President of the United States. Jimmy Carter, during this same convention.

Senator BYRD said, in these words:

. . . the fortunes of the house of labor will glow even brighter under the leadership of those who will follow in the wake of George Meany.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the significant, and in many ways the sobering, the thought-provoking, the meeting-the-issue type of speech which was delivered by the majority leader at this convention, as I have said, as of this date.

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

SPEECH BY U.S. SENATOR ROBERT C. BYRD

I want to thank Al Chessar for his gracious introduction, and I want to thank you, the members of the AFL–CIO, for inviting me to speak to your convention this morning.

Moreover, I want to express my admiration and appreciation to George Meany for the outstanding services that he has rendered to the labor movement and this country during the nearly quarter-century that he has been the president of the AFL–CIO. He has been an active trade unionist for more than sixty years, and he has never flagged in his devotion to the cause of labor at any time in his career. Moreover, because of his personal

integrity, grasp of issues, and high sense of patriotism, he has given labor an unequalled voice in national affairs. The AFL–CIO and the United States are both stronger because of the firm hand and uncommon dedication of George Meany.

George Meany is the latest in a long tradition of leadership in the AFL–CIO. More than a century ago, Samuel Gompers became the president of the Cigarmakers' Union and went on to become one of the founders and the first president of the American Federation of Labor in 1886. Subsequently, William Green and Philip Murray were just two of the men who made this great union such a vital part of the American economy.

Indeed, the free unions of this country have formed one of the bulwarks of liberty in America's efforts to preserve its freedom and way of life. The strength and contributions of organized labor have been major factors in shaping our society. This vital role is a feature that Karl Marx never foresaw for labor, and would never have predicted, when he promulgated his ideology; this is one reason that communism has been irrelevant in meeting the challenges faced by the citizens of the United States, and why doctrinaire marxism has been admirably and effectively opposed by responsible union leaders throughout the history of organized labor in America.

However, the challenges confronting the United States today are as great as at any time in our past, and I am certain that the AFL–CIO will be an active participant in seeking solutions to the problems that beset us.

For the better part of three-and-one-half decades, this country has largely set the agenda for the non-Communist world. Domestically, we have made significant strides in improving the lives of millions of Americans. In addition, during that period, Americans have been responsible for some of the most spectacular technological advances in human history. Moreover, the average citizen of the United States has enjoyed and come to expect a standard of living undreamt of in prior ages.

But we are living in a world of new realities. The waxing energy dilemma, the soaring and seemingly chronic rate of inflation, Soviet-Cuban imperialism, international terrorism, foreign industrial competition, the economic power of OPEC, and widespread unrest abroad, are but a few of the multitude of problems clamoring for our attention. In some cases, we have been the victims of an unaccustomed sense of frustration and anxiety, as we have sought to solve quandaries that were not of our making, and that apparently lie beyond our direct authority to unravel. But, in other instances, we are seeking and finding answers that will reinforce our traditional ability to determine our own future and to maintain the strength and prosperity of the United States.

This is, I believe, especially true in the case of the energy crisis. Though we have not discovered any inexhaustible new energy bonanzas, and though we must prepare ourselves to make significant adjustments in our energy attitudes and habits in the decade ahead, the Congress has taken dramatic steps, in an appropriately judicious fashion, that promise to launch the United States on the road toward greater energy self-sufficiency in the future. Congress last week approved a $20 billion development fund for synthetic and alternative fuels, as well as a program to help the poor pay for their heating bills this winter. "Synfuels" from coal, gasohol, alcohol, oil from shale and tar sands, and solar energy are but some of the possibilities that will be developed in the years ahead. Moreover, incentives for conservation and the fullest possible use of coal should diminish our crippling addiction to foreign petroleum supplies.

These potential adjustments in our energy use and resources should have considerable impact on the future direction of the labor movement in this country. The emergence of new synthetic fuels industries, the widespread conversion of electric-power generating plants from oil to coal, and the rebirth, initiation, or expansion of various modes of mass transportation, will require the skills and labor of large numbers of men and women. As in our past growth and economic evolution, I am confident that American labor will assume a major role in winning energy self-sufficiency for our country, and in contributing to the success of these bold new ventures.

Since the end of World War II, the United States has been locked in competition with the Soviet Union for international preeminince. This contest has not reached a conclusion. Soviet-Cuban adventurism and opportunism in Africa and other parts of the Third World adequately demonstrate the continuing threat of Soviet expansionism. The United States and her allies cannot afford to lose sight of this reality.

While recognizing the continuing competition between the United States and the Soviet Union, bi-partisan U.S. foreign policy has actively sought, for a period including the administrations of President Nixon, Ford, and Carter, to lessen the probability of a nuclear confrontation between the two superpowers. The latest devedopment in this foreign policy process was the conclusion of the SALT II Treaty, which will come before the full Senate for debate in the weeks ahead.

Months ago, I stated that I would determine my position on the SALT II Treaty only after a thorough, systematic, and comprehensive examination of the testimony and evidence available and pertinent to both sides of the treaty question and its related issues.

Throughout this process, I have said that my decision on the treaty would stand or fall on the answer to a simple, but basic question: namely, is the SALT II Treaty, as written, in our national interests, or is it not?

I have concluded, after this period of lengthy examination and reelection, that SALT II is in our national interests, and I believe that the treaty should be approved by the Senate, with the adoption of certain provisions.

