The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Let there be order in the Senate. Will Senators kindly take their conversations to the cloakroom? There will be order in the Senate.

The Senator from Alabama.

Mr. DENTON. Mr. President, I wish to announce, after consultation with the majority leader and the distinguished chairman of the Appropriations Committee, they have assured me that the Ashbrook language is indeed included in the House continuing resolution.

Mr. STENNIS. Mr. President, we cannot hear the Senator.

The PRESIDING OFFICER. Will the Senator suspend for a moment?

There are a lot of conversations in the Chamber. Senators will please take their conversations to the cloakrooms. Staff will conclude their conversations so the Senator may be heard.

Mr. DENTON. Mr. President, I say that after discussions with the majority leader and the distinguished chairman of the Appropriations Committee, I have been assured that the Ashbrook language is included in the House continuing resolution.

I would simply ask affirmation of the chairman as to whether that is correct.

Mr. HATFIELD. The Senator is correct.

Mr. DENTON. I do not intend to enter an objection when the request is made to proceed to the consideration of the House joint resolution.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I have conferred with a number of Senators on this side of the aisle, and I wish to express my gratitude to those who have conferred with me on this subject.

I can report to the Senate that I believe the difficulties have been worked out, and I hope there will not now be an objection to the request.

I ask unanimous consent that the pending business be temporarily laid aside—that is, the Civil Rights Commission bill—and that the Senate proceed to the consideration of House Joint Resolution 413, the joint resolution making further continuing appropriations for fiscal year 1984.

Mr. BYRD. Mr. President, reserving the right to object, and I do not intend to object, our people on both sides of the aisle were put on notice that such a request would be made. If any Senators wanted to object, they certainly knew they could remain and be here when the request was put, and knew they could call through the Democratic cloakroom and indicate an objection, and I would protect them before they got here.

I have had no call, and Senators who want to object are here, and they can speak for themselves.

I hope there will be no objection, realizing that if there is, the majority leader can keep us in tonight or he can move to adjourn. He can make a motion at a point. It may be a nondebatable motion, if he is lucky enough, or it could be a debatable motion, in any other event. The Senate would win nothing except chew a lot of time, delaying the majority leader from getting to the continuing resolution. I do not think we should do that.

Whatever the will of the Senate is in respect to the provisions contained in the resolution is something else. The Senate can work its will on that, and I hope there will not be an objection.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I thank the minority leader and the managers on both sides. I thank a number of Senators who have special concerns about this, including the Senator from Connecticut, the Senator from Alabama, the Senator from Oregon (Mr. PACKWOOD), Senator HELMS, and many others, as well as those who wish to be reassured that we are going to get back to the Civil Rights Commission bill, as indeed we are.

The formulation of this request provides that the Civil Rights Commission bill will return as the pending business when the CR is disposed of.

Once again, I express my appreciation to all Senators.

FURTHER CONTINUING APPROPRIATIONS, 1984

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 413) making further continuing appropriations for the fiscal year 1984.

The Senate proceeded to consider the joint resolution.

AMENDMENT NO. 2540

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2540:

On page 17, strike out line 20 through page 26, line 9, inclusive.

Mr. HATFIELD. Mr. President, I have sent to the desk a committee amendment and asked for its immediate consideration.

At this time, I ask for the yeas and nays, and I will then give an explanation.

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

The yeas and mays were ordered.

Mr. HATFIELD. Mr. President, this matter was one I referred to briefly when a quorum call was put in for the Members of the Senate to come to the floor, in order to get some kind of signal of where the Senate is going to go in the next steps of completing its responsibility of the continuing resolution.

This amendment would strike the portion of the so-called Wright amendment dealing with the add-ons for domestic programs. It does not strike—let me emphasize, it does not strike—the portion of the Wright amendment dealing with foreign operations in the Treasury bill. It is in the Treasury bill that the controversial item known as the Ashbrook amendment appears. So it does not disturb those components of the bill.

The domestic programs for which increased funding is provided in the Wright amendment are education, health, job training, shelter for the homeless, nutrition, and low-income energy assistance.

Let me emphasize again that the reason for this particular procedure is that there is no question in the leadership's mind and in my mind that in talking to Mr. Stockman and other representatives of the administration, senior White House officials, the Wright amendment makes the continuing resolution unacceptable for the President, and that we can rely on the inevitability of a veto on such a continuing resolution with this incorporated.

As this issue concerns us, it is not as a question of preference or personal feeling that I present this amendment today; because, frankly, I think all these programs are very worthwhile. I would be very supportive, perhaps, of expanding and including additional appropriations. But that is not the issue.

The issue is that we have until midnight to make a final determination on this continuing resolution question,

and I want to get about the business of doing that and get out of here before 4 o'clock tomorrow morning.

After we finish our own work on this resolution, Senator STENNIS and I and other members of the Senate Appropriations Committee will have to meet in conference with the House conferees and come out with some kind of compromise and bring those reports back to our respective bodies.

So I offer this amendment for that reason: to get a test vote, to see which way we are going.

I yield at this time to the ranking minority member of our committee, the Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. Mr. President, I thank the Senator for yielding. I will try not to repeat what he has said. He has made a statement that covers the entire situation about the procedural matters. They are the matters that have to be met by everyone giving a little.

I highly commend the membership. I know that many of them have gone a good piece in yielding to the situation, to get this legislation moving. This resolution affects every agency of the Federal Government. Time has already run out on what we have, and this could really stop the wheels.

I think we are very fortunate to have come this far. In the same spirit of cooperation, I am going to vote for this amendment in connection with the extra billion dollars. Some parts of it are matters in which I have a special interest and which I have been following in the regular committees.

I hope that by giving a little, we can gain a lot. In that spirit, I join in submitting this amendment.

Mr. HATFIELD. Mr. President, I thank the Senator. He has been a real stalwart in this rather tedious procedure, and I am very grateful for the constancy of his support.

Again, I emphasize the simple point that this is an amendment dealing with more of a procedure than the substance of the amendment, even though we cannot ignore the substantive part of the amendment. The point to be emphasized is that we are trying to determine a direction at this point, as to which way the Senate will move between now and midnight.

I yield the floor.

Mr. METZENBAUM. Mr. President, I rise to speak in opposition to this amendment and I do so because what we are being told is that we have to take out $1 billion, I gather that is the figure, although I am not certain as to the exact amount, that the House has added for some very worthwhile programs. As I understand it, the programs are in the field of vocational education, adult education, community services, education for the handicapped, rehabilitation services and handicapped research, education for immigrant children, higher education, community health centers, technical institute for the deaf, Gallaudet College, job training, emergency shelter for the homeless, and I am not sure what else.

The argument that is being made is that if we do not take it out the fellow down the street may veto the bill. I think we should give him that opportunity to veto it. I think he should have that privilege. We are not talking about billions upon billions upon billions of dollars. We are not talking about balancing the budget because of a billion dollars. If you want to balance the budget then he has to accept the responsibility that he fails to accept and recognize that you cannot balance a budget unless you bring in some dollars as well as cut the expenditures. But he says oh, no, no new taxes.

The President ought to understand that closing some of the tax loopholes that exist in this country that make it possible for the wealthy and the largest corporations in the country to wind up paying no taxes at all is part of his responsibility, too, rather than trying to cut back on funding for the deaf, for the handicapped, and for educational purposes.

If we have to stand here and knuckle down, give up the amendment, all of a billion dollars, because the President says, "Otherwise, I will veto it," let him veto it. What is so terrible about that? Maybe we do not have the votes to override the veto.

But some of the very people who are prepared to support the President in the event of a veto are those who come here with special water projects for their community, with special programs for their communities, and they say, "Oh, we have plenty of money for that." They do not want to do anything about closing any tax loopholes either.

Oh, no, Heaven forbid, do not close any of those loopholes that the rich and many of the fancy corporations of this country use where they are selling tax loopholes one to the other. I just saw where one airline, I think it was Air Wisconsin, just sold its tax loopholes to Merrill Lynch. What a wonderful idea that is. We trade in tax loopholes now.

But for $1 billion we are told we cannot include it in this bill because if we do the President may veto it. What kind of a Senate is this? Is this the Senate that knuckles down every time the President threatens a veto, or do we accept our responsibility to the people that we represent? We can cut $1 billion off the Department of Defense like falling out of bed. We just eliminate some of the wasteful practices. We spend $100 million a year for military bands. No one ever talks about that. We have more limousines for the military than we have for all the rest of Government combined. No one ever talks about that. The military does not use competitive bidding. It is worth billions of dollars. No one worries about that and the President does not threaten to veto any bills if we do not do something about that. And the military buys replacement parts at prices that are unbelievable—$1,100 for an item worth about $35. And the President does not do anything about that.

But, no, he rides his white horse and tells us if we are doing anything for emergency shelters for the homeless, he is going to veto the bill. He is going to save the country.

I think we ought to give him that privilege. I think he ought to have that opportunity. This President did not develop a reputation of being unfair without there being some substance to it. He did not create the reputation that he has no concern for the poor of this country without there being some reality about it. He does not. He could not care less about the fact that there are people who are hungry at this very moment in this country.

All we hear about are programs that are wasteful of food stamps. Someone got food stamps in a Cadillac. Tell him to come to Cleveland or Youngstown or Toledo or Dayton or any one of a number of other cities in my State or States throughout the country, where the Republican mayors of those cities are saying, "We do not have the food to put in the mouths of our people." And the President does not do anything about that.

There may be the votes to knock out this amendment that involves, I think it is $1 billion, and if my figure is incorrect I stand corrected, but that is the one I read in the paper as of this morning.

But it does not make sense.

And we are not meeting our responsibilities. The President has the right to take such action as he wants. The President has the right to do that which he thinks is right or wrong.

But we have an obligation to be more than people who just roll over and play dead because the President may veto $1 billion of additional spending for human service needs. Does anyone in his right mind claim that these are wasteful projects? Does anyone claim that spending money for meals under the National School Lunch Act is something that we should not be spending money for? Does anyone claim that spending money under the Child Nutrition Act is wasting the dollars of the American people?

Does anyone claim that an increase in the income guidelines for determining eligibility for reduced-price meals for children should not be included in the law?

But all of that we are told should be thrown out. We ought to vote not on the merits, and with all due respect to the maker of the motion, my good friend from Oregon, he indicates that he very well could support many of these programs himself, but he is saying the President may veto it, if we include it in.

This Senator is prepared to return to Washington or stay in Washington or do whatever is necessary in order to give the President the opportunity to veto this legislation. But I do not think that we ought to just roll over, roll over and do that which the President wants or is threatening to do if we do not act in accordance with his wishes. Either we have some independence, we have the courage of our convictions and will stand up for what is right as compared to what is wrong, or we do not. And, therefore, I think the amendment should be defeated.

Mr. BYRD. Mr. President, I support the Wright amendment. It is called that because it is the amendment offered by the House majority leader, Mr. WRIGHT of Texas. This amendment, added to the continuing resolution, does one simple thing. It fulfills our commitment—a commitment made by both Chambers, the House and the Senate, when we passed the budget resolution—to fund vitally needed education and social programs. We are not, if we vote to keep this amendment in the resolution, breaking any new ground here today. We are not busting the budget. We are not, with this vote, adding to the budget deficit as approved in the budget we adopted. We are merely voting to spend money for programs at a level we have already agreed to in June.

The amendment includes additional funds for vocational education. How many of us, if any, can say that our constitutents have not benefited by the vocational education program? I know there are many, many people in West Virginia today who are not on welfare or public assistance because of the educational opportunities afforded to them by this program.

The Wright amendment also includes the adult education program; it includes education for the handicapped; it includes higher education programs—specifically, college work study programs and opportunity grants for college students; and, it includes the title I program for disadvantaged students. Mr. President, these education programs are the very cornerstone of our commitment at the Federal level to education in this country. Providing adequate funding for these programs is an important step toward meeting our responsibilities to address the crisis in education we all acknowledge we are facing in America today.

The Wright amendment also includes funding for job training; it includes funding for community service block grants; it includes funding for women, infants, and children's program. It includes funding for low income energy assistance, as well as a few other important programs. It also includes funding for the school lunch and school breakfast programs. Mr. President, these are all programs our constituents need.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing items and dollar amounts which would be sticken by the amendment.

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

Wright amendment (education and nutrition)

	Millions
Title I compensatory education	+165
Vocational education	+81.4
Adult education	+12
Community service block grants	+30
Low income energy assistance	+195
Education for the handicapped	+143
Rehabilitation services	+43.9
Education for immigrant children	+145
Higher education	+30
Community health centers	+20
Institute for the Deaf	+1.7
Gallaudet College	+2
Job training	+75.4
Shelter for the homeless	+10
WIC (women, infant and children nutrition)	+300
School lunch and school breakfast	+105

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Oregon.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

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

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR), are necessarily absent.

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

The result was announced—yeas 53, nays 36, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—53

Abdnor	Gorton	Packwood
Armstrong	Grassley	Percy
Baker	Hatch	Pressler
Baucus	Hatfield	Proxmire
Boren	Hawkins	Quayle
Boschwitz	Hecht	Roth
Chafee	Heinz	Rudman
Cochran	Helms	Stennis
D'Amato	Humphrey	Stevens
Danforth	Jepsen	Symms
DeConcini	Kassebaum	Thurmond
Denton	Kasten	Tower
Dole	Lugar	Trible
Durenberger	Mathias	Wallop
East	Mattingly	Warner
Exon	McClure	Wilson
Ford	Nickles	Zorinsky
Garn	Nunn	

NAYS—36

Andrews	Eagleton	Metzenbaum
Bentsen	Hart	Mitchell
Biden	Heflin	Moynihan
Bingaman	Huddleston	Pell
Bradley	Johnston	Randolph
Bumpers	Kennedy	Riegle
Burdick	Lautenberg	Sarbanes
Byrd	Leahy	Sasser
Chiles	Levin	Specter
Cohen	Long	Stafford
Cranston	Matsunaga	Tsongas
Dixon	Melcher	Weicker

NOT VOTING—11

Dodd	Goldwater	Murkowski
Domenici	Hollings	Pryor
Evans	Inouye	Simpson
Glenn	Laxalt	

So the amendment (No. 2540) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2541

Mr. HATFIELD. 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 Oregon (Mr. HATFIELD) proposes an amendment numbered 2541:

On page 26, strike out all following line 9, through the end of the joint resolution.

Mr. HATFIELD. Mr. President, this committee amendment strikes the Hoyer amendment to House Joint Resolution 413.

The Hoyer amendment provides that funding for the agenices covered in the regular Treasury appropriation bill—we are talking about the House-passed bill—will be at the levels of and under the terms and conditions of the fiscal year 1984 Treasury appropriations bill. As I say, it was passed by the House—I want to emphasize that point, because this is basically the abortion issue.

The so-called Ashbrook language on abortion is thereby incorporated by reference. Another committee amendment which I shall propose later will provide for the Treasury bill at the current rate with certain exceptions as

referred in Senate Joint Resolution 1294.

What we are trying to do at this point in the procedure, Mr. President, is get to the next controversial issue, which is the Ashbrook amendment. It is incorporated, as I say, in the Treasury-passed bill of the House. There will be other amendments later related to the referencing of that part of the continuing resolution. But I have worded this amendment in such a way that we can now deal with that issue that has to be dealt with before we can complete the CR tonight. That is the Ashbrook issue.

That is where we are with this amendment, Mr. President. Now the stage is set for the discussion.

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

The PRESIDING OFFICER. The amendment offered by the Senator from Oregon is the pending business.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

Mr. SARBANES. Will the manager of the bill yield for a question?

Mr. HATFIELD. Yes, Mr. President.

Mr. SARBANES. Is the only copy of the continuing resolution available the one at the clerk's desk?

Mr. HATFIELD. That is correct.

Mr. SARBANES. Is the manager arranging to give Members copies?

Mr. HATFIELD. I should be very happy to give the Senator from Maryland my copy except I do not even have a copy. We shall have to get a copy from the desk for the Senator.

Mr. WEICKER. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

Mr. DENTON. Mr. President, I acknowledge that the floor manager, the distinguished chairman of the Appropriations Committee, made it clear, but it has not yet been written up in here; I want to repeat for the benefit of my colleagues who might want to support what the Ashbrook language is: The effect of this motion to strike will be to delete the Ashbrook amendment from the House bill. Therefore, I oppose this amendment and ask those of my colleagues who believe as I do to vote the same.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizonia (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Wyoming (Mr. SIMPSON), are necessarily absent.

On this vote, the Senator from Washington (Mr. EVANS) is paired with the Senator from Minnesota (Mr. DURENBERGER).

If present and voting, the Senator from Washington would vote "yea" and the Senator from Minnesota would vote "nay."

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR), are necessarily absent.

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

The result was announced—yeas 43, nays 44, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—43

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

NAYS—44

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

NOT VOTING—13

Dodd	Goldwater	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	
Glenn	McClure	

So Mr. HATFIELD's amendment (No. 2541) was rejected.

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

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

Mr. WEICKER. 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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma to lay on the table the motion of the Senator from Alabama to reconsider the vote by which the amendment of the Senator from Oregon was rejected.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), Senator from Minnesota (Mr. DURENBERGER), Senator from Washington (Mr. EVANS), Senator from Arizona (Mr. GOLDWATER), Senator from Nevada (Mr. LAXALT), Senator from Idaho (Mr. MCCLURE), Senator from Alaska (Mr. MURKOWSKI) and the Senator from Wyoming (Mr. SIMPSON).

I further announce that, if present and voting, the Senator from Washington (Mr. EVANS), would vote "nay."

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 43, nays 43, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—43

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

NAYS—43

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

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Huddleston, for

NOT VOTING—13

Dodd	Goldwater	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	
Glenn	McClure	

So the motion to lay on the table was rejected.

Mr. BAKER. Mr. President, if I could have the attention of the Senate for a moment, this vote and similar votes are always among the most difficult votes that Members cast because of conflicting requirements on the one hand, on the one hand to express clear and in most cases a consistent view on an issue of great work and some moment, and, on the other hand, to try to assist the managers of the bill in trying to get the thing passed, and trying to comply with the requirement that we do the country's work and do it in a timely way in this case before midnight tonight.

The reason I say that, Mr. President, is because I honestly believe this is the time to get on with this bill. There are Members who have always supported the language incorporated in this bill who voted for the amendment to strike that language simply because they understand, as I am sure the distinguished manager of the bill understands, that we have an obligation to do the country's work.

I am not asking any Senator to do anything that is contrary to their conscience and their own personal convictions. All I am saying, Mr. President, is this is not the final vote you will ever cast on this issue. This is not the last time you are going to have an opportunity to make your mark on this issue.

But this may be the last opportunity you get to pass this CR. I am very much afraid this matter will not pass tonight before the midnight deadline, or maybe not at all, if we do not get on with the leadership being provided and the examples being set by the two managers of this bill.

Mr. President, I yield to the distinguished chairman of the Appropriations Committee.

Mr. HATFIELD. Mr. President, I cannot improve upon the statement just given by the majority leader. I just want to make one or two brief observations because we are at a point in the parliamentary situation where a motion to reconsider will be the next vote.

I do not think I would be willing to take a back seat to anyone in the Chamber on the matter of my view about the sanctity of human life. I am just as concerned about the life that occurs after birth, though, as I am about the life within the womb.

I try to express that in my concerns for the hungry of the world, my concerns about the horrendous weapons known as the nuclear weapons, and the chemical weapons, which would deny life to people on this globe.

I am just as concerned about the poor, the old, and the elderly, about the maternal care and child care, and so forth.

I am opposed to capital punishment and always have been.

But in this bill there are a lot of programs who involve the living of today, not those who will be conceived tomorrow but the living of today. I think we have an obligation to conserve and preserve life that has already been born.