Let not one be mistaken: This treaty is no favor to the Soviet Union. It will allow us to carry out the necessary strengthening and modernization of our central strategic nuclear systems, while limiting the momentum of Soviet development in this field.

I would readily concede that the SALT II Treaty is far from perfect. Anyone unilaterally can draft a treaty, but it takes two parties to negotiate it. We must remember that this treaty is the product of negotiations between two parties over six-and-one-half years, under three administrations, two of which were Republican and one of which was Democratic.

This treaty, like most treaties, is a statement of the political realities existing between the nations involved. It suggests a commitment on both sides to limit competition in one domain, that of strategic arms.

Moreover, I believe the American people will support the steps necessary to protect our security by bolstering our defense in certain key areas, while reducing the risks of nuclear war. This has to be done with or without SALT II. Without the treaty, however, we face a more costly, a more uncertain, and a more dangerous future. But with the treaty, we should have no illusions.

As Chairman of the Joint Chiefs of Staff, General Jones, has pointed out, we cannot let the SALT II treaty "tranquilize" us. If SALT II is approved, we cannot afford to become complacent about the critical need to undertake important modernization of our strategic programs and upgrading of our conventional weapons systems, in order to maintain strategic parity and our national security within the limits of SALT II. Moreover, I definitely favor the development of the MX missile, in a mobile survivable mode, as a further insurance against nuclear devastation. Unless we sustain a commitment to a strong national defense, the possibilities inherent in SALT II will not be realized.

American labor has always supported the principle of a strong defense capability. One of Adolph Hitler's greatest blunders in launching World War II, most experts agree, was his failure to take into account the matchless industrial might of the United States. The mobilization and application of that industrial power would have been impossible without the earnest and patriotic response of the working men and women of our country at that time. Labor continues today to be one of the primary factors in cur national security.

However, a major element in the strength of any modern industrial nation is its manufacturing and productivity potential. The economy of the United States is the largest in the world, and, in fact, the greatest in history.

But, currently, American business and labor are confronting fierce competition for markets everywhere in the world. The quality and comparative cost of goods manufactured by Japanese, West German, and other foreign companies have made them extremely attractive. The virtual monopolies and advantages enjoyed in the past by some American industries and workers have faded or, in many cases, vanished in recent years.

The citizens of the United States are not afraid of fair economic competition. But in order to assure that American goods maintain and expand their markets, and that the standard of living of American workers remains high, especially against the inroads of worldwide inflation, all of the various segments of our economy must pull together for our mutual benefit. Management, labor, and the Government, among others, should seek to cooperate wherever possible and feasible, in order that the quality of our goods will be excellent; that the wages of our working people will be the highest; that the rate of productivity will grow; and that jobs for American labor will be secure in the decades ahead.

I grew up in the coal fields of southern West Virginia. My foster father was a coal miner, and I married a coal miner's daughter. I labored in the shipyards of Baltimore, and I learned to survive on the wages of a butcher.

I know what it is to earn bread by the sweat of my brow. I also remember what life was like when there were no strong unions to carry the voice of working men and women into the board rooms and power centers of this country.

George Meany wrote in his last official editorial for your American Federationist magazine, "American unions have been and will remain the only major private U.S. organizations whose sole purpose is advancing the cause of American workers."

Through the years, the friends of labor in the United States Senate have recognized the truth of that declaration. Unfortunately, in the 1978 elections, five of labor's stauchest allies went down to defeat.

Next year, a number of other Senators with strong records of labor support will be facing stiff campaigns. Proponents of "single-issue politics" have marked several of these incumbents for political extinction. Their battles for reelection will be tough, and future efforts to win passage of legislation that labor supports will be difficult, if not impossible.

without these essential votes. As in the past, I encourage labor to give these Senators all the help possible in their election efforts, because our country needs statesmen in the Senate who have a broad understanding of the issues facing the United States, and who appreciate the role that labor plays in our national strength and prosperity.

In 1824, the great Daniel Webster perhaps set the stage for a tradition when he declared, "labor in this country is independent and proud." Today our unions are still independent and proud, and the men and women of the AFL–CIO comprise one of the most vital resources in America.

George Meany is in large measure responsible for the development of this role. With his impending retirement, one era in our labor history ends, and a new one begins. I am confident, however, that the structure which he has helped to build will weather well the years ahead, and that the fortunes of the House of Labor will glow even brighter under the leadership of those who will follow in his wake.

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

CARRYOVER PROVISIONS FOR ESTATE TAX PURPOSES

Mr. HARRY F. BYRD, JR. Mr. President, in the closing hours of the 1976 session of the Congress, the conferees on the tax bill wrote in a provision dealing with the carryover basis of assets for estate tax purposes. There had been no committee hearings in the Senate on this matter. There had been no discussion in the Senate. It came to the Senate in the form of a conference report.

Since that time, at least three hearings have been held by the Senate Subcommittee on Taxation. It is the almost unanimous view of all who testified that the carryover provisions in the present law are just totally unworkable. Besides, the carryover basis changes fundamentally the entire estate tax law provisions dealing with the income taxation of assets need at death.

The Finance Committee, when it reported to the Senate the windfall profit tax bill, included in the windfall profit tax bill a provision to repeal the carryover basis provisions of the estate tax law. That provision was adopted by an 18-to-0 vote—an 18-to-0 vote—in the Finance Committee.