I am not going to get into the technicalities because I can only say I have voted for every Hyde amendment issue that has come before this Chamber and I will continue to vote for the Hyde amendment. But the Ashbrook amendment can be distinguished because of the fact that it puts the Federal Government into the business of telling Federal employees how they can spend their compensation. Even though we may oppose, as I do, the use of abortion, except in the case of the life of the mother, I do not see why we should put the Federal Government into the business of saying, in effect, how someone who has earned compensation—that is what this program is, equivalent to compensation—how they can spend their money while there is a legal action abortion available to them.

I do not think we ought to confuse the Ashbrook amendment with the Hyde amendment. I feel just as strong about the Hyde amendment as I always have. I have supported the Hyde amendment. I have introduced it. I support the constitutional amendment to abolish abortion and I will continue to do so. But I also have an obligation to the living in this world.

We have to get on with the business of this continuing resolution. I plead with the Senate to give us an opportunity to go on and complete this business.

I happen to be in a catch-22. Whichever way it turns out, I have a choice of a filibuster with Mr. DENTON on one hand or Mr. PACKWOOD on the other. Do not put me in that situation, having to choose which I prefer to listen to. [Laughter.]

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

Mr. HATFIELD. I am happy to yield to the floor.

Mr. HELMS. Mr. President, I ask unanimous consent that the motion to reconsider be withdrawn.

The PRESIDING OFFICER. Is there objection.

Mr. BAKER. Mr. President——

Mr. HELMS. Mr. President, I have the floor.

Mr. BAKER. Mr. President, I object.

Mr. HELMS. Mr. President, I move that the motion to reconsider be withdrawn and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HELMS. Mr. President, on numerous occasions this Senator has been backed up against the wall by the calendar on various issues, and this Senator has listened attentively and with appreciation to the entreaties of the leadership, to back up and back down. I think the distinguished majority leader will say that I have done my best to cooperate on many occasions.

Here we have the anomaly in the Senate where the Senate has spoken three times on the question of right to life, three times. And they will not quit. I say this with all due respect to Senator WEICKER and Senator PACKWOOD. If they really want to proceed with this important bill, let us withdraw the motion to reconsider and go about the legislation. Two times you were defeated yesterday and one time you were defeated today. Does it take four times, five times, six times? How many times?

Sure, the vote was close, but I implore Senators to give me a sufficient second, if you will not give me unanimous consent, and let us vote to withdraw the motion to reconsider and let the vote stand. After all, this provision is in the House bill. There will be no problem. The administration favors this provision. So what is the problem?

I ask unanimous consent again, Mr. President, that the motion to reconsider be withdrawn.

Mr. STEVENS. I object.

Mr. HELMS. Mr. President, I move that the motion to reconsider be withdrawn.

The PRESIDING OFFICER. The motion is already pending.

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HELMS. I will never hesitate to raise my hand no matter how strongly I feel against the proposition.

The PRESIDING OFFICER (Mr. COCHRAN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I thank the Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the

Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

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

The result was announced—yeas 45, nays 41, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—45

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

NAYS—41

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

NOT VOTING—14

Dodd	Goldwater	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	Tower
Glenn	McClure	

So the motion to withdraw the motion to reconsider the vote was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Now, Mr. President, we have spoken three or four times on this issue tonight, and a position on this bill has now been established. I am afraid it will make the bill more difficult to pass, but notwithstanding we have to pass this bill. It is time to move on now to other things. I urge Senators to consider that we have to finish this bill tonight, and do so, if possible, before 12 o'clock. If we cannot do it before 12 o'clock, Mr. President, we are going to be asked to stay past 12 o'clock and do it. But one way or the other, we have to pass a continuing resolution and send it to the House of Representatives. So I urge Senators to consider that this chapter is finished and that we have to get on with the business at hand. I urge Senators to do so.

Now, Mr. President, I yield to the distinguished chairman of the Appropriations Committee.

Mr. HATFIELD. Mr. President, I only want to correct the RECORD on one point a while ago when I said that I did not want to be forced to have to choose between my good friend, the Senator from Alabama (Mr. DENTON) and the Senator from Oregon (Mr. PACKWOOD) on a filibuster. I should not have included the Senator from Alabama. It should have been a choice between my friend from Connecticut (Mr. WEICKER) and my friend from Oregon (Mr. PACKWOOD). So I want to correct the RECORD in that regard.

Mr. BAKER. Mr. President, I hope that the managers of the bill will go forward with amendments.

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 2542

Mr. HATFIELD. Mr. President, I send a committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. MELCHER. Mr. President, will the chairman yield before the amendment is reported?

Mr. HATFIELD. I yield.

MR. MELCHER. Does the amendment contain the conference committee's action on Commerce-State-Justice appropriations bill?

Mr. HATFIELD. We have not yet proposed that amendment.

Mr. MELCHER. Is this amendment en bloc?

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2542.

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

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

The amendment is as follows:

On page 1, after line 2, insert the following:

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1984, and for other purposes, namely:

"SEC. 101. (a) Pending enactment of the Department of Defense Appropriation Act, 1984, such amounts as may be necessary for continuing activities, not otherwise specifically provided for elsewhere in this joint resolution, which were conducted in fiscal year 1983, for which provision was made in the Department of Defense Appropriation Act, 1983, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $247,000,000,000, which is an increase above the current rate, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1984 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriation Acts for fiscal year 1983: *Provided*, That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further*, That none of the funds appropriated or made available pursuant to this subsection shall be available for the conversion of any full time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by Active or Reserve Military Personnel, from civilian positions designated "military technicians" to military positions: *Provided further*, That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project, activity, operation or organization which is defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for investment items is further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds or other authority were not available during the fiscal year 1983.

Mr. HATFIELD. Mr. President, this is a committee amendment which references the Defense spending level at the current CR level that is expiring tonight.

As Senators will recall, the Senate passed a Defense appropriations bill. They expect to go to conference very shortly. Of course, when that conference is completed, we will vote on that conference report; and if we adopt the conference report and the President signs the measure, this whole matter drops out from the CR.

However, in order to bridge the time required between now and the time we act on the Defense appropriations measure, we are asking that our CR here be referenced at the current CR level, which is $247 billion.

I yield to the ranking minority member of the committee.

Mr. STENNIS. Mr. President, I think that is a correct statement of fact as to where it leaves us unless some remedy is provided. It is just intolerable. We must move forward.

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

Mr. HATFIELD. I yield.

Mr. EXON. If I understood the explanation, which I seem to agree with—and I congratulate the chairman of the Appropriations Committee for the statement—is it true that the

CR portion of this for the Department of Defense budget would be at last year's level? Or does it include the higher level we passed? In other words, there is no add-on at all? It is simply continuing it at last year's level, as is customary with a CR?

Mr. HATFIELD. Really, it is a level in between. It is not last year's level and it is not the other level. It is actually somewhere in between. It is what is in the current CR that we are operating under now, which is expiring tonight.

Mr. EXON. The Senator is saying that we have raised the defense spending, which includes that, but none of the increased expenditures we included in the Defense Department authorization bill that we passed earlier this week.

Mr. HATFIELD. That is correct.

Mr. EXON. I thank the Senator.

The PRESIDING OFFICER. Is there further debate?

Mr. HATFIELD. Mr. President, I believe the chairman of the Defense Appropriations Subcommittee, Mr. STEVENS, wants to be in a position to offer an amendment to this committee amendment.

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

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

AMENDMENT NO. 2543

(Purpose: Increase Defense spending rate to conform to Senate-passed Defense appropriations bill)

Mr. STEVENS. Mr. President, I have a substitute for the committee amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2543.

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

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

The amendment is as follows:

In lieu of the language proposed to be inserted by Sec. 101(a) of the Committee on Appropriations amendments, insert the following:

SEC. 101. (a) Pending enactment of the Department of Defense Appropriation Act, 1984, such amounts as may be necessary for continuing activities, not otherwise specifically provided for elsewhere in this joint resolution, which were conducted in fiscal year 1983, for which provision was made in the Department of Defense Appropriation Act, 1983, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $252,000,000,000, which is an increase above the current rate, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1984 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriation Acts for fiscal year 1983: *Provided,* That no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate multiyear procurements, except for the B-1B program, utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further,* That none of the funds appropriated or made available pursuant to this subsection shall be available for the conversion of any full time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by Active or Reserve Military Personnel, from civilian positions designated "military technicians" to military positions: *Provided further,* That, except for Peacekeeper MX missile production, no appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project, activity, operation or organization which is defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for investment items is further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds or other authority were not available during the fiscal year 1983.".

Mr. STEVENS. Mr. President, this amendment is designed to bring the spending rate and authority of the continuing resolution in line with the Senate-passed appropriations bill we passed this week. It would propose the same spending rate that is in that bill. It is slightly below the final amount in our Senate bill. It is $252 billion, and we were slightly above that.

It permits the initiation of the items that are not in conference to continue. There is nothing in this amendment that was not approved by the Senate. As a matter of fact, as I say, it is slightly below the Senate level.

Incidentally, we do not approve the things that are not in the House bill. For example, the chemical amendment is not in the House bill, and therefore it is not approved by this amendment. This amendment would approve only those things which are not in conference, plus the money level of the Defense bill, which is a level slightly below the bill we just passed.

If any Senator has any questions, I will be happy to answer them.

Mr. EXON. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. EXON. Mr. President, I ask the Senator from Alaska: What is the possible reason for the amendment he has offered? It seems to me that, as a key member of the Appropriations Committee, he would want to keep this as simple as possible, which he has been dealing with for hours.

It seems to me that a continuing resolution should be maintained at the level of last year. That was the point of the question I asked the chairman of the committee a moment ago.

Can the Senator from Alaska explain to the Senator from Nebraska what possible legitimate reason there can be for the amendment he has offered?

Mr. STEVENS. I say to the Senator that the level we are operating under now is above last year's level already. We will go to conference with the House on Wednesday under the bill that was just passed. But if there is not this change, there is no reason for us to get out of conference, because the level of the existing continuing resolution is approximately the level of the House bill, and there is no reason to go to conference.

The House put its level in the continuing resolution, and we are putting slightly below our level into it. In conference, I am sure we will come out somewhere near what we intend.

This is not a complicated amendment. It is a numbers amendment, and it does preserve our options in conference to get a solution to this matter of a continuing resolution.

Mr. EXON. I inquire of the chairman of the Appropriations Committee: Does he agree with and support the amendment that has been offered by the Senator from Alaska?

Mr. HATFIELD. What we have done here is that I have, of course, as chairman of the committee, to offer the committee amendments. I offered the committee amendment which was at the time the committee marked up the CR we cited or we referenced the current CR level for the Defense bill. We have acted, of course, on the Defense appropriations matter here in the Senate. As the Senator from Alaska says, they are going to conference.

We wanted to figure out the best parliamentary way to get to that particular point we wanted to get to, and I had to present the committee amendment, and now he is offering this amendment as a substitute to raise that level.

I voted against the Defense appropriations bill itself. I am just merely acting here as a conduit from the committee to the floor.

Mr. STEVENS. Mr. President, if the Senator will yield for just one further response to the Senator's question, it is a good question. When this continuing resolution was before the Appropriations Committee the defense bill was still on the floor. I could not frame this amendment then. So I asked the committee to put in the bill the last continuing resolution level until we passed this bill on the floor to see what that result would be.

We are not putting the result of the Senate's deliberations in the bill. It

will go to conference as it has in the past.

Had we passed that bill before we finished the continuing resolution I would have put the level in in the committee.

Mr. EXON. Mr. President, if the Senator will yield for a further question, if I understand the procedure then that is taking place now it is that the chairman of the Appropriations Committee although he did not say it, he indicated in his response to my last question that he likely would not be in support of the amendment offered by the Senator from Alaska due to the fact that the chairman of the Appropriations Committee voted against the Department of Defense authorization bill. Is that correct?

Mr. HATFIELD. The Senator is correct, but let me say that to go to conference with the House of Representatives on this CR we should be as accurate in reflecting the Senate's position as possible, and the substitute of the Senator from Alaska updates the position of the Senate.

What I presented as a committee bill, as the Senator said, was action taken before the Senate passed the Defense bill on the floor. I voted against it then. I voted against the current level that is in the CR.

That is not the point. The point is we have to get in position to go to conference with the most accurate representation of the latest Senate position.

Mr. EXON. Mr. President, will the Senator yield for one further question?

Mr. HATFIELD. I yield.

Mr. EXON. That may clarify that for a lot of Members of the Senate. If the Members of the Senate remember how they voted on the defense authorization bill, and I was one of them who voted for it, then to be consistent I assume that from that ground of consistency I would support the amendment that has been offered by the Senator from Alaska. Is that a fair assumption?

Mr. HATFIELD. No; that is not correct. The Senator perhaps misspoke himself. He said the Senate authorization bill. It was not the defense authorization.

Mr. EXON. I am sorry.

Mr. HATFIELD. It was a Senate appropriation bill.

Mr. EXON. An appropriations bill, that is right.

Mr. HATFIELD. Then if the Senator did misspeak himself he would be correct. If he voted for the defense appropriation bill then he, of course, would support it.

Mr. EXON. Would it be consistent to support the amendment of the Senator from Alaska?

Mr. HATFIELD. That is right.

Mr. STEVENS. Mr. President, this is slightly lower than the bill the Senator voted for and it presents our option.

I might also say we intended originally to be through the defense bill before this continuing resolution came up. When the Members with whom we would have had to confer were tied up on the floor of the House when the continuing resolution over there was defeated we were not able to go to conference. We do not go to conference until next Wednesday now.

Mr. EXON. I thank the Senators from Oregon and Alaska.

Mr. STENNIS. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. I yield to my good friend from Mississippi.

Mr. STENNIS. The Senator proposes in here, as I read it, to increase from $247 billion to $252 billion and, as I understand, this is based upon a multiyear contract provision on the B-1 and the MX. Is that correct?

Mr. STEVENS. No; we just exempt from this the problems of the B-1 and MX. They are in both bills, both the House bill and the Senate bill. They are not in conference. So we have not changed that by virtue of this amendment.

Mr. STENNIS. Yes.

Mr. STEVENS. The money item is the $252 billion.

Mr. STENNIS. Why is the need here now when it is only a few days until it will all be settled in conference in what I call the big appropriations bill? Why burden this bill now that is limping along here with plenty of trouble when in just a few hours we would be delinquent? Why burden this bill with these matters here that are going to be settled in permanent law within just a few days or within a week perhaps? We are already set for a conference next Wednesday.

I do not want to take up time. But why do this? Why call on the membership to pass it?

Mr. STEVENS. The old rate in the old continuing resolution is the rate in the House bill. There is no incentive for them to come to conference when we go to conference with them next week if we have already passed a bill that says that is the rate of spending until next April. We have to raise it up to approximately our level in order to get to conference. We are approximately $5 billion above the House. If we put in the $247 billion figure we have no incentive for the House to really confer with us. We want to see a figure come out of the conference which is approximately where we will agree to.

I tell the Senator I think it is going to be somewhere around $249.5 billion. That is a normal reaction of conferees.

Mr. STENNIS. This is not intended to sound blunt. But did the Senator from Alaska originate this amendment or did the Department of Defense originate it? The Senator from Alaska is an expert in his field. I trust him and his judgment on it.

Mr. STEVENS. This is my amendment.

Mr. STENNIS. I know. But who originated the idea of presenting this now?

Mr. STEVENS. I did.

Mr. STENNIS. Yes. All right.

Mr. STEVENS. Because I told the committee when in committee to use the old figure and when we got to the floor I would attempt to put on the floor the result of the action of the Senate in the Senate-passed defense bill, and this is what we are doing, what we said we would do at the time. I made that request to the committee when we were in committee on the continuing resolution.

Mr. STENNIS. All right. That is good enough. The Senator from Alaska originated it. All right. That satisfies me.

Mr. STEVENS. I did originate it.

Mr. LEVIN. Mr. President, will my friend from Alaska yield for a question?

Mr. STEVENS. I yield.

Mr. LEVIN. I understand the theory of this which makes good sense to me to update the position to the latest Senate statement of sentiment on this question. The Senator made an exception on that, as I read his amendment, for the B-1 and MX.

Mr. STEVENS. They are not in conference.

Mr. LEVIN. There are a lot of other items in the House bill that are not in conference either. Why use these two items?

Mr. STEVENS. Because if we do get stuck and do not get a bill, this will govern us through the period of the continuing resolution and there are substantial savings involved in those two items.

Mr. LEVIN. There are a lot of other things that we do not want to jeopardize besides those two items. I know those two items have a lot of support around here.

Mr. STEVENS. The House resolution prohibits those two. We had to change the House resolution to comply with the Senate bill. The House resolution which was just passed prohibits the multiyear contracts, and the B-1 is already by virtue of the defense bill both in the House and the Senate and not subject to that restriction. So we are carrying out the intent of both bills in that provision.

Mr. LEVIN. Is that true also with the MX exception which is written in here?

Mr. STEVENS. Yes; that is correct.

Mr. LEVIN. Are those the only two items which are so specified in the House bill?

Mr. STEVENS. Yes; that is correct.

Mr. LEVIN. All right.

I thank the Senator.

Mr. STEVENS. They are not the only two items prohibited. They are the only two items in current bills, both the House and Senate and the House appropriations bill that will affect the exemption restriction in the continuing resolution.

I will be happy to show them to the Senator if he wishes.

Does any other Senator have a question?

Again, Mr. President, this is merely carrying out the action of the Senate in passing the defense bill just 2 days ago. I will not ask for the yeas and nays. I consider it to be a technical amendment to the bill.

The PRESIDING OFFICER. If there be no further debate on the amendment of the Senator from Alaska, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2543) was agreed to.

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

Mr. STENNIS. Mr. President, I move to lay this motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended, of the Senator from Oregon.

The amendment (No. 2542), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

AMENDMENT NO. 2544

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2544.

Mr. HATFIELD. 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 joint resolution insert:

SEC. 110. (a) Notwithstanding any other provision of this joint resolution, for an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 5,310,800,000 Special Drawing Rights, to remain available until expended: *Provided,* That such funds may be made available for obligation only upon enactment of authorizing legislation.

(b) Notwithstanding any other provision of this joint resolution, for an increase in loans to the International Monetary Fund under the General Arrangements to Borrow, the dollar equivalent of 4,250,000,000 Special Drawing Rights less $2,000,000,000 previously appropriated by the Act of October 23, 1962 (Public Law 87-872, 76 Stat. 1163), pursuant to the authorization contained in section 17 of the Bretton Woods Agreement Act and merged with this appropriation, to remain available until expended: *Provided,* That such funds may be made available for obligation only upon enactment of authorizing legislation: *Provided further,* That official United States Government debt reschedulings of debtor countries shall be submitted to the Appropriations Committees of both Houses of Congress.

Mr. HATFIELD. Mr. President, this committee amendment provides for $8.4 billion for the International Monetary Fund, IMF.

I yield to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, this is the IMF funding amount which the committee had put in with the understanding that the authorizing conference was nearly completed. We now, unfortunately, have been informed the authorizing conference is not only not completed but it is falling apart. Therefore, the amendment is not appropriate.

I ask unanimous consent that the amendment be withdrawn.

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

AMENDMENT NO. 2545

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2545.