I want to read into the RECORD the cosponsors of the repeal legislation:

Senator Robert Dole, Senator Harry F. Byrd, Jr., Senator Edward Zorinsky, Senator Lloyd Bentsen, Senator Roger W. Jepsen, Senator Malcolm Wallop, Senator Wendell H. Ford, Senator Robert Morgan, Senator John Tower, Senator Nancy Landon Kassebaum, Senator Richard G. Lugar, Senator Richard Stone, Senator Orrin G. Hatch, Senator Milton R. Young, Senator J. James Exon, Senator James A. McClure, Senator Larry Pressler, Senator Thad Cochran, Senator John Melcher, Senator Jesse Helms, Senator Harrison "Jack" Schmitt, Senator Gordon J. Humphrey, Senator Barry Goldwater, Senator Rudy Boschwitz, Senator Alan Simpson, Senator Ernest Hollings, Senator Russell B. Long, Senator Gaylord Nelson, Senator Daniel Patrick Moynihan, Senator David Durenberger, Senator Howell Heflin, Senator S. I. (Sam) Hayakawa.

Mr. President, the repeal of the carryover basis is favored by the American Farm Bureau, and by many groups and organizations representing small business, representing the farmers, and representing many different categories of individuals, because if it continues as it is, No. 1, the law is unworkable. Even the Treasury Department says that.

No. 2, it will have a devastating effect on many people, affecting almost everyone except those who have eternal life. At the moment, none comes to mind.

Mr. President, I will also read into the RECORD the groups supporting repeal of the carryover basis:

American Bar Association.
American Bankers Association.
American College of Probate Counsel.
American Farm Bureau Federation.
American National Cattlemen's Association.
Forest Industries Committee on Timber Valuation and Taxation.
National Livestock Tax Committee, American Cattlemen's Association.
National Livestock Feeders' Association.
National Wool Growers Association.
Pennsylvania Bankers Association.
Iowa State Bar Association.
National Realty Committee.
International Council of Shopping Centers.
National Association of Realtors.
Colorado Bar Association, Taxation Section.
The Authors League of America.
Texas Bankers Association.
Florida Bankers Association.
National Association of Home Builders.
New York State Bankers Association.
Committee of Banking Institutions on Taxation, New York.
Apartment and Office Building Association of Metropolitan Washington.
Virginia Beef Cattle Association.
Illinois State Bar Association.
American Paper Institute.
National Forest Products Association.
Virginia Forestry Association.
North Carolina Bar Association.
The Southern Governor's Conference.

ORDER FOR CONSIDERATION OF CRUDE OIL WINDFALL PROFIT TAX OF 1979, H.R. 3919, ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, following the orders for the recognition of the two leaders, the Senate resume consideration of the pending business.

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

RECESS TO 10 A.M. ON MONDAY, NOVEMBER 19, 1979

Mr. HARRY F. BYRD, JR. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 a.m. on Monday next.

The motion was agreed to; and at 6:45 p.m., the Senate recessed until Monday, November 19, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 16, 1979:

DEPARTMENT OF TRANSPORTATION

William B. Johnston, of Virginia, to be an Assistant Secretary of Transportation, vice Chester Davenport, resigned.

FEDERAL EMERGENCY MANAGEMENT AGENCY

William H. Wilcox, of Pennsylvania, to be an Associate Director of the Federal Emergency Management Agency (new position).

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under provisions of Title 10, United States Code, Sections 3303 and 3305:

ARMY PROMOTION LIST

To be colonel

Abt, Irwin E., [redacted]
Adams, Harvey L., [redacted]
Adsit, John M., [redacted]
Akin, George H. [redacted]
Allaire, Christopher [redacted]
Allison, Robert H., [redacted]
Alton, Carily L., [redacted]
Anderson, Ralph O., [redacted]
Annette, Robert W., [redacted]
Arnecke, Charles O., [redacted]
Bacon, Robert C., [redacted]
Bagnal, Charles W. [redacted]
Bahnsen, John C., [redacted]
Bailey, George A., [redacted]
Baird, Richard J., [redacted]
Baker, A. J., [redacted]
Barker, Rex N., [redacted]
Barlow, Keith A., [redacted]
Barnum, Robert C., [redacted]
Barron, James B., [redacted]
Bartron, Hubert K., [redacted]
Beck, Edmund S., [redacted]
Bell, Dale M. [redacted]
Bell, Lawrence A., [redacted]
Bening, Robert G., [redacted]
Bernd, Roy B., [redacted]
Berry, William W., [redacted]
Binney, Charles W., [redacted]
Bizzelle, Joanalys, [redacted]
Blagg, Thomas E., [redacted]
Blascak, Donald W., [redacted]
Blewster, James C., [redacted]
Boerner, Dennis H., [redacted]
Bolani, Peter J., [redacted]
Boll, Albert F., [redacted]
Bonnett, William B., [redacted]
Botts, Robert H., [redacted]
Bradford, Zeb B., [redacted]
Brashears, Bobby F., [redacted]
Breen, James H. [redacted]
Brier, James R., [redacted]
Broadaway, Thomas F., [redacted]
Bronson, Richard M., [redacted]
Broome, James R., [redacted]
Brown, Bernard B., [redacted]
Brown, Frederic J. [redacted]
Brown, Lee D. [redacted]
Brown, William W. [redacted]
Bryant, William L. [redacted]
Buckner, David L., [redacted]
Bullock, Victor T., [redacted]
Bunevich, Peter C., [redacted]
Burcham, Jerry J., [redacted]
Burgoon, Kenneth L., [redacted]
Burke, Francis J., [redacted]
Burton, Donald L., [redacted]
Bush, Emory W., [redacted]
Bynell, Harlan B. [redacted]
Calvert, Jack F [redacted]
Cambell, Chester F., [redacted]
Campbell, Donald A., [redacted]
Campbell, Frank D., [redacted]
Campbell, Joseph R., [redacted]
Carney, James H. [redacted]
Carr, Eldon D. [redacted]
Carroll, George F., [redacted]
Carroll, William F., [redacted]
Casey, Franklin J., [redacted]
Castelli, Joseph G., [redacted]
Caudill, James E. [redacted]
Cei, Peter G., Jr., [redacted]
Cento, Dahl J. [redacted]