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

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

The amendment is as follows:

On page 1, after line 2, insert the following:

(c) Such amounts as may be necessary for continuing the activities under the purview of the Foreign Assistance Appropriations Act as provided for in Public Law 97-377 and Public Law 98-63, under the terms and conditions, and at the rate, provided for in those Acts or at the rate provided for in the budget estimates, whichever is lower, and under the more restrictive authority, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of law: *Provided,* That such terms and conditions shall be applied without regard to the earmarkings, ceilings or transfers of funds contained in such Acts: *Provided further,* That reprograming notices shall be as required under the provisions of section 523 of Public Law 97-121: *Provided further,* That notwithstanding the provisions of this subsection making amounts available or otherwise providing for levels of program authority, the following amounts only shall be provided for the following accounts or under the following headings: $138,423,983 for payment to the "Inter-American Development Bank", of which not more than $80,423,000 shall be available for the Fund for Special Operations, as authorized by sections 26, 29, and 30 of the Inter-American Development Bank Act, and not to exceed $1,230,964,704 in callable capital subscriptions; $700,000,000 for payment to the "International Development Association"; $13,232,676 for payment to the "Asian Development Bank"; and not to exceed $251,377,943 in callable capital subscriptions; $147,116,170 for payment to the "Asian Development Fund"; $17,986,678 for payment to the "African Development Bank" and not to exceed $53,960,036 in callable capital subscriptions; $285,136,000 for "International Organizations and Programs", except that such funds shall be made available only in accordance with the Report accompanying this joint resolution; $212,231,000 for "Population, Development Assistance"; $133,405,000 for "Health, Development Assistance": *Provided further,* That funds made available as loans to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 shall remain available for obligation until September 30, 1985; up to $20,000,000 of the funds appropriated by this subsection to carry out the provisions of chapter 1 of part I are available for the "Private Sector Revolving Fund" in accordance with the provisions of section 405 of S. 1347, as reported: $25,000,000 for "American schools and hospitals abroad"; $103,000,000 for "Sahel development program"; $39,316,000 for "Payment to the Foreign Service Retirement and Disability Fund"; $2,912,000,000 for the "Economic Support Fund", of which not less than $910,000,000 shall be available for Israel, not less than $750,000,000 shall be available for Egypt, not less than $15,000,000 shall be available for Cyprus, and, notwithstanding section 660 of the Foreign Assistance Act of 1961, not less than $3,000,000 shall be available for programs and projects in El Salvador to promote the creation of judicial investigative capabilities, protection for key participants in pending judicial cases, and modernization of penal and evidentiary codes; $46,200,000 for "Peacekeeping operations"; $37,000,000 for "Operating expenses of the Agency for International Development", subject to the limitation on transfers of funds into this account and payment for Foreign Affairs Administrative Support contained in Public Law 97-377; $22,000,000 for "Trade and Development"; $46,645,000 for "International narcotics control"; $12,000,000 for the "Inter-American Foundation"; not to exceed $15,000,000 for gross obligations for the amount of direct loans and not to exceed $150,000,000 of contingent liability for total commitments to guarantee loans for the

"Overseas Private Investment Corporation"; $113,500,000 for the "Peace Corps"; $339,500,000 for "Migration and Refugee Assistance"; $5,000,000 for "Anti-Terrorism Assistance" in accordance with the provisions of title VI of S. 1347, as reported; $697,000,000 for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, of which not less than $230,000,000 shall be available only for Turkey; $56,532,000 for "International Military Education and Training"; $1,395,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export Control Act, of which not less than $850,000,000 shall be available for Israel and not less than $545,000,000 shall be available for Egypt, for which each recipient shall be released from its contractual liability to repay the United States Government with respect to any such credits and participations in credits so provided ($1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the fiscal year 1984 shall be available only to Israel, not less than $528,500,000 shall be available only for Greece, and not less than $525,000,000 shall be available only for Turkey); $4,356,000,000 of contingent liability for total commitments to guarantee loans under "Foreign Military Credit Sales" and under the authority of section 209 of S. 1347, as reported: *Provided further,* That of the total aggregate credit sale ceiling made available to Israel, not less than $300,000,000 shall be made available for research and development activities in the United States for the Lavi program and not less than $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel; not to exceed $325,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed $4,400,000,000 of gross obligations for the principal amount of direct loans and $10,000,000,000 of total commitments to guarantee loans under "Export-Import Bank of the United States", and not to exceed $16,899,000 shall be available for administrative expenses: *Provided further,* That of the amounts made available in this subsection for "International disaster assistance", which amounts shall remain available until expended, $10,000,000 shall be used only for earthquake relief and reconstruction in southern Italy, which amount may be derived either from amounts appropriated to carry out the provisions of section 491 of the Foreign Assistance Act of 1961 or from up to $10,000,000 of amounts heretofore appropriated pursuant to chapter 4 of part II of such Act for Syria which are, if deobligated, hereby continued available for the purposes of section 491 or for other programs for Italy consistent with sections 102 through 106 of such Act, and up to $15,000,000 of such deobligated amounts are hereby continued available and may be used for grant economic assistance programs for Grenada, except that such funds for Grenada may not be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance: *Provided further,* That appropriations made available and authority provided by this subsection shall remain available until September 30, 1984, notwithstanding section 102 of this joint resolution.

Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President, shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report. None of the funds appropriated or otherwise made available pursuant to this subsection shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under this paragraph, is engaged in a consistent pattern of opposition to the foreign policy of the United States.

None of the funds appropriated by this subsection may be available during the fiscal year in which payments are made out of the Treasury of the United States or any fund of a Government corporation, after the date of enactment of this joint resolution, under loan guarantees or credit assurance agreements with respect to loans made or credits extended to Poland in the absence of a declaration of default of Poland with respect to such loans or credits.

None of the funds heretofore appropriated or otherwise made available for Syria for the purposes of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be expended after the date of enactment of this joint resolution. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from the termination under this subsection of assistance programs for Syria authorized by such chapter, *Provided,* That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria.

Of the funds appropriated or otherwise made available directly pursuant to this joint resolution for El Salvador, 30 per centum shall be set aside and may not be expended until Salvadoran authorities have substantially concluded all investigative actions in the case of the national guardsmen charged with murder in the deaths of the four United States churchwomen in December 1980 that were set forth in communications from the State Department, including letters dated July 8 and September 23, 1983, and Salvadoran authorities have brought the accused to trial and have obtained a verdict.

None of the funds appropriated or otherwise made available under this subsection may be available for any country during any three-month period beginning on or after October 1, 1983, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under "Agency for International Development" in prior appropriations Acts, are, if deobligated, hereby continued available for the same period as the respective appropriations in such subparagraphs for the same general purpose and for the same country as originally obligated or for relief, rehabilitation, and reconstruction activities in the Andean region: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation or reobligation of such funds.

This subsection may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1984".

Mr. HATFIELD. Mr. President, this is the committee amendment that deals with foreign operations.

I yield to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, the question here is: Does the Senate accept the Senate appropriations passed mark or the House appropriations passed mark? The committee feels we should have the Senate appropriations mark as we go to conference. I hope this amendment will be adopted.

The PRESIDING OFFICER. Is there further debate of the amendment? If not, the question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD).

The amendment (No. 2545) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2546

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2546.

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

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

The amendment is as follows:

On page 1, after line 2, insert the following:

(d) Notwithstanding any other provision of this joint resolution, such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1983, under the terms and conditions provided in applicable appropriation Acts for the fiscal year 1983, at the current rate:

Health planning activities authorized by title XV of the Public Health Service Act;

National Research Service Awards authorized by section 472(d) of the Public Health Service Act;

National Arthritis Advisory Board, National Diabetes Advisory Board, and National Digestive Diseases Advisory Board authorized by section 437 of the Public Health Service Act;

Medical Library Assistance programs authorized by title III of the Public Health Service Act;

Refugee and entrant assistance activities under the provisions of title IV of the Immigration and Nationality Act, title IV and part B of title III of the Refugee Act of 1980, and sections 501(a) and (b) of the Refugee Education Assistance Act of 1980: *Provided,* That such funds may be expanded for individuals who would meet the definition of "Cuban and Haitian entrant" under section 501(e) of the Refugee Education Assistance Act of 1980 but for the application of paragraph (2)(B) thereof: *Provided further,* That none of the funds made available under this joint resolution may be used to implement any administratively proposed block grant, per capita grant, or similar consolidation of the Refugee Resettlement Program, or to distribute any funds under any such administrative proposal;

Child abuse prevention and treatment and adoption opportunities activities authorized by the Child Abuse Prevention and Treatment Act;

Activities under the Domestic Volunteer Service Act of 1973, as amended; and

Activities of the Department of Defense, Army National Guard and Army Reserve Operation and Maintenance and National Guard and Reserve Equipment Procurement.

Mr. HATFIELD. Mr. President, when we passed the Labor-HHS appropriation bill, there were certain programs at that time which were not authorized. What we are doing in the committee amendment just read is to provide for current level funding for such programs that are now subsequently authorized. That is the committee amendment, to keep those programs going.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD).

The amendment (No. 2546) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2547

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2547.

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

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

The amendment is as follows:

On page 1, after line 2, insert the following:

(e) Notwithstanding any other provision of this joint resolution, except section 102, such sums as may be necessary for programs, projects, or activities provided for in the Agriculture, Rural Development and Related Agencies Appropriation Act, 1984 (H.R. 3223), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 98-450), filed in the House of Representatives on October 27, 1983, as if such Act had been enacted into law.

Mr. HATFIELD. Mr. President, this committee amendment is to reference in the CR the agriculture appropriation measure at the conference reported level. As you know, the Senate and the House have both passed an agriculture appropriations measure. The House and the Senate have gone to conference on that. That conference has not been completed, or at least it has not been brought back to report because there has not been an agreement reached with the executive branch of Government. So what we are doing is we are referencing in this CR the conference level on the agricultural appropriations bill.

Mr. EAGLETON. Mr. President, the continuing resolution now before the Senate will support the activities funded by the agriculture, rural development and related agencies appropriations bill at the level provided for in the conference agreement on H.R. 3223, House Report 98-450. I would like to take this opportunity to discuss a few of the details of that agreement.

I should preface my remarks, however, by noting that the administration has indicated that they do not support the conference agreement, that it busts the budget, and that it provides too much for the programs funded by that bill.

Mr. President, my colleagues should know that the conference agreement is not a budget buster. In fact, the conference agreement reflects a reduction of $7.6 billion below the level appropriated for the activities of the Department of Agriculture and related agencies in fiscal year 1983. Even taking into account all of the later requirements the Senate Budget Committee could come up with for the bill, the conference agreement is $200 million in budget authority below our allocation under the budget resolution. What President Reagan wants, Mr. President, is that we enact his budget request, which would be a disaster for many programs.

In case my colleagues have forgotten what the President's budget called for, let me illustrate with a few highlights and then describe how the conference approached these issues. We have heard time and time again from the Secretary of Agriculture that this administration has placed a high priority on stemming soil erosion on our Nation's farms. The President's budget called for a 74-percent reduction in the conservation cost share programs of the Agricultural Stabilization and Conservation Service and a substantial reduction in the programs of the Soil Conservation Service. No one who is serious about getting the soil erosion problem on our farms under control could possibly support the President's budget levels.

The conference agreement provides a total of $813,056,000 to fund the conservation programs of the Soil Conservation Service and the Agricultural Stabilization and Conservation Service. This represents a reduction of $118,998,000 from the fiscal year 1983 program level and a slight 2-percent increase over fiscal year 1982 level. I should point out that the jobs bill significantly increased the funding of the soil conservation programs in fiscal year 1983 over their traditional levels. The conference agreement basically freezes these programs at the level originally appropriated for fiscal year 1983.

Mr. President, as you well know, U.S. agriculture is preeminent in the world. This preeminence is due mostly to the dedication of our family farmers, but the excellent agricultural research and extension programs which develop new technologies and extend those technologies to farmers have given our family farmers an edge that most farmers in the world envy. Under the President's budget, funding for the science and education activities of USDA would have been cut by almost $50 million. The President is asking that we endorse this reduction in funding for agricultural science and education activities. I, for one, think such proposals are shortsighted, especially if we have any hope of continuing to be the breadbasket of the world or any desire to return profit to our farms. The conference agreement provides a 4.5-percent increase for the science and education activities of the Department of Agriculture.

I am pleased that the conference agreement provides $5 million to initiate a graduate fellowship grant program. This program will assist in the training of the scientists of the future and will help insure that the human resources necessary to continue the advancement of U.S. agriculture will continue to be available.

About 3 months ago, President Reagan pronounced his concern over the problem of hunger in America. The President stated:

I am fully committed to feeding the poor people of this Nation.

However, if one were to look at the President's budget for the nutrition programs, which he is insisting that we support, one would quickly see that his budget is devoted more to the dismantlement of the nutrition programs than to feeding the poor of our Nation.

Let us just look at the special supplemental feeding program for women, infants, and children (WIC) as an example of this. The President's budget proposed supporting a 2.1 million participation level in this program which provides food supplements for pregnant women, infants and children who have been determined to be at nutritional risk. If the Congress were to accept the President's proposal, almost 900,000 participants—and again these are people who have been determined by a health professional to be at nutritional risk—would have to be removed from the program. If the President is sincere in his concern over the nutritional status of the poor, why is he asking that the Congress approve the removal of 900,000 pregnant women, infants, and children from the WIC program?

I am pleased that the conference agreement provides an appropriation level sufficient to maintain the fiscal year 1983 year-end WIC caseload. The $1.06 billion is appropriated for WIC for the period through July 10, 1984, representing an annual appropriation level of $1.36 billion. The remaining $300 million of the full-year appropriation will be provided in a supplemental.

Reports from USDA and the States now show that the year-end WIC caseload is about 2.95 million persons—and that approximately $1.4 billion in total funding will be needed to sustain this caseload level throughout fiscal year 1984. The appropriation of $1.36 billion, plus funds carried over from fiscal year 1983, should be sufficient to meet this need. As we noted in the Senate committee report on H.R. 3223, the Secretary is required to recover and reallocate carry-over funds as expeditiously as possible and to distribute these funds in addition to the $1.36 billion annual appropriation level that is anticipated. Any attempt to delay the distribution of carry-over funds, which should begin to be redistributed as soon as they can be recovered, would be in violation of the clear intent of the legislation and of the Senate and the House Committees on Appropriations.

At the time the Senate considered this legislation, it was estimated that the end-of-fiscal year 1983 participation would be about 2.8 million. The Senate bill included language requiring that no less than 2.8 million persons be served by the program. Because participation now exceeds that level, the conferees dropped the Senate language and will expect that participation will be maintained as close to the end-of-fiscal year 1983 level as would be possible utilizing $1,360,000,000 of appropriated funds plus carry-over funds from fiscal year 1983.

Finally, I would reiterate the directive in the Senate committee report that the full $1.06 billion is intended for use in the October 1 to July 10 period. Any action by USDA, OMB, or States to reduce participation and spread these funds beyond July 10, 1984 would be contrary to the intent of this legislation.

The conference report fully funds the food stamp program through September 6, 1984. If a supplemental is needed to maintain full funding through the end of the fiscal year, which will depend largely on what happens to the unemployment rate in the months ahead, then we will provide it.

Both the Senate and the House Appropriations Committees clearly intend to maintain full funding in the food stamp program. We recognize how unfortunate further reductions in food stamps would be at this time. To this end, I would like to reemphasize a key passage in the Senate Committee report:

The Committee is concerned about reports of growing problems of hunger in cities and other areas and by reports of large increases in the number of persons seeking aid at soup kitchens and food pantries. Recent reports indicate that many of those seeking aid are persons whose food stamps are running out before the end of the month. The Committee directs the Secretary not to make changes in the procedures for calculating household food stamp allotments that would reduce the amount of food stamps that eligible households are provided.

This directive is of considerable importance. The Secretary is clearly directed not to reduce benefits. This means, for example, that the Secretary is not to reduce benefits for households of various sizes by altering the economy-of-scale factors used in calculating household allotment levels. In addition, it means that the Secretary is not to make such changes as counting a portion of State and local energy assistance payments as income and thereby reducing the calculated allotments for some households receiving this aid.

I was disturbed, as I am sure many other Senators were, to read press reports recently that the Department is considering radical revisions in food stamp regulations that would have the effect of reducing benefits for numerous households while potentially increasing administrative costs and paperwork at the same time. The regulations, as they have been presented in the recent press accounts, would conflict with the directive of the Appropriations Committee. I trust the Secretary will take this into account and that he will not proceed with plans to issue these regulations.

Earlier this year, the President endorsed congressional efforts to insure that additional Government-owned surplus commodities were distributed to the poor throughout our Nation. Public Law 98-92 extended the Temporary Emergency Food Assistance Act of 1983 and authorized additional support for the costs of local commodity distribution efforts. The conference agreement provides $50 million, the same as fiscal year 1983, to support commodity distribution efforts. However, these funds will become available only when the President submits a budget request for the commodity distribution program. If the President truly supports surplus commodity distribution, as he has indicated that he does, he will request these funds.

Mr. President, the conference agreement is basically a current services approach to the nutrition programs. Fully funding this current services approach results in an actual decline in the funding required for nutrition programs by over $800 million below the fiscal year 1983 budget. I hasten to add that should the employment picture improve as the President keeps indicating it will, the funding require-

ments of the nutrition programs will decline even further.

The hit list of the President's budget goes on and on, Mr. President—virtual elimination of the FmHA rural housing program, cutting the rural electrification and telephone programs, reducing the animal and plant health inspection programs—this is what President Reagan has asked that we endorse when he asks that we reject the conference agreement and accept his budget for fiscal year 1984 for the programs funded in the agriculture bill.

As I said before, Mr. President, the conference agreement is $7.6 billion below the fiscal year 1983 funding level for this bill. We are under our allocation for budget authority by about $200 million. We have not come close even to keeping up with inflation. That is not enough for the President—cut research, cut extension, cut soil conservation, cut nutrition programs—that is what the President wants.

I believe it is unfortunate that the Reagan administration has decided to make this its policy. Certainly with a vote of 77 to 18 in favor of the agriculture bill in the Senate, it is clear that this is not the policy of the Congress on these issues.

I am pleased that we have folded the conference agreement into this continuing resolution for the full fiscal year and I urge my colleagues to support it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD).

The amendment (No. 2547) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2548

Mr. HATFIELD. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2548.

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

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

The amendment is as follows:

On page 1, after line 2, insert the following:

(f) Notwithstanding any other provision of this joint resolution, except section 102, such sums as may be necessary for programs, projects, or activities provided for in the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1984 (H.R. 3222), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 98-478), filed in the House of Representatives on November 3, 1983, as if such Act had been enacted into law.

Mr. HATFIELD. Mr. President, this does precisely the same thing for the Commerce appropriations bill. Action on that bill has not been completed, and we are referencing that in the CR at the conference level.

Mr. MELCHER. Will the chairman yield?

Mr. HATFIELD. I am happy to yield to the Senator from Montana.

Mr. MELCHER. Does the amendment contain Commerce-State-Justice appropriations as passed by the Senate; and what is the status of the conference report?

Mr. HATFIELD. I would say to the Senator from Montana that we are going to have a conference report on the Commerce bill before the Senate next Tuesday. At that time, the Senator will have an ample opportunity to handle this matter relating to the legal fees—I believe that is what the Senator from Montana is concerned about—in New Mexican Indian cases.

Mr. MELCHER. If the chairman will yield further, does not the reference to the conference report in the amendment reference it as it was reported to the House?

Mr. HATFIELD. That is correct.

Mr. MELCHER. And has not the conference report been acted upon by the House and passed and the papers are now at the desk?

Mr. HATFIELD. That is correct.

Mr. MELCHER. Is there some reason, then, for referencing as reported to the House rather than the conference as it lies on the desk?

Mr. HATFIELD. The CR that each body acts on attempts to reflect the most recent action of that particular body. What we are doing here is merely reflecting the most recent action of the Senate. Then that matter, of course, if there are differences in that with the House, we will have to negotiate that out in conference with the House on the CR vehicle.

But, in all cases where the Appropriations Committee organizes and orchestrates a CR, we diligently follow the principle of trying to reflect the Senate's most recent action.

Mr. MELCHER. I thank the chairman for that comment. It is consistent with what the chairman had responded in presenting other amendments. So I compliment him on that.

Yesterday on this floor we were discussing the question of the conference committee report with regard to a matter of only $450,000 which is to be appropriated for expenditure by the Justice Department to pay attorneys in New Mexico to represent private litigants in a water case in New Mexico.