Christensen, George, xxx-xx-xxxx
Christopher, Harry, xxx-xx-...
Clarke, Charles C., xxx-xx-xxxx
Clelan, Joseph R., xxx-xx-xxxx
Cocke, Eugene R., xxx-xx-xxxx
Cody, William F., xxx-xx-xxxx
Coffman, Richard L., xxx-xx-...
Colburn, Edward A., xxx-xx-xxxx
Conrad, Michael J., xxx-xx-xxxx
Conroy, Arthur T., xxx-xx-xxxx
Conroy, Robert E., xxx-xx-xxxx
Cooper, Frederick E., xxx-xx-xxxx
Craver, Douglas M., xxx-xx-xxxx
Crawford, Charles W., xxx-xx-xxxx
Crawford, Clydie J., xxx-xx-xxxx
Cremer, Robert D., xxx-xx-xxxx
Croft, John A., xxx-xx-xxxx
Crosby, James C., xxx-xx-xxxx
Cross, Ernest E., xxx-xx-xxxx x...
Cullen, James F., xxx-xx-xxxx
Curl, Richard L., xxx-xx-xxxx
Davis, Alice M., xxx-xx-xxxx
Davis, Harold M., xxx-xx-xxxx
Davis, Richard K., xxx-xx-xxxx
Davis, Sidney, xxx-xx-xxxx
Day, Frank L., xxx-xx-xxxx
DeCamp, William S., xxx-xx-xxxx
DeLandro, Donald J., xxx-xx-xxxx
Deleuil, Wood R., xxx-xx-xxxx
Demers, Gerald Z., xxx-xx-xxxx
Delvecchio, William, xxx-xx-xxxx
Dewey, Arthur E., xxx-xx-xxxx
Diez, Everett S., xxx-xx-xxxx
Dillingham, William, xxx-xx-xxxx
Dillon, William F., xxx-xx-xxxx
Dinkins, Robert L., xxx-xx-xxxx
Dottle, James C., xxx-xx-xxxx
Downes, Michael M., xxx-xx-xxxx
Dozier, James L., xxx-xx-xxxx
Druit, Clifford A., xxx-xx-xxxx
DuBoise, Perryman F., xxx-xx-xxxx
Dudzik, Joseph A., xxx-xx-xxxx
Dull, Harry L., Jr., xxx-xx-xxxx
Dyke, Charles W., xxx-xx-xxxx
Eastburn, Charles E., xxx-xx-xxxx
Ebbole, Robert, xxx-xx-xxxx
Ebert, Vernon E., xxx-xx-xxxx
Ecoppi, Joseph L., xxx-xx-xxxx
Eitel, James W., xxx-xx-xxxx
Ellis, James N., xxx-xx-xxxx
Ely, Arch H., Jr., xxx-xx-xxxx
Epperson, Thomas A., xxx-xx-xxxx
Eure, Samuel L., xxx-xx-xxxx
Fargason, Leroy H., xxx-xx-xxxx
Farmer, William P., xxx-xx-xxxx
Farrell, Joseph G., xxx-xx-xxxx
Feaster, Lewis L., xxx-xx-xxxx
Feeney, Gerald F., xxx-xx-xxxx
Finch, Arthur L., xxx-xx-xxxx
Fiorentino, William, xxx-xx-xxxx
Fisher, Paul D., xxx-xx-xxxx
Fiske, William S., xxx-xx-xxxx
Fitzgerald, John M., xxx-xx-xxxx
Fitzmorris, Lawrence, xxx-xx-...
Foss, John W., xxx-xx-xxxx
Fountain, Ernest H., xxx-xx-xxxx
Fox, Eugene, xxx-xx-xxxx
Fox, Eugene A., xxx-x...
Fraker, William W., xxx-xx-...
Fraley, Harold J., xxx-xx-xxxx
Frank, Winfield C., xxx-xx-xxxx
Frederick, William, xxx-xx-xxxx
Frye, Ray E., Jr., xxx-xx-xxxx
Fuller, Thomas W., xxx-xx-xxxx
Gale, Paul B., xxx-xx-xxxx
Gannon, James V., xxx-xx-xxxx
Garvey, Charles J., xxx-xx-xxxx
Gayler, Earl D., xxx-xx-xxxx
Geczy, George, Jr., xxx-xx-xxxx
Gentry, Paul E., xxx-xx-xxxx
Gibbons, Bruce H., xxx-xx-xxxx
Gibbons, Gerald G., xxx-xx-xxxx
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Giese, William, xxx-xx-xxxx
Gilmore, Joseph R., xxx-xx-xxxx
Glasker, Samuel J., xxx-xx-xxxx
Gleason, Joseph E., xxx-xx-xxxx
Glenn, Charles A., xxx-xx-xxxx
Goetz, George W., xxx-xx-xxxx
Goodwin, Clifton R., xxx-xx-xxxx
Gracey, Hugh W., xxx-xx-xxxx
Grant, Theodore, xxx-xx-xxxx
Gray, Frank M., Jr., xxx-xx-...
Green, James L., xxx-xx-xxxx
Greenway, John R., xxx-xx-xxxx