Is it the feeling of the chairman that the matter would be better addressed at that point, as far as the Senator from Montana is concerned, in objecting to that appropriation?

Mr. HATFIELD. It would be better dealt with on the conference agreement we negotiate out. Yes, that would be the better place.

Mr. MELCHER. I note that the chairman has stated that the conference report will be called up on Tuesday. Is that a certainty?

Mr. HATFIELD. It is a privileged matter. It can be called up anytime. That would be the plan, to do so, yes. That is the leadership prerogative. All I am saying is that as chairman of the committee I have urged the leadership and they have been very responsive to make any appropriations matter the pending business, to get it up and get it acted upon so we can keep the appropriations process moving.

Mr. MELCHER. I would not object, and, as a matter of fact, I would agree that the debate on that single item of $450,000 would be more appropriate at that time.

Might I ask the chairman if he would have any objection to removing that item from this continuing resolution?

Mr. HATFIELD. Yes, I would say I would. Do you mean as the chairman would I object?

Mr. MELCHER. To be more precise, would the chairman accept an amendment removing the $450,000 item from the continuing resolution until we have the conference report on Tuesday?

Mr. HATFIELD. I would say to the Senator no, I could not do that. I do not believe I could unilaterally agree to that after the Senate has worked its will. I am in a position now of trying to reflect the Senate's position, not to recreate a new position.

Mr. MELCHER. I thank the chairman. If I could inquire further, do I understand that it is the intent of the majority leader that the chairman will be allotted time to call up the conference report on the Commerce, State, Justice appropriations bill by Wednesday?

Mr. HATFIELD. That is my understanding of the timing of that appropriations matter, that it will be called up on Tuesday of next week. It may be Wednesday. Certainly, it will be early next week. One of the reasons we could not call it up earlier is because the Appropriations Committee is going to conference with the House on Monday on the supplemental. The leadership indicated to me that they would call it up on the very next day possible to work it into our schedule.

Mr. MELCHER. I thank the Senator.

Mr. President, the question I am concerned with in the appropriations conference report on Commerce, State, Justice is the item of $450,000 to be paid from Justice Department funds without any guidelines, without any authorization by Congress, to pay attorneys in Albuquerque for their fees for representing some private citizens in a water lawsuit.

The Justice Department noted at the time of the consideration of the matter in the conference committee that it was an unusual procedure—and that is putting it, I might add parenthetically, very mildly—it is a very unusual procedure.

The Justice Department further recommended that guidelines be established if such amounts were to be appropriated, instructing them on how they were to be expended and under what terms and conditions. That was not done.

The Justice Department further noted that there was some question as to whether or not the U.S. Government should be paying these private attorneys to represent private litigants in this lawsuit.

The PRESIDING OFFICER. If the Senator from Montana will suspend, the Senate is not in order. The Senate will please come to order.

The Senator from Montana.

Mr. MELCHER. They further noted in this Justice Department letter signed by the Attorney General that there was some question whether or not the State of New Mexico should pay these fees, if not paid by private parties.

In sum and substance, what the Justice Department has noted is that this is a highly unusual appropriation, to pay attorneys representing private litigants in a lawsuit where the United States is involved, and also paying the fees for the necessary defense of the rights of the four pueblos who are involved in this lawsuit on the other side. The Justice Department, of course, is only reflecting a requirement that the trust responsibility placed on the United States be carried out with regard to rights involving these Indian pueblos.

I think, Mr. President, it is a matter worth further discussion in the Senate before the adoption of the conference report on that appropriations bill. With the assurance of the chairman of the Appropriations Committee of the Senate that the conference report will be called up on a privileged motion next Tuesday or Wednesday, I shall not delay this continuing resolution with further arguments against the practicality and legality and propriety of appropriating such money to pay attorneys fees.

I do note that this continuing resolution, by referencing that conference report on the appropriations for the Justice Department, does indeed put the Senate in the position of again endorsing what I consider to be the very inappropriate appropriation.

Mr. President, I shall, at the time the conference report is called up on the State, Justice, Commerce appropriations bills, renew my argument against it. I will no longer utilize time in this discussion on this bill. I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 2548) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2549

Mr. STEVENS. Mr. President, I send the next committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2549.

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

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

The amendment is as follows:

On page 2, strike out all following "SEC. 102." page 17, line 19 inclusive.

Mr. STEVENS. Mr. President, this takes out the old foreign operations language of the House. We have already adopted the Senate provision. Therefore, it really is a technical question. I assume my friend from Wisconsin would agree.

Mr. KASTEN. Mr. President, I agree with the Senator from Alaska. This amendment is really a technical wrapup to what we have already done by a previous amendment.

Mr. STEVENS. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 2549) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2550

Mr. STEVENS. Mr. President, I yield to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, we have adopted the Senate version. I ask unanimous consent that it be in order to amend the Senate version having to do with the technical language of one of the sections of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin?

Without objection, it is so ordered.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. KASTEN) proposes an amendment numbered 2550.

On Page 5, line 1, strike the word "for" and all that follows through the word "Israel" and before the semicolon on line 3, and insert in lieu thereof: "and not less than $250,000,000 shall be made available for the procurement of defense articles and defense services in Israel for the Lavi program".

Mr. KASTEN. Mr. President, in a sense, what we are doing is substituting the language "and not less than $250 million shall be made available for the procurement of defense articles," and so on, specifying that it be for a particular program.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2550) was agreed to.

Mr. KASTEN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2551

Mr. STEVENS. Mr. President, I send to the desk the next committee amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2551.

At the end of the joint resolution insert:

Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from November 10, 1983, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1984, whichever first occurs.

Mr. STEVENS. Mr. President, this is an amendment intended to put the Senate date in the resolution as opposed to the House date.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2551) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2552

Mr. STEVENS. Mr. President, I send to the desk a committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2552.

At the end of the joint resolution, insert:

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriation Act for the fiscal year 1984 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

Mr. STEVENS. Mr. President, this is the boilerplate language of past bills and continuing resolutions from the Senate going into conference.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2552) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2553

Mr. STEVENS. Mr. President, I send a committee 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 Alaska (Mr. STEVENS) proposes an amendment numbered 2553.

At the end of the joint resolution, insert:

SEC. 106. Notwithstanding any other provision of this joint resolution except section 102, there are appropriated to the Postal Service Fund sufficient amounts so that postal rates for all preferred-rate mailers covered by section 3626 of title 39, United States Code, shall be the rates at step 15 of the rate phasing schedules as they existed on September 1, 1982: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1983 level.

Mr. STEVENS. Mr. President, this is the language of the previous continuing resolution, carried on into the next resolution.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2553) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2554

Mr. STEVENS. Mr. President, I send a committee 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 Alaska (Mr. STEVENS) proposes an amendment numbered 2554.

At the end of the joint resolution, insert:

SEC. 107. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Mr. STEVENS. Mr. President, this is a similar provision to what the Senate has insisted on in the past dealing with the protection of life and property in the normal wind-down of programs, notwithstanding the continuing resolution. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2554) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2555

Mr. STEVENS. Mr. President, I send a committee 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 Alaska (Mr. STEVENS) proposes an amendment numbered 2555.

At the end of the joint resolution insert:

SEC. 108. Notwithstanding any other provision of this joint resolution, funds available to the Federal Building Fund within the General Services Administration may be used to initiate new construction, purchase, advance design, and repairs and alteration line-items projects which are included in the Treasury, Postal Service and General Government Appropriation Act, 1984, as passed by the House or as reported to the Senate.

Mr. STEVENS. Mr. President, this takes care of the GSA building fund according to the line items in the House-passed or the Senate-passed bill. It is a normal provision in the Senate bill. I ask for its adoption.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2555) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2556

Mr. STEVENS. Mr. President, I send a committee 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 Alaska (Mr. STEVENS) proposes an amendment numbered 2556.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

At the end of the joint resolution insert:

SEC. 109. Section 110 of Public Law 98-107 is amended by (a) amending subsection (a) to read as follows:

(a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal years ending September 30, 1984, or September 30, 1985, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title, in an amount—

(1) during the period from October 1, 1983, until the first day of the first applicable pay period that begins not less than ninety days after the date that the next applicable wage survey adjustment would have become effective were it not for this paragraph, which exceeds the rate which was payable for the applicable grade and step of the applicable wage schedule on September 30, 1983, in accordance with section 107(a) of Public Law 97-377; and

(2) during the period consisting of the remainder, if any, of the fiscal year ending September 30, 1984, and that portion of the fiscal year ending September 30, 1985, which precedes the normal effective date of the applicable wage survey adjustment, effective in that fiscal year, which exceeds, as a result of a wage survey adjustment referred to in paragraph (1) of this age of the adjustment in the General Schedule during the fiscal year ending September 30, 1984.

(b) striking "the date of enactment of this Act" in subsection (b) and inserting in lieu thereof "October 1, 1983";

(c) striking "fiscal year ending September 30, 1984" in subsection (c) and inserting in lieu thereof "period beginning on October 1, 1983, and ending on the normal effective date of the applicable wage survey adjust-

ment effective in the fiscal year ending September 30, 1985";

(d) striking "after the date of enactment of this Act" in subsection (e) and inserting in lieu therof "on or after October 1, 1983; and

(e) inserting the following new subsection at the end thereof:

(h) Notwithstanding the delay in adjustments of wage schedules and rates imposed as a part of the limitations imposed by this section, if the adjustment in General Schedule rates of pay for the fiscal year ending September 30, 1984, takes effect in October of 1983, the adjustment in rates and schedules limited by this section shall take effect on the date they would have taken effect under section 5344 of title 5, United States Code, were it not for this section.

Mr. STEVENS. Mr. President, the effect of this amendment is to treat the blue collar employees the same as the civil service employees as far as the wage increases are concerned. It does hold those wage increases in abeyance until the same time as the others would be paid. It also has a provision concerning the arrangements under the Bretton Woods Act that was similar to the provision in the last continuing resolution.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2556) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2557

Mr. STEVENS. Mr. President, I send to the desk an amendment for section 110 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2557.

Mr. STEVENS. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

At the end of the joint resolution insert:

SEC. 110. Notwithstanding any other provision of this joint resolution, there is appropriated an additional $193,000,000 for carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, relating to low-income home energy assistance.

Mr. STEVENS. I am advised that although we are directed to submit this amendment, since this amendment was one of the provisions in the Wright amendment that has been defeated by the Senate, it would be either proper to withdraw the amendment or to ask that it be tabled. I think the easiest way to do it is to make the RECORD as directed by the committee, and now, Mr. President, I ask that the amendment be withdrawn.

Mr. BYRD. Mr. President, what is this amendment about?

Mr. STEVENS. The amendment is for the low-income energy assistance, and it is at a level that was higher than in the existing continuing resolution. It is my understanding that the level will continue at the existing level.

This was an add-on by the committee of $193 million above the existing level. That was defeated in the Wright amendment and the instructions that I have from the committee chairman would be to withdraw that. We still have the level at the existing level. The continuing resolution would continue the assistance at the existing level without the add-on which was proposed by the Wright amendment and by the committee previously.

Mr. STENNIS. Mr. President, if the Senator will yield, I was not there but up here on duty. This was actually approved by the committee?

Mr. STEVENS. It was approved by the committee at the time of a similar approach to the Wright amendment. That Wright amendment having been defeated, I was requested on behalf of the committee chairman to withdraw this amendment, which would leave in the continuing resolution the existing level of the appropriation.

This is the first issue of this type that has been raised, I might add, and I would be pleased to discuss it with the ranking member, my former chairman, whatever the Senate wishes to do. But this, to be consistent, would have to be withdrawn. All of the other similar items were contained in the overall Wright amendment and have not been offered.

Mr. STENNIS. What does the Senator want to do about it? It has an application and it has need. The matter was passed. While the House amendment was defeated, now that amendment, one like it, has been passed.

Mr. STEVENS. I am told that the Senator who sponsored this amendment in the committee, Senator WEICKER, has now reached an understanding with OMB, and it is in this letter of November 9 that I have in my hand, which I would be pleased to place in the RECORD. The understanding of the OMB is if the additional funds are needed, the OMB will reapportion funds from the third and fourth quarter money to meet those needs but that the increased level of expenditures is not required. With that understanding, the Senator from Connecticut wishes to withdraw his amendment also. He is the one who offered it in committee. I would be happy to have this letter read or to read it to the Senate.

Mr. STENNIS. No.

Mr. STEVENS. But as chairman of the subcommittee involved, he now has instructed the chairman, and I am carrying out that request, to not present this amendment because of the understanding that has been reached on the subject, and with the prior action of the Senate on the Wright amendment it would be consistent.

Mr. STENNIS. This is certainly satisfactory to me. I thank the Senator very much.

Mr. BYRD. 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. STEVENS. 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. STEVENS. Mr. President, so that we can continue, I ask that the amendment be temporarily set aside, not be withdrawn yet until it has been cleared whether or not we should withdraw that amendment.

Mr. SARBANES. Would the manager yield for a question?

Mr. STEVENS. Yes.

Mr. SARBANES. It is my understanding that the defeat of the Wright amendment would necessarily entail that any part of it which might have been included in the committee bill would no longer be offered or approved. The Wright amendment was, of course, an overall amendment, an omnibus amendment, that was turned down by the Senate. But there might be pieces of it which might be embraced in the committee recommendations, and I do not think it necessarily follows that they would no longer be considered.

Mr. STEVENS. This was the only one that was so impacted by the dual action of the request of the chairman and the defeat of the Wright amendment. It was the chairman's position that it should be withdrawn under the circumstances. This is the only one that is so affected. The Wright amendment has not led to our failure to offer any other amendment, and we want to offer this and make the RECORD. So it was not something that was done without consent of the Senate but with the understanding of the subcommittee chairman and the defeat of the Wright amendment, this amendment should not be offered, in our opinion.

Mr. SARBANES. I take it there are not other smaller amendments that are not going to be offered because the omnibus Wright amendment was defeated; is that correct?

Mr. STEVENS. The Senator is correct, and the next amendment demonstrates that.

I am waiting for a ruling on my unanimous consent request.

The PRESIDING OFFICER. Is there objection to the request to temporarily lay aside the amendment?

Mr. STEVENS. I yield to the Senator from Connecticut.

Mr. WEICKER. On the matter of low-income energy assistance, which is of just as great concern to me and to Connecticut as anybody in this Chamber, in the course of my negotiations with the administration on the Labor-Health and Human Services bill which we passed, I had $193 million in my presentation. Budget Director Stockman suggested that we remove that in the sense that the moneys would be available by virtue of the Exxon case. It is clear that those moneys are not immediately available. Therefore, I had passed in the committee the addition of $193 million to this bill.

After we did that, I received a call from the Budget Director saying—and that was the nature of the background of the letter read by the distinguished Senator from Alaska—that either by virtue of surplus moneys or a supplemental the moneys would be available; that we are going to do quarter by quarter.

That is fair enough in terms of flexibility to get this continuing resolution passed. If we see any problems, then the money will be allocated. But I want to assure everyone of my colleagues on this floor that I will hold myself personally accountable to see that every State is funded at last year's level of effort. That was what I envisaged in my original negotiations on Labor-HHS, in the meeting of the subcommittee, and in the subsequent discussions with the Budget Director.

That is my response. Not one penny short of that—in other words, not one penny short of what the committee did would be acceptable to this Senator as we progress with the dispensing of these moneys.

Mr. SARBANES. If the Senator would yield, that is reassuring on this issue. But I was addressing a somewhat broader issue which was that I thought a principle was being established, which I was questioning, that the defeat of the Wright amendment, the omnibus amendment, would then in effect lead to the conclusion that any amendment that contained any part of the Wright amendment would either not be offered or would be rejected. Of course, that does not follow, although in this instance——

Mr. WEICKER. I voted for the Wright amendment also, so I am just trying to explain low-income energy assistance.

Mr. SARBANES. This issue I understand in effect has been taken care of by the Senator's communications with OMB.

Mr. STEVENS. Mr. President, again while we are awaiting the clearance, I renew my request to temporarily set aside this amendment and proceed to another series of amendments. I have four or five. We will come back to this one when we do get the clearance.

The PRESIDING OFFICER. The amendment is temporarily laid aside.

AMENDMENT NO. 2558

Mr. STEVENS. Mr. President, I send to the desk another amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2558:

At the end of the joint resolution insert:

SEC. 112. Notwithstanding any other provision of this joint resolution, within available funds not to exceed $100,000 is available to the Federal Law Enforcement Training Center and may be used for plans, major maintenance, and improvements to Center lands and facilities, to remain available until expended.

Mr. STEVENS. Mr. President, this makes funds available within available funds for the Federal Law Enforcement Training Center. It is another of the amendments that the committee has presented to the Senate. I ask for its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2558) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2559

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2559:

At the end of the joint resolution insert:

SEC. 113. The General Services Administration shall equip all appropriate air-conditioned vehicles in its motor pool fleet with energy-conserving devices that have been certified by the Environmental Protection Agency to both save on fuel consumption and to have no negative impact on fuel emissions.

Mr. STEVENS. Mr. President, this is another amendment we consider to be noncontroversial, and we offer it to the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2559) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2560

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2560:

At the end of the joint resolution insert:

SEC. 114. Notwithstanding any other provision of law, none of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expanded after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, custodians, and Public Buildings Service mechanics, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

Mr. STEVENS. Mr. President, this is the DeConcini amendment which has been adopted previously in similar continuing resolutions. It deals with the subject of sheltered workshop and performance of services in the position of guards.

Mr. President, I will be pleased to answer any questions. If there are none, I ask for adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2560) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2561

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2561:

At the end of the joint resolution insert:

SEC. 115. For the purpose of providing recreation development on the Ocoee River, $7,400,000 is appropriated to the Tennessee Valley Authority, $6,400,000 of which is for reimbursement of the power program for additional costs of power operations resulting from recreational releases of water.

Mr. STEVENS. Mr. President, this is an amendment, as has been stated, which provides $6.4 million to the TVA electric power program to reimburse the TVA for the operating costs

associated with recreational water releases for the people of the area of TVA.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2561) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2562

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2562.

Mr. STEVENS. Mr. President, I am informed that there are two Senators who wish to have a discussion on this amendment. They are on their way to the floor. We have a last committee amendment. I ask unanimous consent that this amendment be temporarily set aside so that we may proceed with the last amendment, and then we will return to this amendment, which will be addressed by Senator HUDDLESTON and Senator NICKLES.

I ask that the staffs notify them that we are about ready to consider that amendment.

The PRESIDING OFFICER. Without objection, the amendment is temporarily laid aside.

AMENDMENT NO. 2563

Mr. STEVENS. Mr. President, I send to the desk another committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2563:

At the end of the joint resolution, insert:

SEC. 117. (a) Chapter 25 of title 18, United States Code, is amended by adding the following new section:

"§ 510. Forging endorsements on Treasury checks or bonds or securities of the United States

"(a) Whoever, with intent to defraud—

"(1) falsely makes or forges any endorsement or signature of a Treasury check or bond or security of the United States; or

"(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any Treasury check or bond or security of the United States bearing a falsely made or forged endorsement or signature shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) Whoever, with knowledge that such Treasury check or bond or security of the United States is stolen or bears a falsely made or forged endorsement or signature buys, sells, exchanges, receives, delivers, retains, or conceals any such Treasury check or bond or security of the United States that in fact is stolen or bears a forged or falsely made endorsement or signature shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) If the face value of the Treasury check or bond or security of the United States or the aggregate face value, if more than one Treasury check or bond or security of the United States, does not exceed $500, in any of the above-mentioned offenses, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both.".

(b) Section 3056(a) of title 18, United States Code, is amended by inserting in the fifth clause the number "510," after "509,".

(c) The analysis of chapter 25, of title 18, United States Code, immediately preceding section 471 of such title, is amended by adding at the end thereof the following:

"510. Forging endorsements on Treasury checks or bonds or securities of the United States.".