Grinstead, John B., xxx-xx-xxxx
Gross, Woolf P., xxx-xx-xxxx
Guba, Howard J., xxx-xx-xxxx
Guillory, Larry G., xxx-xx-xxxx
Gullen, John P., xxx-xx-xxxx
Hammond, Verle B., xxx-xx-xxxx
Hampton, Emery W., xxx-xx-xxxx
Hargis, Glenn F., xxx-xx-xxxx
Harris, Bruce R., xxx-xx-xxxx
Hart, Rufus R., xxx-xx-xxxx
Hatcher, Walter L., xxx-xx-xxxx
Hattersley, James G., xxx-xx-xxxx
Hedberg, Mildred E., xxx-xx-xxxx
Hedges, Oliver W., xxx-xx-xxxx
Helela, David H., xxx-xx-xxxx
Henry, Charles E., xxx-xx-xxxx
Hensley, William R., xxx-xx-xxxx
Hickerson, Arville, xxx-xx-xxxx
Hickman, Jere L., xxx-xx-xxxx
Hill, Robert G., xxx-xx-xxxx
Hill, Theron H., xxx-xx-xxxx
Hoff, Rodger, L., xxx-xx-xxxx
Hoffman, John F., xxx-xx-xxxx
Holdaway, Ronald M., xxx-xx-xxxx
Holladay, Van D., xxx-xx-xxxx
Holland, Billy C., xxx-xx-xxxx
Holmes, Frederick S., xxx-xx-xxxx
Holmes, Justin A., xxx-xx-xxxx
Holt, Bill V., xxx-xx-xxxx
Honore, Charles E., xxx-xx-xxxx
Hooker, Richard D., xxx-xx-xxxx
Horn, Will H., xxx-xx-xxxx
Hottel, David T., xxx-xx-xxxx
Howe, Robert H., xxx-xx-xxxx
Huggins, Charles B., xxx-xx-xxxx
Hummel, Richard H., xxx-xx-xxxx
Humphreys, George D., xxx-xx-xxxx
Hunt, Byron W., xxx-xx-xxxx
Hunt, James W., xxx-xx-xxxx
Hunt, Wallace G., xxx-xx-xxxx
Hutchison, Jarold L., xxx-xx-xxxx
Hutton, John D., xxx-xx-xxxx
Ingram, Duane C., xxx-xx-xxxx
Israel, Glenn A., xxx-xx-xxxx
Jewett, Richard E., xxx-xx-xxxx
Johnson, Donald K., xxx-xx-xxxx
Johnson, Ernest D., xxx-xx-xxxx
Johnson, John C., xxx-xx-xxxx
Johnston, Norbert B., xxx-xx-xxxx
Jones, Maury L., xxx-xx-xxxx
Keliher, John G., xxx-xx-xxxx
Kelly, Edward V., xxx-xx-xxxx
Kelly, Thomas W., xxx-xx-xxxx
Kem, Richard S., xxx-xx-xxxx
Kidd, Stewart R., xxx-xx-xxxx
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Kincheloe, Carl E., xxx-xx-xxxx
Kinder, Norman W., xxx-xx-xxxx
Kirk, John M., xxx-xx-xxxx
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Ladd, John P., xxx-xx-xxxx
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Leakey, Robert J., xxx-xx-xxxx
Lee, Curtis D., xxx-xx-xxxx
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Leuer, Kenneth C., xxx-xx-xxxx
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Littlejohn, Thomas, xxx-xx-xxxx
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May, Elmer C., xxx-xx-xxxx
Mayson, Elford M., xxx-xx-xxxx
Mazyck, William L., xxx-xx-xxxx
McCarthy, James F., xxx-xx-xxxx
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Pearson Stanley R., xxx-xx-xxxx
Peden, Ronald L., xxx-xx-xxxx
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Pressley, Ancil R., xxx-xx-xxxx
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Purdon, Robert W., xxx-xx-xxxx
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Robinson, Willard L., xxx-xx-xxxx
Rockey, James D., xxx-xx-xxxx
Roll, William C., xxx-xx-xxxx
Rowe, Alvin G., xxx-xx-xxxx
Rowlands, David L., xxx-xx-xxxx
Rundgren, Ivar W., xxx-xx-xxxx
Rupp, James E., xxx-xx-xxxx
Russell, George G., xxx-xx-xxxx