Mr. STEVENS. Mr. President, this is a provision that deals with the forging of Treasury checks or bonds or securities of the United States. It is a revision of the existing section. It was suggested by the Senator from Arizona (Mr. DECONCINI). It has been accepted by the committee, and we ask the Senate to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2563) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I understand that the situation automatically reverts to the amendment I submitted previously, the Huddleston amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. That is now pending, and I suggest the absence of a quorum.

Mr. BUMPERS. Mr. President, will the manager withhold that request?

Why do we not take an amendment that is acceptable to the floor managers while we are waiting?

Mr. STEVENS. The only request I have to make to my friend is to allow me to carry out the request made to me by the chairman and those managing the bill, that we complete action on the committee amendments prior to getting to the individual amendments. That will be soon. We have a series of amendments Senators wish to offer. We have two we need to dispose of.

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

Mr. STEVENS. I yield.

Mr. KASTEN. I inform the Senator that there is one technical amendment to which the chairman had agreed. It involves the Senator from Illinois. It has to do with the relationship between the authorizing and the appropriating committees. It will take about 1 minute. If the Senator from Illinois will be recognized, the chairman of the committee is aware of this amendment and supports. We were just waiting for the Senator from Illinois to appear on the floor.

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

Mr. STEVENS. I yield.

Mr. STENNIS. The parties could not be here, so I did not say anything at the time, but I want to ask a question with respect to the amendment about forgeries.

My question is why does it have a standing and why is it brought in here in this bill to be enacted the whole page here of forgery law? That is criminal law.

Mr. STEVENS. If the Senator would look on page 11 of the committee report, the explanation was that this has been requested by the administration which clarifies the jurisdiction of the Secret Service in the area of investigation of forged Government securities and checks. Forgeries are a major responsibility for the Secret Service and the Secret Service needs a clarification of law to allow them to tighten up existing law regarding forged Government checks, bonds, and securities.

For example, under current law it is possible for a thief to steal a Treasury check, endorsed by a payee, endorse his own name and obtain the proceeds without violating the law. This language would among other things, close that loophole.

As I said, the language has been requested by the administration and is included by the committee.

Mr. STENNIS. Mr. President, as a feeble lawyer I cannot believe that statement is true, that that is not a violation of the law already.

Mr. STEVENS. It would be a violation of the law, I might say, to steal the check, but not be a violation to add his own endorsement to a check that was already endorsed by the payee.

Mr. STENNIS. My point is while we have a little break here we just should not use these bills to just cram legislation in here of a permanent nature with little chance to do anything about it.

When this was before our committee the committee was downstairs here just one step away almost, but I did not get to go to any of that sitting because of matters that the Senator from Alaska and I had up here on another bill.

Mr. STEVENS. The Senator is correct.

Mr. STENNIS. So I just protest as a Member of the body. I just protest the administration coming in or anyone unless there is some stronger reason than we have seen of cramming all this into these emergency bills.

I have had my say. I yield the floor.

Mr. STEVENS. Mr. President, I appreciate the Senator's statement. I am informed that members of the subcommittee, in this instance it was Senator DECONCINI, who were involved in the area believed that there was an urgency and asked the committee to approve this.

Mr. STENNIS. All right. I thank the Senator very much.

I know his purpose is very high and good.

Mr. STEVENS. Mr. President, will the Chair restate the amendment that is before the body now so there will be no misunderstanding. It is the amendment we call the Huddleston amendment that has been presented by the committee. It was adopted in committee at the request of the Senator from Kentucky.

AMENDMENT NO. 2562

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment No. 2562.

At the end of the joint resolution insert:

SEC. 116. The head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program for the fiscal year 1984 shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations contained in appropriation Acts.

Mr. STEVENS. Mr. President, I see the distinguished Senator from Oklahoma is here. We have offered this amendment on behalf of the committee, section 116.

Mr. NICKLES. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield to my friend.

Mr. NICKLES. Mr. President, I wish to thank my good friend, the Senator from Alaska for holding the amendment up so I could ask a question.

I saw this amendment as it was passed in the Senate concurrent resolution. Quite frankly I was a little bit concerned about it because it looked to me like it was an amendment that was going to force the administration to possibly lend money to quite frankly those maybe of questionable need.

Can the Senator tell me how much, what agencies, or what departments have some of these funds that we are going to require that they lend those out?

Mr. STEVENS. I have to apologize to the Senator and tell him I was trying to read the amendment. Will he restate his question, please?

Mr. NICKLES. Again I will ask the Senator, that section, as I read it in the Senate bill, and I ask the Senator am I correct, is trying to insert the same language, that of section 116, that was in the Senate continuing resolution.

Mr. STEVENS. That is correct.

Mr. NICKLES. Again, I ask how much money are we talking about? I think we are going to obligate those agencies to lend out the entire maximum amount that Congress has authorized them to lend. I personally feel like that is an unnecessary provision, one that is going to cost the taxpayers a lot of money. Those loans are going to come from the available pool of capital that again is very short and we are going to be requiring by this amendment those agencies have to lend out every single dollar that has been authorized.

Mr. STEVENS. It is my understanding that the amendment has two impacts. One, it does require that such loans that are guarantees be made only to qualified applicants and the limitation within the Appropriations Act, but it is to prevent the impoundment of funds through failure to make those guarantees or to provide the insurance if the funds are contained in the Appropriations Act and the applicants are qualified. There is still, I might say, a matter of discretion as to whether or not the applicant is qualified.

Mr. NICKLES. If the Senator will yield further, as I read it, we take away almost all the discretion away from the administration and basically require them under this language, which I do not see in front of me right now, but being familiar with it, basically would mandate that they would have to lend out whatever funds are there if there were suitable applicants, which I am trying to think of the circumstances where that might apply. But, for example, under the Small Business Administration they have had loan authority and in the years past quite possibly have not lent out all that money. We are going to be mandating the SBA give all this money out in loans.

The same thing could be said for VA or FHA. We could be talking about several billions of dollars that we are mandating those agencies, yes, you have to get rid of it, if there is someone suitable as an applicant seeking those loans.

I think it is an undue restriction on the administration, an unnecessary one that is ultimately going to cost us a lot of money.

Would the Senator agree?

Mr. STEVENS. It is our feeling on the Appropriations Committee that if there is to be restrictions on these programs, they should be done in terms of the amount that is available. Once the amount is made available, if there are qualified applications for loan guarantees of this type, or insurance of this type, the impoundment of such funds is improper and the restrictions should be in the limitation on the amounts of moneys that are there.

The Senator realizes that we have gone to a new concept of requiring backup for these guarantees. In days gone by we made guarantees and then we funded them when they defaulted. Now the moneys are provided in advance and there is the spending of money. The guarantees involve the earmarking of money in the Treasury to meet the guarantees if there is a default.

Having had this funding behind the guarantees, we see no reason now why they should refuse to make the guarantees and thereby in effect frustrate the effort that has been made.

We have gone the full measure with the administration in meeting the requirements of funding guarantees, which was something that was not done in the past.

We think that the physical control is in requiring the moneys to back up the guarantee and in limiting that amount if there has been an excessive amount committed in the past.

Now we feel we have made reasonable limitations. They are funded. They are not just guarantees against future funding. They are funded now.

Believe me, many of these programs have never had any defaults. Many of them have very low default rates, but we are funding those guarantees as though a loan was being made. We think that the reasonable way is to have the limitations in the appropriations process and then state those moneys are available through the form of guarantees to qualified applicants.

Mr. NICKLES. If the Senator will yield, by this amendment are we not mandating to those agencies that have loanmaking authority that they have to loan out every single dollar that is authorized them by Congress?

Mr. STEVENS. They are guarantees in the first place, I say to my friend.

A similar provision was included in the fiscal year 1982 continuing resolution and again in the fiscal year 1983 continuing resolution. The provision assures——

And I am reading from the report—

that loan guarantee levels provided in law or in appropriation acts for loan guarantee programs are not arbitrarily restricted by administrative actions.

Again, I call my friend's attention to the fact that they are not loans of money, they are guarantees that, under our process, we now fund as though there has been a complete loss. It is not spending until there is a loss.

We are controlling it now through the requirement that they be funded before the guarantees are made. This provision has been passed by the Senate on at least two and perhaps three previous occasions.

Mr. NICKLES. Mr. President, I ask the Senator, what was the administration's position on the amendment last year?

Mr. STEVENS. The bill was signed.

Mr. NICKLES. I understand the bill was signed. But what was the administration's position on the amendment? It is my understanding they were opposed to it, and I can see why. You are basically mandating to those agencies that they have to loan the money and have the loan guarantees available, which I think, again, you are forcing the administrator of the SBA, the administrator of the FHA to loan all the dollars available and have those guarantees available, which is taking away a lot of their discretion. If the demand is not there, we are still telling them that if there are suitable applicants you have to have the money and you have to spend it, or you have to at least loan it.

It is also my understanding—and I do not have the letter from OMB—that OMB was opposed to it last year and possibly the year before. Maybe this is now becoming more of a ritual.

But I am afraid we are in the process of requiring those agencies to loan every single dollar that is authorized. I question how successful we have been in appropriations in limiting the amount of loans that we put out.

Mr. STEVENS. Mr. President, the Senator continues to refer to loaning out money. These are guarantees. The money stays in the Treasury. It only is paid out if there is a default.

Having met the administration in terms of the requirement that the guarantees be funded, the Senator is suggesting now a catch 22, that since the moneys are funded and earmarked in the Treasury that we should stop making guarantees because it might require the expenditure of money in the future.

Again, I call the Senator's attention to the loan loss as far as these guarantees are concerned. They are loan guarantees, not loans. They are not direct loans of money. They are guarantees by the Federal Government that if the borrower defaults, the Federal Government will pay. We believe that we have met the requirements of the administration by funding the guarantees.

I understand OMB did not like the guarantees in the first place. But I do not believe Congress ought to listen to the objection that would, in effect, kill the program.

There are several programs. One of them is the loan guarantee program for fishing vessels. In most areas, there is no lending institution for fishing vessels because of the great risks involved unless the Federal Government guarantees those loans. But there is a very, very low rate of loss on the fishing vessel guarantees. Yet, under this bill, we fully fund the amount of guarantees as though the money is being taken out of the Treasury and being loaned to the fishermen.

The Federal Government is not loaning them a dime. It is guaranteeing the loan, and because of that guarantee, if there is a default, the Federal Government will pay and leave in the Treasury, I might add, whatever amount is there for all those loans in the commerical world. There is borrowing and repayment, and the Federal Government is not involved in any way except entering the guarantee.

The insurance is a similar proposition. The insurance is primarily on the subjects that are covered by the guarantee. If you borrow money for a fishing boat, the Federal Government will guarantee the payment of the premiums on the insurance on the fishing boat, which is what anyone in their right mind would do, see that it is guaranteed against loss.

So it has, in effect, hedged its bet by having an insurance policy and all it will really have to pay is the premium on the insurance policy if there is a loss. We have gone through many years of argument about guarantees. But it is a program that is now under control, unless you are opposed to the Government guaranteeing loans at all, as the OMB is, because they say it is an allocation of capital. It is not a fiscal matter. It is a matter of principle, as I understand the OMB, on the allocation of capital question.

Mr. NICKLES. Will the Senator yield for one further qualification?

Mr. STEVENS. Yes.

Mr. NICKLES. So, basically, all we are doing is saying the money has to be there to back up the guarantee, but we are not issuing mandates to the agency heads that they have to loan out whatever the total maximum amount of dollars is there; is that correct?

Mr. STEVENS. No; we are telling them that they have qualified applicants for guarantees and the funding is there to back it up, and, subject to limitations in the Appropriations Act, we will not allow them to refuse to guarantee loans on the basis of an impoundment concept because the money is actually not being spent. It is staying in the Treasury.

Mr. President, I thank the Senator from Oklahoma for allowing me to clarify this matter. If there are any other Members of the Senate who wish to ask a question about it, I would be happy to discuss it.

I ask for consideration of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

The amendment (No. 2562) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2557

Mr. STEVENS. Mr. President, we revert back to the other amendment, which is the amendment that deals with the subject matter addressed by the Senator from Connecticut. I might inquire whether there is any further objection to withdrawing the amendment as has been requested by the committee.

Mr. LEAHY. Mr. President, I am deeply concerned about the deletion of $193 million in additional funds for the low-income energy assistance program. As the Appropriations Committee stated in its report to accompany the appropriation of the additional $193 million, "the full amount of $2.068 billion is necessary to offset the higher cost of energy projected by the Congressional Budget Office to at least maintain the existing level of assistance provided by this program."

Virtually all the fiscal year 1983 funds, which totaled $2.193 billion, were exhausted despite the mildness of the last winter. We also know from survey data collected by the Department of Health and Human Services on last year's program that many States could not even meet the demand from clients covered by their program plans, much less from the hundreds of thousands of households excluded by virtue of reduced eligibility. At least 19 States had no assistance available for households receiving shut-off notices this past spring for overdue winter utility bills. Only 13 States planned any form of cooling assistance. Sixteen States used oil overcharge funds to resume their program during the winter.

A total of 6,731,555 households were served by the program in fiscal year 1983, compared to 6 million in the prior fiscal year, and over 300,000 households were added to the crisis assistance rolls.

Mr. WEICKER. As the distinguished Senator from Vermont, Mr. LEAHY knows, I share his concern about adequate funding for the low-income energy assistance program. It was my amendment in committee which added the $193 million in additional funds. I am willing to accept the deletion of that amount only on the basis of an assurance from the Office of Management and Budget that should the States need additional funds in the winter months, the OMB will provide a deficient apportionment for immediate availability to the States and request a supplemental appropriation.

I ask unanimous consent that the text of OMB Director Stockman's letter dated November 9 stating this agreement be printed in the RECORD at this point.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 9, 1983.

Hon. LOWELL WEICKER,
U.S. Senate,
Washington, D.C.

DEAR CHAIRMAN WEICKER: This is to clarify our understanding with regard to the appropriation for the low-income energy heating assistance program.

The Administration believes that additional resources will be forthcoming for this program upon disposition of the Exxon case. The government has won this case and no government appeal of the remedy has been entered.

As per our previous understanding, should it become apparent later this fiscal year that a) the states require additional funding; and b) the funds expected from the Exxon case will not be available on a timely basis, we will request a supplemental appropriation in the amount of the shortfall.

For the interim let me stress that $1.951 billion is available for the low-income energy program in FY 1984 as a result of a $76 million carry-over of FY 1983 funds and the $1.875 billion provided in the Labor-HHS appropriation bill. This is precisely the amount obligated in FY 1983 after adjustments for carryover and the $115 million transferred to other block grants.

We have apportioned $241 million of the 1984 amount for the third and fourth fiscal quarters (April through September). If it becomes evident during the heavy heating months beginning in December that states need additional funds for the winter period, we will re-apportion the third and fourth quarter money for immediate availability to meet these needs.

Should it also be evident in this event that the Exxon case funds will not be available to the states for the third and fourth fiscal quarter, we will promptly seek a 1984 supplemental sufficient to restore the existing third and fourth quarter apportionments and thereby maintain program levels throughout the remainder of the year.

I hope this provides a clear statement of our mutual understanding and commitments, and an explanation as to why a supplemental appropriation is not needed at the present time.

Sincerely,

DAVID A. STOCKMAN.

Mr. LEAHY. I appreciate the distinguished subcommittee chairman's assurances on this matter. However, I remain concerned as to how the OMB will measure additional need of the States.

Under this program, States have, within broad Federal guidelines, the authority to set eligibility criteria and to establish benefit levels within the State. Thus, no prudent State will "run out" of money in midwinter, or intentionally overspend on a wish and a promise from Mr. Stockman. Rather, States will lower benefits and restrict access as they have in the past. States will plan their programs to meet only the need that can be covered by the $1.875 billion appropriation. It will not become apparent that the States require additional funding during the heavy heating months of winter.

Mr. WEICKER. I appreciate the problem the Senator from Vermont identifies, and I assure him that it is my intent, as chairman of the Appropriations Subcommittee, to provide the necessary funds for this program. If States are forced to cut benefits, restrict eligibility, or close their doors during the winter months, and if Mr. Stockman's proposed reapportionment presents insurmountable technical difficulties because of the formula under the program, I will do everything humanly possible to get an emergency supplemental appropriation moving through this Congress at the end of January or early February. Obviously, the compromise the OMB has put forward is not ideal, but again, I assure my colleague it is my intent to reduce the 1983 level of effort for the energy assistance program, and to the best of my ability, I will see that such a reduction does not take place.

Mr. STEVENS. Mr. President, as I understand it, that does complete the committee amendments. I thank Senators for their considerations.

I now yield to my friend from Illinois, who has a technical amendment dealing with a matter that has already been covered.

The PRESIDING OFFICER. The Senator has not yet withdrawn the amendment. Does he wish to withdraw the amendment?

Mr. STEVENS. I do renew my request to withdraw that last amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw the amendment. The amendment is withdrawn.

AMENDMENT NO. 2564 TO AMENDMENT NO. 2545

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 2564.

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

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

The amendment is as follows:

On page 1 of the amendment number 2545, on line 9, immediately before the colon, add the following, ", except that the waivers provided by this paragraph shall cease to be effective on April 15, 1984, and with the exception of funds made available for Israel and Egypt, not more than one half of the funds made available by this subsection for each account under the Foreign Assistance Act of 1961 or the Arms Export Control Act shall be obligated prior to April 16, 1984.".

Mr. PERCY. This amends a previously adopted amendment No. 2545. This has been cleared on both sides. As I understand, it meets with the approval of the managers of the bill.

This amendment would allow the waiver of the authorization contained in the continuing resolution for fiscal year 1984 foreign aid programs to remain in effect until April 15, 1984. During that period, not more than half of the appropriated funds could be obligated. Israel and Egypt are exceptions because of the historic practice of front-end loading funds for these two countries.

If there is no fiscal year 1984 foreign aid authorization by April 15, the waiver would no longer be effective.

Mr. President, this amendment takes into account the jurisdiction of the Foreign Relations Committee and the dedicated, hard work of its membership over many months in fashioning a balanced, fair military assistance and foreign aid bill for fiscal year 1984, and will not hold up any vital programs in this area.

Mr. KASTEN. Mr. President, as chairman of the Foreign Operations Subcommittee of the Appropriations Committee I would like to say to the Senate we endorse and urge the adoption of this amendment. All of us want to work with the Senator from Illinois, the chairman of the Foreign Relations Committee, in getting a foreign relations authorization bill. I am hopeful this will lead to that result.

Mr. STEVENS. Mr. President, I know of no objection from the committee on this matter.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2564) was agreed to.

Mr. KASTEN. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. The Senator from Montana wants to present an amendment for himself and Senator DOMENICI.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2565

(Purpose: To appropriate $100,000 for the payment of a reward for information leading to an arrest and criminal conviction for the bombing of the Senate wing of the U.S. Capitol on November 7, 1983)

Mr. MELCHER. I send an amendment to the desk which I offer on behalf of Senator DOMENICI and myself.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) for himself and Mr. DOMENICI, proposes an amendment numbered 2565.

At the end of the joint resolution add the following:

SEC. . There is appropriated to the Department of Justice $100,000 for the payment of a reward to any person who furnishes information which leads to an arrest and criminal conviction for the bombing of the Senate wing of the United States Capitol on November 7, 1983, to be paid by the Attorney General. Any officer or employee of the Untied States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this section.

Mr. MELCHER. Mr. President, I seek to offer this amendment for and on behalf of the Senator from New Mexico, Senator DOMENICI, and myself. I commend Senator DOMENICI for his alertness in drafting this amendment. I am very pleased to join with him in proposing it tonight.

On November 7, just a few feet from where we stand in this Chamber, a violent explosion occurred in the hallway of the Senate wing of the Capitol. Because it was late at night, 11 o'clock, and no one was here, no one was injured. Whatever person or persons caused the explosion should be apprehended as quickly as possible and brought to justice. The blast would have very likely killed people in the hall or in the near cloakroom and possibly in the other cloakroom more removed from the blast site.

The swift apprehension and punishment of the person or persons guilty of this terrorist bomb explosion that maim and kill persons in the Nation's Capitol could deter further like attempts.

The risk and threat is not only to the continuity of the Senate as part of the legislative function of this country, but it is also a grave risk to all the visitors who stream through the Capitol every day.

If we can encourage or bring about a quicker apprehension of whoever caused the explosion by adopting this amendment offering the reward of $100,000 for apprehending the person or persons and bringing them to justice and obtaining a conviction, the money would be well spent.

I hope the Senate will agree. I think the function of the legislative process in the U.S. Senate, plus the availability of the Capitol Building itself for visitors from all over the country and from abroad, should not be terrorized or victimized by violent acts of people who want to express their dissatisfaction with government by causing an explosion in a public building.

By request of Mr. MELCHER, the following statement was ordered to be printed in the RECORD:

● Mr. DOMENICI. Mr. President, I offer this amendment, which I feel is of the utmost importance in view of the recent bombing which took place just a few feet from this Chamber. By accepting this amendment, Congress would be offering a reward for the capture and conviction of the persons responsible for last week's violence. I always felt that justice should be swift. When the crime is terrorism, I believe expeditious justice is essential both as a deterrent and as an affirmation to law-abiding citizens that our judicial system functions fairly.

This act of terrorism strikes at the very fiber of our domestic heritage. The Capitol is a symbol of our legislative process. Our Federal laws have been authored under this dome throughout most of our country's history. Thousands of Americans visit the Capitol every day on business, for education, and/or pleasure. Congress, comprised of the elected representatives of our democracy, work in this building. All of us who have ever set foot in this building were targeted victims last Monday night. We were very fortunate that no one was killed or wounded. This act of violence will undoubtedly mean stricter security and possibly restricted access for the countless visitors who come here. This is unfortunate, but necessary.

The extreme seriousness of this incident is such that I propose this amendment. It would provide for a $100,000 reward for information leading to the arrest and conviction of the culpable individual or individuals. This appropriation would be placed at the discretion of the Attorney General, to be awarded to such persons as the Attorney General feels provided substantial and essential information or evidence leading to the conviction of the criminals responsible for the damage.

Initially, the thought of offering a reward conjured up mental images of wanted posters from the days when gun-slinging outlaws rode throughout the Wild West. I would have thought that, as a civilized society, we had progressed beyond that point. However, one need only smell the smoke and see the devastation from this explosion to recognize that such reckless behavior demands decisive action. Any legal means of bringing the responsible criminals to trial is imperative. History bears me out that rewards are incentives that bring the guilty to justice and make law and order mean something.

The echoes of other recent terrorist bombings in other parts of the world and the cries of those killed and wounded by fanatics still reverberate as I speak. Mr. President, we should not allow the perpetrators of this act to escape. Passing this amendment would be a declaration on the part of the U.S. Senate that we will not tolerate terrorism. The intimidation and fear which these terrorists seek must not be allowed to linger. Instead, let us combat this behavior with a reward. Let us see to it that the culprits are apprehended and brought to justice.●

Mr. STENNIS. Will the Senator yield?

Mr. MELCHER. Yes.

Mr. STENNIS. Mr. President, I have looked over this amendment. It seems to me like the matter should be left to some kind of discretion in the Attorney General's hands, and also as drafted it seems to me that if it is just the smallest kind of evidence that would entitle the person to $100,000. I would merely suggest that the Senator redraft his amendment, using terms like substantial contributions to the arrest and conviction. This payment would not be made until the Attorney General has made a finding of fact.

Mr. MELCHER. Mr. President, I thank the senior Senator from Mississippi for his suggestion. I ask that the amendment be temporarily laid aside.

Mr. STENNIS. I believe the language could be inserted in just a few minutes.

The PRESIDING OFFICER. Is there objection to laying aside the amendment? If not, the amendment will be temporarily laid aside.

Mr. STEVENS. I understand the Senator from New York and the Senator from New Jersey have an amendment.

AMENDMENT NO. 2566

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) proposes an amendment numbered 2566.

Mr. D'AMATO. 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 joint resolution insert:

Notwithstanding any other provision of law, the ban on the use of U.S. Route 209 by commercial vehicular traffic established in Public Law 98-63 is extended until December 31, 1984; *Provided,* That up to 150 northbound and up to 150 southbound commercial vehicles per day serving businesses or persons in Orange County, New York are exempted from such ban; *Provided further,* That the exemption established herein is subject to reevalution for safety by the five member U.S. Route 209 commission which shall make recommendations to the National Park Service for modification of such ban.

Mr. D'AMATO. Mr. President, the amendment I send to the desk will extend for 1 year a much-needed commission to study the transportation and safety requirement of a three-State border area of New York, New Jersey, and Pennsylvania. It concerns route 209, which has had a history of heavy truck traffic. Last August we passed a bill which will expire on December 31 which calls for this commission and which also sets a ban on traf-

fic so that heavy truck traffic which imperils 209 would be diverted from this road. My amendment would extend this ban and the commission for 1 year. This gives the commission, a tripartite commission of the three States, an opportunity to study the problem.

In essence, what we are asking is that the life of this commission be extended and that, in addition, 150 vehicles per day be allowed to traverse 209 to Orange County, New York, 150 trips north and 150 trips south, and that the commission study the effects and impact on route 209.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I would ask the distinguished floor manager if the regional commission established last year, and the statement of managers accompanying the public law, should be extended for 1 year as in the statement of the managers on this bill.

Does the distinguished floor manager agree?

Mr. STEVENS. The answer is yes.

Mr. BRADLEY. I thank the Senator. This commission was set up as a regional solution for the safety and management problems on route 209 in Pennsylvania, New York, and New Jersey. The representatives of the three affected States believe strongly that its life should be extended so it can complete its work. The Senator said yes, the commission would have its life extended and the statement of the managers would reflect that fact. Is that correct?

Mr. STEVENS. The Senator from New Jersey gives me such a complex role in this dialog. The answer again is yes.

● Mr. LAUTENBERG. Mr. President, I support the D'Amato amendment, which extends the life of the Route 209 Commission established by Public Law 98-63. This Commission was established to study the impact of banning trucks on Route 209, a road heavily used by trucks which runs along the border of New Jersey and Pennsylvania. The Commission was charged with recommending a regional solution to a broadly recognized safety problem related to the heavy truck traffic.

The Commission is due to expire on December 31 of this year. The Bradley-Lautenberg amendment would extend its life for 1 year. In addition, I support the D'Amato amendment which would maintain the current partial ban on trucks on Route 209 and would include Orange County, N.Y., within the area impacted by Public Law 98-63.

It is at this point uncertain as to what impact this winter's weather will have on truck traffic on noninterstate roads in New Jersey. Route 209 was often preferred by truckers because the impact of severe winter weather was greater on the interstates. A more long-term look at this situation is required.

Mr. President, while there remain some points of disagreement among the States affected by the partial ban on Route 209, progress has been made toward a regional approach to the problem. This amendment will further that progress.●

ROUTE 209

Mr. SPECTER. Mr. President, in July, the Congress authorized the National Park Service to implement a partial ban of trucks from Route 209 in the Delaware Water Gap National Recreation Area. This partial ban responded to both the safety needs of residents along the route and the economic interests of the region.

The five-member Route 209 Commission, also authorized as part of Public Law 98-63, has studied the impact of the ban. It has tentatively concluded that the partial ban has been largely successful. It has reduced the number of trucks on the route from more than 2,000 each day to less than one-fourth that amount.

The amendment extends the ban, and at the insistence of Senator D'AMATO, seeks to provide equity for those commercial vehicles serving businesses in Orange County, N.Y., by allowing not more than 150 trucks in each direction access to the route. I am concerned about the impact this exemption may have on the safety of people living along U.S. 209. For this reason, we have included language in this amendment which directs the Commission to evaluate this impact and make recommendations to the National Park Service for modifications in the exemption for Orange County if these additional trucks pose a safety problem.

This amendment also extends the ban, which excludes those commercial operations in Pike, Monroe, and Northampton Counties, for 1 year past the current December 31, 1983 deadline. This extension should provide sufficient time for the Commission, which is authorized for this same 1-year period in the statement of the managers of this continuing resolution, to finish its analysis of transportation needs of the Delaware Water Gap-Route 209 area, and propose recommendations to the Congress.

I thank the Chair and yield the floor.

Mr. BRADLEY. Mr. President, do I understand that the amendment is acceptable?

Mr. STEVENS. As the staff points out, Mr. President, we shall do the best we can in conference on this matter.

Mr. BRADLEY. The amendment is acceptable?

Mr. STEVENS. I am informed the amendment has been cleared on both sides, Mr. President. We have no objection to this amendment.

Mr. D'AMATO. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2566) was agreed to.

AMENDMENT NO. 2565

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Montana.

Mr. MELCHER. Mr. President, I send a modification to my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The clerk will state the modification.

The assistant legislative clerk read as follows:

At the end of the joint resolution add the following:

SEC. . There is appropriated to the Department of Justice $100,000 for the payment of a reward to any person who furnishes substantial information which leads to an arrest and criminal conviction for the bombing of the Senate Wing of the United States Capitol on November 7, 1983, to be paid with the written approval of the Attorney General. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this section.

Mr. MELCHER. Mr. President, these modifications are recommended by the senior Senator from Mississippi. I believe they do clear up the matter that he referred to and does make it a much tighter amendment. I hope the Senate can accept it.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. ARMSTRONG). The question is on agreeing to the amendment.

The amendment (No. 2565) as modified was agreed to as follows:

At the end of the joint resolution add the following:

SEC. . There is appropriated to the Department of Justice $100,000 for the payment of a reward to any person who furnishes substantial information which leads to an arrest and criminal conviction for the bombing of the Senate Wing of the United States Capitol on November 7, 1983, to be paid with the written approval of the Attorney General. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this section.

AMENDMENT NO. 2567

Mr. ABDNOR. Mr. President, I send an amendment to the desk in behalf of myself and Senator DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABDNOR), for himself and Mr. DECONCINI, proposes an amendment numbered 2567.

Mr. ABDNOR. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

In section 213, after "for in such Act" insert the following: ", except that the rate for operations established by this subsection shall be that which is provided in S. 1646, the Treasury, Postal Service and General Government Appropriation bill, 1984, as reported to the Senate (S. Rpt. 98-186) on July 20, 1983".

Mr. ABDNOR. Mr. President, when the Senate voted this evening, we accepted the House-passed Treasury bill in toto.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. If the Senator will suspend for a moment while the Chair attempts to restore order to the Senate.

Mr. BYRD. Mr. President, the Senate ought to be paying attention. We are passing important amendments here. I doubt that very many Senators, including myself, know what is going on and what these amendments contain.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. ABDNOR. I thank the minority leader.

Mr. President, this is a necessary amendment because, when the Senate voted earlier this evening, we accepted the House-passed Treasury appropriations bill in its entirety. Because of that vote, the Senate-reported Treasury bill will not be a part of this bill and therefore, it is not a conferenceable item. In order to make it so, I am asking the approval of this amendment, which references the Senate-reported rates for operations for the functions in the bill. It refers, and I emphasize this, only to spending levels of the various accounts. It does not reference the general provisions.

I urge the Senate to adopt this amendment, not only on behalf of myself, but on behalf of the ranking minority member of the committee (Mr. DECONCINI) so that, when we go to conference, we can refer to our own levels of spending.

Mr. HATFIELD. Mr. President, the Senator has stated the proposition correctly. I emphasize again for the RECORD that this does not get into language matters. Specifically, this does not raise the abortion question, so everyone can be very certain that what we are doing is only referencing Senate levels of expenditure to negotiate with the House. Otherwise, we have adopted automatically all House levels. I think the Senate ought to be in a position to negotiate with the House on every part of this continuing resolution.

Mr. SARBANES. Will the manager yield for a question?

Mr. ABDNOR. Yes, I yield.

Mr. SARBANES. Aside from the abortion language, it does not affect other language, either, does it?

Mr. ABDNOR. No, Mr. President, it makes no reference to that language other than the figures and the dollars in the bill.

Mr. SARBANES. I thank the Senator.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 2567) was agreed to.

Mr. ABDNOR. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I yield to the majority leader.

Mr. BAKER. Mr. President, I thank the manager of the bill. While we have a good group of Members on the floor, let me give a report on the situation as I see it at this moment.

I have consulted with the managers of the bill and spoken informally with the minority leader. I advised him of this situation just now.

I think we can finish this bill pretty fast. By that, I mean in the next couple of hours.

I also urge that we consider that we go ahead and go to conference on this bill tonight and wait here and try to finish. That may mean staying until 1:30, or 2, or 2:30 in the morning. I really believe we are going to do this faster and better if we stay and finish it and not come in tomorrow than we are if we try to pass the bill and come back tomorrow for the purpose of acting on the conference report.

I urge the distinguished managers of the bill, first, to move as fast as they can, and second, I ask the chairman if it is possible, in his opinion, to finish and go to conference tonight and yet to act on a conference report before, say, 2 or 3 o'clock in the morning.

Mr. HATFIELD. Mr. President, I would not put the hour at 2 or 3, but I think we can do it before sunrise.

I can only say I have been in contact with the chairman of the House Appropriations Committee (Mr. WHITTEN). He indicates that he is ready to go to conference the minute we are ready to go to conference. I have assured him I plan to go to conference and the conferees will be appointed shortly after passing this CR.

If the leader will yield for a question, has the leadership of the House, namely, the Speaker, indicated his willingness to work with us on that, keeping the House in for us to do this?

Mr. BAKER. Mr. President, in answer to the chairman, I have not talked to the Speaker in the last hour or so and I have not talked to him at all about this particular suggestion. Earlier tonight, however, he indicated that the House would remain in session long enough to appoint conferees.

I have sent word to the Speaker that it is our hope that we can finish this bill tonight, including action on the conference report. I have not yet had a reply.

Mr. STENNIS. Will the majority leader yield to me for this two-point observation?

Mr. BAKER. Yes, I yield.

Mr. STENNIS. Mr. President, I think we can do better and save time if our floor managers stay with us as much as they can. I know they have other matters, too. And all the rest of us can be briefer, maybe, in our presentation or our comments.

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

Mr. BAKER. Yes, Mr. President, let me yield now to the minority leader.

Mr. BYRD. Mr. President, I understood the majority leader to say the Speaker had assured the majority leader that the House would stay in until conferees were appointed. That does not tell us that the House will stay in long enough to agree to the conference report. Can the majority leader enlighten us?

Mr. BAKER. Yes, Mr. President, that query is in process now. Of course, if the House will not stay in, there is no point in our staying in. But it is my hope that the House would agree to that. I have indicated to the Speaker—not personally but through an intermediary—that that is our wish, that the managers of the bill want to finish tonight.

Mr. HATFIELD. Will the Senator yield?

Mr. BAKER. Yes.

Mr. HATFIELD. I would just like to clarify my own thinking on one point. Would the leader not agree that regardless of what the House does tonight, the Senate would complete its work on the CR? Because it seems to me if we do not do that and we are on into tomorrow, tomorrow afternoon, we still have to do the conference.

Mr. BAKER. Mr. President, I agree. I think we can finish this bill. I think we can appoint conferees and get a conference report and act on this measure tonight. I urge Senators to try to do that.

AMENDMENT NO. 2568

(Purpose: To amend title 5, United States Code, to revise the authority to reimburse Federal employees for certain moving expenses incurred by such employees in connection with a transfer or reassignment in the interest of the Government from one official station or agency to another for permanent duty)

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. 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 Virginia (Mr. WARNER) proposed an amendment numbered 2568.

Mr. WARNER. 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 joint resolution add the following new section:

SEC. . (a) (1) Section 5723(a)(1) of title 5, United States Code, is amended—

(A) by inserting "(A)" after "travel expenses";

(B) by striking out "manpower shortage or" and inserting in lieu thereof "manpower shortage, (B)"; and

(C) by inserting ", or (B) of any person appointed by the President, by and with the advice and consent of the Senate, to a position the rate of pay for which is equal to or higher than the minimum rate of pay prescribed for GS-16" after "Senior Executive Service".

(2) Sections 5724(a)(2) and 5726(b) of title 5, United States Code, are each amended by striking out "11,000" and inserting in lieu thereof "18,000".

(3) Section 5724(b)(1) of title 5, United States Code, is amended by striking out "not in excess of 20 cents a mile".

(4) Section 5724 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) The regulations prescribed under this section shall provide that the reassignment or transfer of any employee, for permanent duty, from one official station or agency to another which is outside the employee's commuting area shall take effect only after the employee has been given advance notice for a reasonable period. Emergency circumstances shall be taken into account in determining whether the period of advance notice is reasonable.".

(5) Section 5724a(a)(3) of title 5, United States Code, is amended—

(A) in the first sentence thereof, by striking out "30 days" and inserting in lieu thereof "60 days"; and

(B) by striking out the second and fourth sentences thereof and inserting after the first sentence the following: "The period of residence in temporary quarters may be extended for an additional 60 days if the head of the agency concerned or his designee determines that there are compelling reasons for the continued occupancy of temporary quarters.".

(6) Section 5724(a)(4) of title 5, United States Code, is amended—

(A) by inserting "(A)" after "(4)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B)(i) In connection with the sale of the residence at the old official station, reimbursement under this paragraph shall not exceed 10 percent of the sale price or $15,000, whichever is the lesser amount.

"(ii) In connection with the purchase of a residence at the new official station, reimbursement under this paragraph shall not exceed 5 percent of the purchase price or $7,500, whichever is the lesser amount.

"(iii) Effective October 1 of each year, the respective maximum dollar amounts applicable under clauses (i) and (ii) shall be increased by the percent change, if any, in the Consumer Price Index published for December of the preceding year over that published for December of the second preceding year, adjusted to the nearest one-tenth of 1 percent. For the purpose of this clause, 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers, United States City Average, Housing Component (1967=100), prepared by the Bureau of Labor Statistics, Department of Labor.".

(7)(A)(i) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding after section 5724a the following new sections:

"§ 5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the Federal, State, and city income taxes incurred by an employee, or by an employee and such employee's spouse (if filing jointly), for any moving or storage expenses furnished in kind, or for which reimbursement or an allowance is provided (but only to the extent of the expenses paid or incurred). Reimbursements under this subsection shall also include an amount equal to all income taxes for which the employee, or the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in the first sentence of this subsection.

"(b) For the purpose of this section, 'moving or storage expenses' means travel and transportation expenses (including storage of household goods and personal effects under section 5724 of this title) and other relocation expenses under sections 5724a and 5726(c) of this title.

"§ 5724c. Relocation services.

"Each agency is authorized to enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out the provisions of this subchapter. Such services include but need not be limited to arranging for the purchase of a transferred employee's residence.".

(ii) The chapter analysis at the beginning of chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5724a the following new items:

"5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred.

"5724c. Relocation services.".

(B) Section 5724(i) of title 5, United States Code, is amended by striking out "5724a" and inserting in lieu thereof "5724a, 5724b,".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

(c)(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Not later than thirty days after the date of the enactment of this Act, the President shall prescribe the regulations required under the amendments made by subsection (a). Such regulations shall take effect as of such date of enactment.

Mr. WARNER. Mr. President, I am sponsoring this amendment along with my distinguished colleague, Senator TRIBLE, in order to correct—at no cost to the Treasury—major inequities that occur when Federal employees are relocated from one geographical area to another to meet the needs of their Federal agency.

Internal Revenue Service figures show that, under current practices, Federal employees end up paying an average of $8,000 worth of moving expenses out of their own pockets. This happens to many Federal employees each year because agencies such as the FBI, the Secret Service, the IRS, and Defense, must move many of their middle- and high-level employees in order to staff their field offices with high quality managers.