Russell, James F., xxx-xx-xxxx
Sanches, Manuel L., xxx-xx-xxxx
Sanchez, James, xxx-xx-xxxx
Sanders, William C., xxx-xx-xxxx
Sanford, David G., xxx-xx-xxxx
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Stone, Gordon L., xxx-xx-xxxx
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Strozier, James K., xxx-xx-xxxx
Stryker, Harm, xxx-xx-xxxx
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Suddath, Leroy N., xxx-xx-xxxx
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Teague, Charles A., xxx-xx-xxxx
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Tengler, John A., xxx-xx-xxxx
Thompson, Jackson D., xxx-xx-xxxx
Tompkins, Edward, xxx-xx-xxxx
Toolson, John M., Jr., xxx-xx-xxxx
Townsend, Robert F., xxx-xx-xxxx
Tripp, Richard L., xxx-xx-xxxx
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Twichell, Heath, Jr., xxx-xx-xxxx
Urbach, Walter, Jr., xxx-xx-xxxx
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Villa, Joseph A., xxx-xx-xxxx
Wagner, Keith A., xxx-xx-xxxx
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Waldeck, James J., xxx-xx-xxxx
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Watts, Ronald L., xxx-xx-xxxx
Webster, William L., xxx-x...
Weckerling, John H., xxx-xx-xxxx
Weihl, William L., xxx-xx-xxxx
Weiler, Harold E., xxx-xx-xxxx
Weinstein, Leslie H., xxx-xx-...
Weinstein, Sidney T., xxx-xx-xxxx
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White, Billy T. xxx-xx-x...
White, Jack A. xxx-xx-xxxx
Whitmire, James D., xxx-x...
Whitt, Lawrence H., xxx-xx-xxxx
Williams, Alonzo, xxx-xx-xxxx
Williams, Gary C., xxx-xx-xxxx
Williford, Donald E., xxx-xx-xxxx
Willis, Raymond E., xxx-xx-xxxx
Windsor, James A., xxx-xx-xxxx
Winkel, Paul P., xxx-xx-xxxx
Wiser, Robert M., xxx-xx-xxxx
Withers, George K., xxx-xx-xxxx
Witt, Jerry V. xxx-xx-xxxx
Wold, Pedar C. xxx-xx-xxxx
Wolfgang, Albert E., xxx-xx-xxxx
Woodmansee, John W., xxx-xx-xxxx
Woods, George J., xxx-xx-xxxx
Woods, Robert P. xxx-xx-xxxx
Woods, Stephen R., xxx-xx-xxxx
Wray, Donald P. xxx-xx-xxxx
Wright, Billy J. xxx-xx-xxxx
Wurman, James W., xxx-xx-xxxx
Young, Lawrence B., xxx-xx-xxxx
Zorn, Jack L. xxx-xx-xxxx