Everyone is losing in the current situation. Federal employees are faced with undergoing financial hardship or leaving the Federal service. Agencies are hampered in their ability to recruit and retain well-qualified professionals, managers, and executives. The taxpayers lose when these practices lower Government productivity and effectiveness.

This amendment will go a long way toward relieving these problems. It has no negative impact on the budget because agencies will be using existing appropriations to make fewer, better, and more equitable moves.

The House leadership has indicated that they will accept this amendment in the conference if we include it in the Senate version of the continuing resolution.

I request that my distinguished colleagues join me in supporting this badly needed reform.

The PRESIDING OFFICER. Is there further discussion on the amendment? Does the Senator from Ohio seek recognition on the amendment?

Mr. METZENBAUM. I do not.

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

The amendment (No. 2568) was agreed to.

AMENDMENT NO. 2569

(Purpose: To provide for termination and extension of certain timber sales contracts)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 2569.

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

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

The amendment is as follows:

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

SEC. . (a)(1) The Secretary of Agriculture for national forest lands and the Secretary of the Interior for public lands under their respective jurisdictions are authorized and directed to terminate, at the request of the purchaser, up to 10,000,000 board feet of the timber volume specified in any purchaser's timber sales contracts bid prior to January 1, 1982.

(2) Contracts terminated by the appropriate Secretary pursuant to this subsection shall require the purchaser to pay the Secretary holding the contract a sum equal to $3.00 per 1,000 board feet or equivalent measure for the costs which will be incurred by such Secretary in terminating such contracts and for reoffering the timber terminated for resale. All funds collected pursuant to this paragraph shall be available to the appropriate Secretary to the extent necessary for termination and resale of such timber.

(b)(1) Excluding any contracts terminated pursuant to subsection (a), if the loss of a purchaser on any timber sales contracts bid prior to January 1, 1982, as determined by subtracting the current log value from the delivered log cost based on the original bid price of any such contracts (as determined by the Forest Service or the Bureau of Land Management), is—

(A) in excess of 100 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sale contracts subject to an assessment of $3 per thousand board feet on the volume terminated;

(B) in excess of 80 per centum up to 100 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 5 per centum of the contract bid value of the volume terminated;

(C) in excess of 60 per centum up to 80 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 10 per centum of the contract bid value of the volume terminated;

(D) in excess of 40 per centum up to 60 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 15 per centum of the contract bid value of the volume terminated;

(E) in excess of 20 per centum up to 40 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 20 per centum of the contract bid value of the volume terminated; and

(F) in excess of a 0 per centum up to 20 per centum of the net worth of the purchaser, the purchaser may terminate up to 75 per centum of the total volume of all timber sales contracts subject to an assessment of 25 per centum of the contract bid value of the volume terminated.

(2) No firm may terminate more than 65,000,000 board feet of timber volume under this subsection.

(3) For purposes of this subsection, the term "net worth" does not include the value of any outstanding uncut timber sales contracts.

(c)(1) Subject to the assessment as provided in paragraph (2), the Secretary of Agriculture for national forest lands and the Secretary of the Interior for public lands are further authorized and directed to adjust, at the written request of the purchaser, the termination dates of any contracts for the purchase of timber not otherwise terminated in subsection (a) or (b), that were bid prior to January 1, 1982, but not earlier than January 1, 1975, for a period not exceeding five years from the termination date in effect on the date of enactment of this Act, or from such earlier dates as the purchaser elects.

(2)(A) For the first year of any adjustment authorized pursuant to paragraph (1), the purchaser shall pay interest on the outstanding contract value of the contract volume of one-half the rate determined by the Secretary of the Treasury taking into consideration the current average market yield on marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such timber contract obligation adjusted to the nearest one-eighth of one per centum.

(B) Beginning with the fourth operating season after any adjustment authorized by paragraph (1), the purchaser shall pay the full rate of interest specified in subparagraph (A) on the outstanding balance of the contract value.

(d) A purchaser granted termination of a contract pursuant to this section shall not, if otherwise eligible, be prevented on account of the termination from bidding on and resale of timber included in a termination contract.

(e)(1) Contracts to be terminated pursuant to this section under which no harvest has taken place shall be terminated in full.

(2) Contracts terminated by the appropriate Secretary pursuant to this section under which harvest has begun, shall be terminated conditionally with the termination becoming final after the purchaser has completed all contractual obligations, including completion of sections of roads where construction has begun, for the units on which harvest has begun. All remaining unharvested units must be terminated.

(3) The appropriate Secretary may not terminate a contract if he determines, in his discretion, that the remaining unharvested units or a logical unit as determined by the Secretary are not representative of all units that were to be harvested on the contract areas in terms of species and logging methods.

(f) Timber from terminated contracts shall be offered for resale in an orderly fashion as part of the normal congressionally authorized timber sales program, and in a manner which does not disrupt regional markets or artificially depress domestic timber prices. Timber from terminated contracts shall be given preference for resale in the 1984 timber sales program.

(g) The Secretary of the Interior and the Secretary of Agriculture shall publish procedures for the implementation of this section in the Federal Register within 90 days after the date of enactment of this Act.

(h)(1) Any firm that was not engaged in logging or manufacture of timber or that did not own a plant or equipment for that purpose within six months of the contract bid date for a timber sales contract shall not be entitled to terminate or adjust such contracts pursuant to that Act.

(2) As used in this subsection, a firm was engaged in the logging of timber sales when it had the capability to perform that function with its own equipment or when in the regular course of its business it retained the services of another entity to perform that function on its behalf and to deliver the logs so developed to an entity controlled by one or more members of the same family that in the regular course of its business manfactured or was equipped to manufacture those logs into wood products with its own plant or equipment.

(i)(1) For purposes of this section where a corporation owns more than 50 per centum of any other corporation and the other corporation owns a timber sales contract eligible for termination or adjustment under this section, the contracts of such other corporation shall be deemed to be owned by the parent.

(2)(A) For purposes of this section, where a family owns more than fifty per centum of more than one corporation and each of those corporations owns one or more timber sales contracts eligible for termination or adjustment under this section, the contracts of such corporations shall be deemed to be owned by one corporation, and not entitled to be considered as separate corporations in determining the amount of relief permitted under this section.

(B) As used in this paragraph, the term "family" means the father, wife, all the sons and daughters and all the brothers and sisters who are related to each other.

(3) This subsection shall not be deemed to extend the liability for a timber contract from the contract holder to its affiliate.

(j) The Secretary of Agriculture and the Secretary of the Interior shall not take any actions relating to the extension of certain Federal timber contracts as provided in the President's Memorandum of July 27, 1983 and implemented by the Department of Agriculture in 48 Fed. Reg. 38862-63 and the Department of the Interior in BLM Instructional Memorandum 83-743.

Mr. METZENBAUM. Mr. President, this amendment is the result of long and protracted negotiations having to do with the situation that developed as far back as 1 year ago as pertains to the timber industry. As a matter of fact, a number of timber contracts were let by public bidding. Then they found that the price came down as far as timber was concerned, and the timber industry came to the Congress and asked for relief. Now, anyone would agree that asking to be let out

of a contract that has been legally entered into is quite an unusual procedure.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. If the Senator will suspend, the Chair will seek to restore order.

The Senator may proceed.

Mr. METZENBAUM. The history of this matter is that there was legislation proposed last year. The legislation came out of the Energy Committee over the objections of the Senator from Ohio. Then we were able to block it in the closing days of the session. Thereafter, the timber industry concluded that they could solve their problem by going to the White House and, indeed, the White House provided them with a real bailout because they permitted them to extend the contracts for 5 years with no interest.

Now, we are not talking about a few dollars; we are talking about a lot of dollars. We are talking about $5 billion in contracts. If you can extend those for 5 years and if the interest rate is 10 percent—and actually, the Government interest rate is higher than that—you are talking about $2½ billion.

But the President of the United States did not care about that. He can talk about saving money and cutting expenses, but when it comes to the timber industry, he was prepared and has indicated, has made it a rule, which has not as yet been implemented, that the timber contracts could be extended for a period of 5 years with no interest.

Now, Mr. President, that does not make sense. That is not good business in the good old American way. If you enter into a contract between two corporations or two business people, you are expected to live up to that contract. But not so with Ronald Reagan. Ronald Reagan said, "Forget it. You do not need to pay any interest. A lot of you fellows are my friends and as far as I am concerned, you can postpone the implementation of those contracts for 5 years."

Now, nobody forced the companies to bid these prices. They made a conscious business decision that the timber was worth $300 or $400 per 1,000 board feet, and when the economy went into a nosedive, what did they do? They did what so many business corporations who constantly say the Government ought to stay out of their hair; they came to Uncle Sam and said, "Give us relief."

I do not think that is the free enterprise way. I do not think that is the American way. I do not think that is the way it should be done in this country.

As a consequence of that, on several earlier occasions, on the supplemental appropriations bill and on a continuing resolution that was previously before the Senate, I came before this body and offered an amendment. I was prevailed upon by my good friend, who is the chairman of the Appropriations Committee, to hold off and not to push the issue until final conclusion to see whether we could not work matters out.

Now, let me make it clear that I have always taken the position I was willing and am willing to provide relief for the small timber companies, for the timber companies that need relief, and I did not want to force any company, small or large, into bankruptcy. So as a consequence of that, Senator HATFIELD and I, his staff and mine, have been negotiating back and forth—the U.S. Forest Service has been involved—trying to work out an adequate solution that is fair to the entire industry and is also fair to the U.S. Government.

I am proud to say that is what this amendment represents at the moment. It is a compromise. It provides that there can be termination of some of these contracts within limits and it provides that those limits are decided by the net worth of the company as related to the amount of its exposure on these contracts. It provides an overall maximum as to what can be terminated. It provides that the Government will get a certain portion of their money as interest up front and that if the contracts are not fulfilled after 3 years, interest will be paid regularly at the rate that the Government pays. It is not all that I might like, but I think that it is far superior to that which the administration has agreed to. It is imperative, therefore, that we enact this amendment, that it be a part of the continuing resolution, and that it become the law of the land.

I think that the Nation's best interests will be served. I think it is a fair and equitable proposal, and I hope that the Members of this body will see fit to accept it.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. I do not necessarily associate myself with all the remarks made by the Senator from Ohio on the interpretation of the reasons behind this amendment. Before I make my own remarks, I ask unanimous consent to introduce into the RECORD on behalf of the Senator from Idaho (Mr. MCCLURE), who does not support this amendment, a letter addressed to Senator MCCLURE from John Crowell, the Assistant Secretary for Natural Resources of the Department of Agriculture, and a letter from the Comptroller General of the United States.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 9, 1983.

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

DEAR MR. CHAIRMAN: We understand that legislation in the form of an amendment is being considered that would provide for Forest Service and Bureau of Land Management (BLM) timber sale contract termination and extension. The amendment may be offered as an addition to other pending Senate legislation.

The Administration is opposed to this timber contract relief proposal.

As we understand it, the amendment would allow purchasers of Federal timber to terminate up to 10 million board feet of timber contracts dated prior to January 1, 1982, at a cost of $3 per thousand board feet. In addition, companies would "buy out" of an additional 75 percent of their Federal timber contract volume, up to a limit of an additional 65 million board feet, by paying a percentage of the contract value. The "buy out" percentage would vary depending on the estimated loss a company would experience as compared to the company's net worth.

Under the amendment, contracts not terminated could have their expiration date extended for 5 years with two conditions: (1) an interest payment on the unpaid purchase price at a rate for the first year equivalent to one-half of the current Treasury borrowing rate, and (2) an interest payment for the fourth and fifth years equal to the current Treasury rate. Whether any interest is to be charged on the unpaid purchase price in the second and third years is unclear.

By implication, firms not engaged in logging or manufacture of timber, or firms not owning equipment for logging or manufacture of timber within 6 months of the contract bid date, would not be entitled to terminate or extend a contract.

Significantly, if it were enacted, the amendment would compel the Forest Service to withdraw the pending administrative action that already proposes to grant interest-free 5 year extensions.

The Administration is opposed to the amendment for the following reasons:

1. It would tend to give the most relief to those companies that bid most imprudently, i.e., those that have the greatest potential losses to offset against their net worth. It would be inappropriate to provide the greatest benefits to those firms who acted least responsibly.

2. The 5-year contract extension program offered by the Administration gives significant relief that is appropriate for the circumstances and has been well accepted as equitable by a broad cross-section of the forest products industry and the public. The Administration's 5-year extension package was never intended to prevent all potential firm bankruptcies. A Forest Service analysis projects that, if a modest housing recovery continues, most firms would be able to work their way out of trouble by averaging new sales against existing contracts. There is no doubt, though, that a few firms that bid the most irresponsibly may have difficulty surviving, but this is as it should be in the free-market competitive system. The amendment would disrupt the ongong extension program.

3. The Forest Service estimates that under the 10 million board feet "free" termination provision alone, about 1.3 billion board feet

of timber under contract could be terminated for $3 per MBF—far less than the contract price for such volume. This provision in itself would result in a potential loss in Federal receipts of $130 million. Losses resulting from the "buy out" provision would also be large.

4. It would be very difficult to administer the eligibility formula in this amendment based on net worth adjudications in a fair and even-handed manner. The objective of establishing uniform net worth calculations for eligibility for relief carries with it the potential for confusion and the inadvertent manipulation of asset worth, particularly among nonpublicly owned firms.

5. Denying the relief to purchasers without mill facilities or who were not engaged in logging could be a constitutionally impermissible denial of equal protection of the laws.

Additionally, there are many ambiguities in the current language of the proposed amendment which would leave doubt about intent and which would make implementation very complicated and costly.

This letter is also being sent to the Chairman, Committee on Agriculture, Nutrition, and Forestry.

Sincerely,

JOHN B. CROWELL, Jr.,
Assistant Secretary for Natural Resources and Environment.

[B-207165]

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., September 29, 1983.

Hon. HOWARD METZENBAUM,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METZENBAUM: This is in response to your August 15, 1983, inquiry regarding the Department of Agriculture's (Agriculture) decision to extend certain forest timber sales contracts for up to 5 years. The Secretary of Agriculture (the Secretary) has determined, pursuant to section 14(c) of the National Forest Management Act of 1976 (NFMA), 16 U.S.C. § 472a(c) (1976), that a "substantial overriding public interest" justifies the extensions. You inquire whether the extensions are at odds with our decision in Department of Agriculture—Request for Advance Decision, B-207165, May 3, 1982, 82-1 CPD 416. You also ask the following three questions:

"1. Do depressed economic conditions in the timber industry meet the 'substantial overriding public interest' text for extensions contained in 16 U.S.C. Section 472a(c) (1976)?

"2. Is it legal to extend contracts for a period of five years?

"3. Is it legal to extend timber sale contracts without requiring interest payments?"

We have received a legal memorandum of September 28, 1983, from the Acting General Counsel for the Department of Agriculture in regard to the proposed extensions.

Our May 3, 1982, decision was in response to the Secretary's request for an advance decision. As background, we were advised that on May 24, 1980, the Chief of the Forest Service, in Interim Directive 64 (copy enclosed), authorized contract term extensions for timber sale contracts entered into prior to April 1, 1980, and due to terminate prior to April 1982. Interim Directive 64, in support of the decision to extend contracts pursuant to 16 U.S.C. §472a(c), stated: "This decision was based on an impact assessment that found the action to be in the substantial overriding public interest in view of the unprecedented decline in demand for lumber and plywood." The original contracts required deposits to be made shortly before timber is actually cut. Contracts extended under Interim Directive 64 were required to incorporate contract clause C4.251 (6-80), copy enclosed, which required purchasers to make equal monthly "deposits" (payments) during the first normal operating season under the extension so that all timber would be paid for by the last day of that operating season, whether or not timber was actually cut and removed.

In the Secretary's request for an advance decision in 1982, he stated that economic conditions had not improved and requested our opinion as to the Forest Services' authority to waive the clause C4.251 requirement for equal monthly payments during the first season after the extension. These contracts would instead be governed by the contract's original agreement that timber payments be made only slightly in advance of cutting. In return for the government waiving clause C4.251, the Forest Service proposed to require the contractor to pay interest on the payments that would have been made under clause C4.251, for the period from the payment due dates until payment is actually made (when timber is cut). The Secretary recognized that no officer or agent of the government has authority to release vested contractual rights without consideration. However, the Secretary argued that the "beneficial effect of future competition" that would result from the modification, together with interest payments, constituted sufficient consideration for the waiver of clause C4.251.

Our decision noted that the contractual right in question was the right to the payments on the dates that they are due. We approved of the proposed modification, reasoning that although the government would lose use of the money involved for the deferred payment period, the receipt of interest, at a fair market value, constituted legal consideration for the time payment would be deferred.

On August 26, 1983, a Notice of Interim Policy was published by Agriculture at 48 Fed. Reg. 38862-63 which would extend timber contracts bid on or before January 1, 1982, for up to 5 years. Purchasers requesting extensions will be required to bear the cost of remarking and other additional costs of the government associated with the delay in harvesting. Purchasers applying for extensions will be required to submit a plan showing how the applicant intends to meet his contractual commitments. The operating schedule set forth in the approved extension plan will be incorporated into individual contracts in the form of a payment-cutting schedule designed to pay off the contract price in 5 years or less. We understand the new 5-year extension policy will apply to some previously extended contracts requiring interest payments, some which still require the monthly payments under contract clause C4.251, and other contracts never before extended. The Notice of Interim Policy indicates that purchasers with previous extensions who request conversion to extensions under the new policy must be current in their payments under the terms of the extensions being replaced. It does not provide, however, for the current payment requirements to continue under the new extensions.

Regarding your first and second questions, concerning whether depressed economic conditions meet the "substantial overriding public interest" requirement and justify a 5 year extension, section 14(c) of the National Forest Management Act of 1976, codified at 16 U.S.C. § 472a(c), provides:

". . . Unless there is a finding by the Secretary of Agriculture that better utilization of the various forest resources (consistent with the provisions of the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528-531] will result, sales contracts shall be for a period not to exceed ten years. Provided, That such period may be adjusted at the discretion of the Secretary to provide additional time due to time delays caused by an act of an agent of the United States or by other circumstances beyond the control of the purchaser . . . The Secretary shall not extend any contract period with an original term of two years or more unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan (B) that the substantial overriding public interest justifies the extension."

The legislative history of the act indicates that some consideration was given to whether contracts could be extended on the basis of market conditions. *See* 122 Cong. Record 27645-46 (August 25, 1976) (remarks of Senators McClure and Humphrey) and House Committee on Agriculture, Business Meetings in National Forest Management Act of 1976, 94th Cong. 2d Sess. 182-183 (Comm. Print 1976) (meeting of Subcommittee on Forest, August 2, 1976). In this regard, we have reviewed the Congressional Research Service's July 29, 1983, memorandum to you concerning the Secretary's authority to extend timber sales contracts which concludes that based on the legislative history resolution of the issue is not free from doubt. Based on the language of the statute, however, we think that the Secretary may conclude that depressed economic conditions meet the "substantial overriding public interest" test of the statute. Our office has recognized that the Secretary has broad discretion to administer the public forests. Little River Lumber Company, B-*191906.2*, March 13, 1979, 79-1 CPD 174. We find no basis for questioning the Secretary's determination, pursuant to 16 U.S.C. § 472a(c), that a substantial overriding public interest justifies the up to 5-year extensions.

In this regard, we note that when faced with a problem of statutory construction, great deference is given to the interpretation of the statute by the officers or agency charged with its administration. *Udall v. Tallman,* 380 U.S. 1, 16, 85 S.Ct. 792, 801 (1965).