CHAPLAIN CORPS

To be colonel

Brandt, Richard A., xxx-xx-xxxx
Easley, Howard A., xxx-xx-xxxx
Gremmels, Delbert W., xxx-xx-xxxx
Grubb, Hugh M., xxx-xx-xxxx
Hoogland, John J., xxx-xx-xxxx
Howerton, Robert B., xxx-xx-xxxx
McCullagh, John P., xxx-xx-xxxx
Moore, Jesse W., xxx-xx-xxxx
Stover, Earl F. xxx-xx-xxxx
Straub, Frederick W., xxx-xx-xxxx
Tolbert, Carl E., xxx-xx-xxxx
Wetherell, Sterling, xxx-xx-xxxx

DENTAL CORPS

To be colonel

Bauman, Richard, xxx-xx-xxxx
Cherry, Norman L., xxx-xx-xxxx
Conway, Michael H., xxx-xx-xxxx
Heid, Theodore H., xxx-xx-xxxx
Johnson, Billy, xxx-xx-xxxx
Morton, Charles B., xxx-xx-xxxx
Plank, Harold E., xxx-xx-xxxx
Post, Arthur C., xxx-xx-xxxx
Russell, Emery A., xxx-xx-xxxx
Summitt, William W., xxx-xx-xxxx
Taylor, Peter F. xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Baden, Melvin, xxx-xx-xxxx
Birrielcarmona, Tomas, xxx-xx-xxxx
Blunt, James W., xxx-xx-xxxx
Butkus, Donald E., xxx-xx-xxxx
Cass, Kenneth A., xxx-xx-xxxx
Diazball, Fernando, xxx-xx-xxxx
Diggs, Carter L., xxx-xx-xxxx
Dobbs, Olin C., Jr., xxx-xx-xxxx
Fackler, Martin L., xxx-xx-xxxx
Fagarason, Lawrence, xxx-xx-xxxx
Feltis, James M., xxx-xx-xxxx
Garcia, Luis F., xxx-xx-xxxx
Garcia-Guerrero, Guillermo, xxx-xx-xxxx
Gemma, Frank E., xxx-xx-xxxx
German, Norton I., xxx-xx-xxxx
Goiser, John L., xxx-xx-xxxx
Hannegan, Michael W., xxx-xx-xxxx
Hernandez-Fragoso, Ignacio, xxx-xx-xxxx
Hutton, John E., xxx-xx-xxxx
Jacob, Jackie E., xxx-xx-xxxx
Kent, James J. xxx-xx-xxxx
Lanoue, Alcide M., xxx-xx-xxxx
Levine, Seymour, xxx-xx-xxxx
Macgregor, Robert J., xxx-xx-xxxx
Manson, Richard A., xxx-xx-xxxx
Martins, Albert N., xxx-xx-xxxx
Mears, William W., xxx-xx-xxxx
Miller, Lee H., xxx-xx-xxxx
Morales, Hernan, xxx-xx-xxxx
Morgan, Donald W., xxx-xx-xxxx
Orzano, Randel M., xxx-xx-xxxx
Peterson, Hugh D., xxx-xx-xxxx
Reed, James W., xxx-xx-xxxx
Rich, Norman M., xxx-xx-xxxx
Sanders, Daniel T., xxx-xx-xxxx
Schreiber, Otto J., xxx-xx-xxxx
Short, Earl D. xxx-xx-xxxx
Spaulding, Harry S., xxx-xx-xxxx
Stansifer, Philip D., xxx-xx-xxxx
Swanson, David L. xxx-xx-xxxx
Thering, Harlan R., xxx-xx-xxxx
Turnbull, Gottlieb, xxx-xx-xxxx
Varela, Gilberto E., xxx-xx-xxxx
Ward, George W., xxx-xx-xxxx
White, Claude R., xxx-xx-xxxx
Winter, Phillip E., xxx-xx-xxxx
Yhap, Edgar O., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Allgood, Gerald D., xxx-xx-xxxx
Bass, Bobbie R., xxx-xx-xxxx
Bayne, Calvin, xxx-xx-xxxx
Blair, James D., xxx-xx-xxxx
Brannock, Joseph E., xxx-xx-xxxx
Brown, George L., xxx-xx-xxxx
Butler, Roosvelt D., xxx-xx-xxxx
Crawford, John C., xxx-xx-xxxx
Danielson, John J., xxx-xx-xxxx
Demaree, Gale E., xxx-xx-xxxx
Deponte, Joseph P., xxx-xx-xxxx
Garrett, Mclain G., xxx-xx-xxxx
Hammond, William H., xxx-xx-xxxx
Hartley, Brodes H., xxx-xx-xxxx
Hoyt, Max E., xxx-xx-xxxx
Johnson, Douglas L., xxx-xx-xxxx
Jordan, France F., xxx-xx-xxxx
Levy, Louis B., xxx-xx-xxxx
Lowe, John W. xxx-xx-xxxx
Mckeever, Francis L., xxx-xx-xxxx
Mealey, John J., xxx-xx-xxxx
Moran, Homer B., xxx-xx-xxxx
Neitzel, Richard F., xxx-xx-xxxx
Otterstedt, Charles, xxx-xx-xxxx
Pantalone, Julius D., xxx-xx-xxxx
Rengstorff, Roy A., xxx-xx-xxxx
Salmon, Ray W., Jr., xxx-xx-xxxx
Seeley, Sam T., xxx-xx-xxxx
Simpkins, William J., xxx-xx-xxxx
Stocks, Harold W., xxx-xx-xxxx
Stubblefield, James, xxx-xx-xxxx
Van Straten, James G., xxx-xx-xxxx
Williams, Edwin H. xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Appleby, Howard A., xxx-xx-xxxx
Fritsch, Ann D., xxx-xx-xxxx
Lofton, William, Jr., xxx-xx-xxxx
Pfeiffer, Violet R., xxx-xx-xxxx
Strand, Eloise B., xxx-xx-xxxx

VETERINARY CORPS

To be colonel

Bucci, Thomas J., xxx-xx-xxxx
Farris, Richard D., xxx-xx-xxxx
Jorgensen, Robert R., xxx-xx-xxxx
Kinnamon, Kenneth E., xxx-xx-xxxx
Orthey, George F., xxx-xx-xxxx
Webb, Adin R., xxx-xx-xxxx

ARMY NURSE CORPS

To be colonel

Farrell, Joanne T., xxx-xx-xxxx
Gann, Ellen J., xxx-xx-xxxx
Hartman, Jay N., xxx-xx-xxxx
Horan, Mary T., xxx-xx-xxxx
Johnson, Hazel W., xxx-xx-xxxx
Labbe, Elizabeth A., xxx-xx-xxxx
Smith, Nancy E., xxx-xx-xxxx
Sullivan, Elenore F., xxx-xx-xxxx
Thomas, Nevaida, xxx-xx-xxxx

The following-named officers for promotion in the Regular Army, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Todd, Alan R., xxx-xx-xxxx

The following-named officers for promotion in the Army of the United States, under provisions of title 10, United States Code, sections 3442 and 3447:

DENTAL CORPS

To be colonel

Madden, Robert J., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Kusumoto, Howard H., xxx-xx-xxxx
Tedrow, Thomas N., xxx-xx-xxxx

The following-named officers for promotion in the Regular Army, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Corley, Michael W., xxx-xx-xxxx
Dixon, James C., xxx-xx-xxxx
Johnson, Jeffrey L., xxx-xx-xxxx
Johnson, John D., xxx-xx-xxxx
Knight, William L. Jr., xxx-xx-xxxx
Lee, Charlotte H., xxx-xx-xxxx
Meyer, Jeffrey A., xxx-xx-xxxx
Smith, Leverock G., xxx-xx-xxxx
Smith, Michael D., xxx-xx-xxxx
Steele, William R., xxx-xx-xxxx

CONFIRMATIONS

Executive nominations confirmed by the Senate November 16, 1979:

FEDERAL EMERGENCY MANAGEMENT AGENCY

Gloria Cusumano Jimenez, of North Carolina, to be an Associate Director of the Federal Emergency Management Agency.

DEPARTMENT OF THE INTERIOR

William Edward Hallett, of Colorado, to be Commissioner of Indian Affairs.

COUNCIL ON ENVIRONMENTAL QUALITY

Robert H. Harris, of Maryland, to be a Member of the Council on Environmental Quality.

DEPARTMENT OF ENERGY

Ruth M. Davis, of Maryland, to be an Assistant Secretary of Energy (Resource Applications).

William Walker Lewis, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation).

FEDERAL ENERGY REGULATORY COMMISSION

Charles B. Curtis, of Maryland, to be a Member of the Federal Energy Regulatory Commission for the term of 4 years expiring October 20, 1983.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

TONGUETIED AMERICANS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1979

● Mr. BRADEMAS. Mr. Speaker, I insert at this point in the RECORD the text of an advertisement by the United Technologies Corp. concerning the importance of encouraging more study of foreign languages in the United States.

The advertisement appeared on May 23, 1979, principally in newspapers in the State of Connecticut.

I commend United Technologies for this important message in the public interest.

The text follows:

TONGUE-TIED AMERICANS

Travel abroad and you'll find, almost everywhere, people with enough grasp of English to give you directions, interpret a menu for you, or help with your travel schedule. But a non-English speaking visitor in this country is hard-put to find such help.

Among industrialized nations, the U.S. stands alone in its neglect of foreign language study. In the face of growing world interrelationships—political, diplomatic, economic—Americans' familiarity with the tongues of others is in sorry decline.

Last year the President's Commission on Foreign Language and International Study was formed to find ways to live up to international agreements in which the U.S. has pledged to encourage the study of foreign languages and civilizations. The commission's initial findings are dismaying:

Nine out of ten Americans cannot speak, read, or effectively understand any language but English.

About 90 percent of all colleges have no language requirements for admission. One-quarter of all high schools do not teach any foreign language.

College language enrollments have declined 21.2 percent in the past decade.

Foreign language enrollments dropped 15 percent among high school students between 1968 and 1974. Less than one-quarter of high school students now study a foreign language as against 32 percent in the mid-1960s.

Only 17 percent of American foreign language students taught wholly in this country can speak, read, or write the foreign language easily.

The prevailing sense in this country toward those in other lands seems to be: Let 'em speak English.

It's a foolhardy attitude. It ill serves America's interests and objectives in the world community. Unless it's changed, the U.S. will find itself at a disadvantage in grasping economic opportunities and meeting its diplomatic responsibilities around the world.

At a time of detente with Russia and rapprochement with China, an appallingly small number of American students are taking up those languages at the advanced levels necessary for fluency. One member of the presidential commission voiced distress on learning that the U.S. Foreign Service no longer requires any foreign language background for new service officers. Because so few Americans study foreign languages, he found, the State Department was forced to drop the requirement.

Much of America's economic growth in the years ahead will come from international trade. More and more people will be needed with skill in foreign tongues. By not pursuing language studies, many young people are cutting themselves off from rewarding careers in international business.

Knowledge of other languages and cultures is indispensable to fruitful international relationships. We in this country would do well to support and stimulate such knowledge, lest we find ourselves standing around with nobody to talk to except ourselves.●

FREEING OF SOVIETS EXILED BECAUSE OF RELIGIOUS AND POLITICAL BELIEFS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1979

● Mr. DOWNEY. Mr. Speaker, like many of my colleagues I have on a number of occasions spoken before this House on behalf of those individuals in the Soviet Union who have been imprisoned, exiled or otherwise mistreated because of their religious or political beliefs. I think it is good for us to be reminded every so often that our efforts in this regard contribute to positive results. This sort of reminder can serve to reinforce our resolve to speak out in support of the basic human rights of these unfortunate people and it may also help to keep them from losing hope despite what must often seem like endless setbacks.

For this reason, I would like to insert in the RECORD a letter I recently received from a constituent of mine, Mr. Milton Cohen, of Bayshore, N.Y. Mr. Cohen has written eloquently of the many problems faced by Yaacov Suslensky which resulted from his request to emigrate to Israel from the Soviet Union. Mr. Suslensky eventually triumphed over adversity and I hope his actions will increase our resolve to continue to speak out in support of others like him.

The letter follows:

DEAR CONGRESSMAN DOWNEY: This is with regard to the Soviet "refusnik", Yaacov Suslensky, a Jewish teacher, incarcerated in the "Gulag" for wanting to emigrate to Israel. You may recall that I asked you to intercede in his behalf with his Russian jailers especially in as much as he was in very poor health and the chances of his survival was in doubt.

Well, Sir, I believe very strongly that we may have very good news, indeed!

You may also recall you wrote to the Soviet Ambassador and to Yaacov Suslensky in his Gulag jail in the Soviet Union. Most probably your letters bore fruit.

Last night, while watching the CBS News with Walter Cronkite, there appeared a piece of film from Israel, and as big as life, a Yaacov Suslensky, recently imprisoned by the Soviets. Yaacov expressed his very warm thanks and appreciation for the many letters of help in his behalf to which I now want to add mine.

Again, I want to thank you very much for your heartfelt help in freeing Suslensky from his unjust imprisonment. You may, indeed, have saved his life!

Sincerely,

MILTON COHEN.●

NEW EAST-WEST TRADE: TERRORISM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 15, 1979

● Mr. ASHBROOK. Mr. Speaker, in the near future we will be asked to consider continuing the waiver on Romania's most favored nation status. This action, plus possible most favored nation status requests for Communist China and the U.S.S.R., reflect the apparent policy of this administration to selectively close its eyes to the realities of the world. As the U.S.S.R. and its satellites grow in economic stability and in military power they are channeling their new found success into exporting revolution to the