However, with regard to the third question concerning whether it is legal to extend timber sales contracts without requiring interest payments, it is the longstanding position of this Office that no officer or agent of the government has the authority to waive contractual rights which have accrued to the United States or to modify existing contracts to the detriment of the government without legal consideration. 44 Comp. Gen. 746, 749 (1965); 19 Comp. Gen. 903 (1940); 5 Comp. Gen. 605 (1926). This rule is premised on the absence of any specific statutory authority that would allow such a surrender or waiver. Economic Development Administration—Compromise Authority, 62 Comp. Gen. (B-210998, June 22, 1983); 41 Comp. Gen. 134 (1961); 22 Comp. Gen. 260 (1942); 20 Comp. Gen. 703 (1941). Although 16 U.S.C. § 472a(c) (1976) provides statutory Authority for the Secretary to extend the harvesting schedule of timber sales contracts if there is a substantial overriding

public interest, we are unaware of any express or implied statutory authority for the Secretary waiving the vested contractual rights which the government previously obtained as a condition for the waiver under Interim Directive 64 and the waiver of contract clause C4.251. As noted above, in return for the government waiving the latter clause the Forest Service required the payment of interest on the payment that would have been made under clause C4.251 for the period from the payment due dates until payment is actually made (when timber is cut).

Once the contracts were modified to require monthly payment of deposits or the payment of interest, consideration is required to delete or modify these contractual requirements.

While it has been suggested that the waiver of these vested contractual rights would advance public policy by benefiting timber dependent communities and the public in general and thereby provide valuable consideration, we have rejected similar "policy consideration" arguments. Our decision in 46 Comp. Gen. 874 (1967) involved a request for contract modifications to alleviate the economic burden placed on contractors due to increased labor costs under the Service Contract Act of 1965 (41 U.S.C. § 351, et seq. (1976)). The agency argued that the public policy forming the basis of the statute would constitute valuable consideration to support a modification to compensate the contractor for adherence to, and compliance with, the requirements of the act. We disagreed, stating:

". . . While we feel that the Government in its capacity as law maker would receive measureable benefits from the contractors in the form of advancement of the policy objectives of the referenced act, we fail to see how the Government, as a contractor, could be said to obtain such consideration as would support modification of the contracts as a matter of law. In cases where this Office has held there was sufficient consideration present to support modification of a contract, such consideration arose from the particular contract in question and benefited the Government in its contractual capacity. . . ."

Similar "policy consideration" arguments were rejected in B-1811432, March 13, 1974; 40 Comp. Gen. 684 (1961); and 35 Comp. Gen. 56 (1955).

Here, however, we find that the Secretary is obtaining adequate consideration in exchange for deleting the interest requirement. As noted above, while the Secretary has authority to grant an extension of the harvest schedule, consideration would have to be obtained for the waiver of a vested contractural right (interest). In exchange for deleting the interest requirement, a contractor must agree to have several new clauses, terms or conditions added to the existing contracts.

A contractor must submit and have approved a Multi-Sale Extension Plan (Plan) which includes an operating schedule demonstrating how much timber the contractor plans to harvest in a manufacturing area during each year of the Plan. The Plan must provide for removal of a proportionate volume of National Forest timber sales under extensions each year of the Plan. The harvesting schedule in the Plan will be incorporated in the individual contracts and the contractor is obligated to pay for timber in accordance with the schedule whether or not it is harvested. This will allow a mix of profitable and unprofitable contracts to be harvested by the contractor. More importantly, the government will receive payment for the timber on a yearly basis rather than at the end of the contract term.

Access roads must be substantially completed within the first year of the extension rather than at the end of the contract period as now required. The completion of these roads is necessary for future sales which have been disrupted because of the lack of harvesting.

A payment of $2 per thousand board feet will be required of the contractor to cover the government's cost in remarking trees and restaking roads necessitated by the delay in performance. Additional provisions for calculating damages in the event of a default will also be added to the existing contracts.

Accordingly, in response to the third question, we believe the imposition of these contract requirements constitutes adequate consideration for the deletion of the interest and/or monthly payment requirements.

Sincerely yours,

MILTON J. SOCOLAR,
(For Comptroller General
of the United States).

Mr. HATFIELD. Merely to make the record at this point, the Senator from Idaho (Mr. MCCLURE) does not support the amendment.

Mr. President, I am a cosponsor of this amendment with Senator METZENBAUM. As many Senators know, I have been involved in this issue for more than 2 years now. The problem of high-priced Federal timber contracts has decimated and divided the wood products industry.

I originally proposed an administrative program whereby the price for Federal timber contracts be rolled back to current market prices. That proposal met with a great deal of opposition from segments of the wood products industry outside of western Oregon. Then, with the help of Senator MCCLURE, I embarked on a legislative proposal to allow a percentage of Federal timber contracts to be terminated and returned to the Government, and to allow other timber contracts to be extended for up to 5 years. This proposal also was met with opposition from segments of the wood products industry outside of the West. This legislation was reported from the Energy and Natural Resources Committee last year, but it received no further consideration. That bill, S. 916, has been introduced into this session of Congress, with 20 cosponsors. Two additional hearings have been held this year.

Not very long ago, Senator METZENBAUM approached me and asked why this legislation could not be tailored to benefit those timber purchasers who are in trouble and really need help. I agreed with him that his was a noble concept, but one that had been looked at by both the timber industry and the administration. I might add at this point that the administration has proposed a 5-year timber contract extension program that, in my opinion, is only a partial answer to the problem—a half a loaf.

Because the administration's program was lacking, and because Senator METZENBAUM showed a genuine interest in helping to solve this problem, I decided to work with him in designing a timber relief program that is geared toward those who need it. Unfortunately, I cannot report that the timber industry is unanimously behind this proposal either. Many of the larger timber companies in my State and others have told me that this amendment is unfair and discriminatory. My answer to that is: What have they done to genuinely help solve this problem? Everytime I have tried to come forward with a solution, I have been met with cries of foul and alternative suggestions that benefit only selected companies. I am the first to admit that this amendment is not perfect. But I would suggest to my colleagues that it does benefit smaller struggling wood products companies that have come to me and asked for help. Mr. President, I have received over 50 telegrams from my State indicating support for this amendment, and these telegrams are from small timber companies. I would add that many other timber companies in Washington and northern California have also wired their support for this amendment.

Every timber purchaser would be able to terminate up to 10 million board feet under this amendment by paying a modest charge to cover administrative fees. In order to terminate additional volumes of timber, a needs test would have to be met by comparing outstanding timber contract liabilities to net worth. The amendment further provides that up to 5 years of contract term adjustment would be allowed if the purchaser pays interest charges on the timber to be extended.

By and large, the wood products companies which oppose this amendment are companies that are able to absorb the high-value timber they have under contract and which have the ability to make payments as proscribed under this amendment. The smaller companies benefited by this amendment would not be able to survive under the measly program the administration has adopted, and they will end up defaulting on their contracts, thus creating chaos and losses to local communities and to the Government.

Mr. President, the main reason I have supported and pushed the idea of timber contract relief is my sincere desire to keep the smaller independent segment of the wood products industry intact. It is my belief that this amendment accomplishes that goal, and for that reason, I support it.

Section (a)(1) provides that any Federal timber purchaser who possesses timber contracts that were bid prior to January 1, 1982, may terminate up to 10 million board feet of those contracts. In the case of a purchaser who wishes to terminate one contract that totals more than 10 million board feet, it is my intention to allow that purchaser to terminate the 10 million board feet, as allowed under this section, and to terminate the remaining volume under that contract, depending where that particular purchaser comes under the needs test criteria as allowed in (b) (A) through (F). It would be my intention to give the respective Secretary the flexibility to terminate the remaining units of that particular contract as provided in (e).

Section (a)(2) provides that a purchaser that chooses to terminate contracts pay the the appropriate Secretary $3 per thousand board feet to cover administrative costs of terminating and reselling the timber. This section provides that the funds collected be used to the extent necessary to cover these administrative costs. It is my desire that the appropriate congressional committees be notified if funds collected are in excess of those needed to terminate and resell those contracts.

Section (c)(1) provides that a purchaser who wishes to adjust the termination dates of contracts bid prior to January 1, 1982, but not before January 1, 1975, be allowed to do so, and provides that certain interest payments be made. It is my hope that the appropriate Secretary provide as much flexibility as possible to the purchaser in making the first interest payment, by spreading it out over the first year in a fair and equitable manner.

Section (2)(A) provides that the interest charge be one-half of the rate determined by the Secretary of the Treasury, taking into account current average market yield on marketable obligations. It is my intention here that the Secretary of Agriculture and Secretary of the Interior peg the interest charge to the 5-year Federal Treasury borrowing rate, or a rate that best reflects the time the purchaser elects to adjust the contract.

Section (2)(B) provides that at the beginning of the fourth operating season, the purchaser is obligated to make further interest payments on the outstanding volume of timber he wishes to continue under contract term adjustment. It is my intention here to again provide the necessary flexibility to the appropriate Secretary in determining the period of time necessary to make this payment. However, in no case should the payment, as provided in this section, be spread over 1 calendar year. I would further note that this amendment provides that no interest payments are provided for during the second and third year of the contract term adjustment, and none are intended.

Sections (h) and (i) provide direction to the appropriate Secretaries in determining which timber purchasers are entitled to terminations and adjustments. It is my intention here to give the appropriate Secretary clear direction in establishing who actually owns and operates a wood products company seeking terminations and adjustments of timber contracts, and provides that purchasers are entitled to terminate and adjust contracts as a whole. By this, I mean that affiliates and holding companies are to be treated as part of the firm in determining which companies do and do not receive terminations and adjustments of contracts.

Mr. President, the committee will accept the amendment.

Mr. METZENBAUM. Mr. President, is the name of the Senator from Oregon listed as a cosponsor?

The PRESIDING OFFICER. The name of the Senator from Oregon is listed as a cosponsor.

Mr. HATFIELD. I thank the Senator from Ohio for the long hours he has put into the matter. We started at fairly opposite ends of the pole, and it illustrates what can happen when men of good faith get together and work out their differences. I thank the Senator from Ohio for that effort.

I will say that this does not carry the unanimous support of the industry. It will help, as the Senator from Ohio indicated, the small operators. That does not mean the large operators do not have economic problems because of this changing market and the changing appraised values of the timber. But I will not go into that at this time, and I thank the Senator from Ohio for his help.

(By request of Mr. SYMMS, the following statement was ordered printed in the RECORD:)

● Mr. McCLURE. Mr. President, I want to commend Senator METZENBAUM for his interest in this matter and for helping to keep the issue alive. Although I must strongly oppose adoption of this amendment, I am pleased to note that the Senator from Ohio has recognized that timber sales contract termination authority is critical to dealing with the short- and long-range problem of timber volume under contract.

However, the proposal he is offering today is froth with inequities and would be a nightmare to administer. The volume of timber allowed to be terminated under this approach is far too small to be of significant help to most companies or to deal effectively with the overburden of timber under contract. The heart of the Northwest timber problem is the overburden of timber contracts that are currently outstanding. This overburden is the volume of Federal timber under contract that is in excess of the market requirements for logs. It is the volume above historic levels for uncut timber under contract which, in combination with the yearly government sales program, is in excess of the market for the manufactured products. Even if the problem of high-priced timber contracts did not exists, this overburden would pose problems for the Federal Government's timber management program. If this overburden is not removed, the market in lumber will remain in chaos, to the detriment not only of the Northwest timber operators and the Northwest economy, but to the detriment of the struggling housing industry and our hopes for a sustained recovery.

Some of the problems I have with this proposal are as follows:

First, the emphasis on net worth presents two major problems. First, as the administration has noted, it would be difficult to administer the eligibility formula based on company net worth. Second, it does not treat competitors equitably, giving far better treatment to companies which were most imprudent, and minimal assistance to others who may be operating side by side for the same raw materials and the same markets. This proposal distorts the competitive situation; it does not restore competition as S. 916 would have done.

The premium or interest payment that would be imposed on purchasers who, unable to terminate contracts, would be eligible for additional time to operate them, is excessive under the circumstances. It is based on the falacy that the Government's timber assets are worth what was bid for them several years ago. That is not true. The Government's assets are claims against companies which are liable to default on their contracts over the next few years. Collecting on those claims will be a tough, expensive exercise unless legislation similar to S. 916 is enacted to deal with the real problems and restore the vitality to the Federal timber purchasers.

The proposal does not deal with the needed improvement of the purchaser credit concept under which much national forest road mileage is constructed annually S. 916 dealt with that situation.

The proposal does not recognize the fact that many companies are multiplant companies and necessarily have a larger volume of timber under contract than those companies with only one facility.

In closing, I want to make it very clear that I support legislation dealing effectively and equitably with the problems of large volumes of Federal timber under contract at high bid rates. I am a cosponsor of S. 916, along with MARK HATFIELD and 19 other Senators.

Senator METZENBAUM opposed our efforts to pass S. 916 on the basis that it was a bailout measure. Since that time he has obviously taken a much closer look at the situation and has himself come to the conclusion that termination of these high-priced contracts is indeed a necessary and responsible way of addressing this problem.

It is my hope that we can work together over the next few months to fine tune this proposal.●

Mr. SYMMS. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SYMMS. Mr. President, this is very inequitable. The senior Senator from Idaho opposes it, and I oppose it.

I am sure that any Senators from the intermountain region who have looked at this amendment will say that is is inadequate to the problem. The problem we have out there is an excess of timber sales that have been made in the past, during inflationary times, where people were constantly bidding up the price of timber, when the Government sales agency—the Forest Service, in this case—was encouraging that we could always pay this high price for timber sales because there would be no tomorrow, and there would always be a higher price.

So a great many companies overbid what they could actually get out of the sale of that timber.

This particular solution, if I understand it correctly, only takes care of a few mills in the west of the Cascade region. All those people east of the Cascades and in the intermountain region have a problem because the cost of the roads, due to Government regulations, in many cases becomes as excessive as the price of the timber—equal to or higher than the cost of the roads in some cases.

I should like to make it very clear that this is a solution that I do not believe is practical. It does not solve the problem we have in the intermountain region. The administration has already made an administrative decision on this.

I think the proper way to solve this problem is to let stand the solution that the White House and the Interior Department have made administratively, to delay some of these timber sales for 5 years, until Congress can hold hearings on this problem and make a solution of the problem that is equitable to all parties. This is not an equitable solution.

This does not solve the problem in the State of the Presiding Officer, the Senator from Colorado (Mr. ARMSTRONG). It does not solve the problem in Wyoming. It does not solve the problem in Idaho. It does not solve the problem in Montana.

I do not know if the distinguished Senator from Montana has been informed that this amendment was coming up. My colleagues should realize that this amendment does not solve the problem. It should not be adopted in my opinion, at this point.

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

Mr. HELMS. Mr. President, will the Senator withhold that?

Mr. SYMMS. I withhold that, and I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I seek the floor in my own right.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am very much opposed to the timber contract relief measure offered by the Senator from Ohio. It would result in a direct bailout by the Federal Government for a relative few companies in one section of the country, at the expense of the timber industry in the rest of the United States.

This measure would reward companies who exercised poor judgment, while penalizing those who made better business decisions. It would send a clear signal to companies that contracts with the Federal Government can be circumvented.

This amendment would also penalize those firms who do not purchase Federal timber, but who depend on timber from private lands. These firms would not have the same recourse available to them and so would be placed at a disadvantage relative to firms allowed to terminate timber contracts.

This amendment also contains no provision to limit the amount of terminated timber that would come back on the market from Forest Service sales in region 6. Under this proposal, large volumes of terminated timber could come immediately back on the market at much lower prices. For other regions of the country, this could adversely affect other timber firms by flooding their markets with low-priced timber.

The potential for such severe disturbance of the existing market equilibrium by Government fiat would result in a transfer of misfortune and unemployment from Oregon to other areas of the country. This would be grossly unfair to timber-producing regions such as the Southeast, who have already taken their economic licks.

During the recent recession, while timber companies in Oregon were having their Federal timber contracts extended not once but twice, firms in the Southeast were going out of business. As a result of reorganization and restructuring, firms in most other parts of the country are profitable again. The failure of the timber industry in Oregon to do the same has prolonged the agony and resulted in a very unnatural economic situation for all firms in that region.

Some will argue that this is an issue of large companies versus small companies. This is not the case. Timber contract relief that benefits one section of the country at the expense of others is a bad idea—no matter how it is constructed. Small timber companies in North Carolina are not for this proposal, nor do they support any of the timber contract relief proposals advanced thus far.

I ask unanimous consent to have printed in the RECORD a letter I have received from the Department of Agriculture.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 9, 1983.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that legislation in the form of an amendment is being considered that would provide for Forest Service and Bureau of Land Management (BLM) timber sale contract termination and extension. The amendment may be offered as an addition to other pending Senate legislation.

The Administration is opposed to this timber contract relief proposal.

As we understand it, the amendment would allow purchasers of Federal timber to terminate up to 10 million board feet of timber in timber contracts dated prior to January 1, 1982, at a cost of $3 per thousand board feet. In addition, companies could "buy out" of an additional 75 percent of their Federal timber contract volume, up to a limit of an additional 65 million board feet, by paying a percentage of the contract value. The "buy out" percentage would vary depending on the estimated loss a company would experience as compared to the company's net worth.

Under the amendment, contracts not terminated could have their expiration date extended for 5 years with two conditions: (1) an interest payment on the unpaid purchase price at a rate for the first year equivalent to one-half of the current Treasury borrowing rate, and (2) an interest payment for the fourth and fifth years equal to the current Treasury rate. Whether any interest is to be charged on the unpaid purchase price in the second and third years is unclear.

By implication, firms not engaged in logging or manufacture of timber, or firms not owning equipment for logging or manufacture of timber within 6 months of the contract bid date, would not be entitled to terminate or extend a contract.

Significantly, if it were enacted, the amendment would compel the Forest Service to withdraw the pending administrative action that already proposes to grant interest-free 5 year extensions.

The Administration is opposed to the amendment for the following reasons:

1. It would tend to give the most relief to those companies that bid most imprudently, i.e., those that have the greatest potential losses to offset against their net worth. It would be inappropriate to provide the greatest benefits to those firms who acted least responsibly.

2. The 5-year contract extension program offered by the Administration gives significant relief that is appropriate for the circumstances and has been well accepted as equitable by a broad cross-section of the forest products industry and the public. The Administration's 5-year extension package was never intended to prevent all potential firm bankruptcies. A Forest Service analysis projects that, if a modest housing recovery continues, most firms would be able to work their way out of trouble by averaging new sales against existing contracts. There is no doubt, though, that a few firms that bid the most irresponsibly may have difficulty surviving, but this is as it should be in the free-market competitive system. The amendment would disrupt the ongoing extension program.

3. The Forest Service estimates that under the 10 million board feet "free" termination provision alone, about 1.3 billion board feet of timber under contract could be terminated for $3 per MBF—far less than the contract price for such volume. This provision in itself would result in a potential loss in Federal receipts of $130 million. Losses resulting from the "buy out" provision would also be large.

4. It would be very difficult to administer the eligibility formula in this amendment based on net worth adjudications in a fair and even-handed manner. The objective of establishing uniform net worth calculations for eligibility for relief carries with it the potential for confusion and the inadvertent manipulation of asset worth, particularly among nonpublicly owned firms.

5. Denying the relief to purchasers without mill facilities or who were not engaged in logging could be a constitutionally impermissible denial of equal protection of the laws.

Additionally, there are many ambiguities in the current language of the proposed amendment which would leave doubt about intent and which would make implementation very complicated and costly.

This letter is also being sent to the Chairman, Committee on Energy and Natural Resources.

Sincerely,

JOHN B. CROWELL, JR.,
Assistant Secretary for Natural Resources and Environment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ANDREWS. Mr. President, it is my hope that we can move along. I understand that the Senator from Oregon, a timber producing State, has accepted the amendment.

Those of us on the farm understand. If I buy 1,000 bushels of corn to feed my steers and the price goes down a buck, I do not come in, hat in hand, and say I want that dollar back.

A compromise has been worked out, and I think it is in the best interests of the Senate to move ahead on this. I understand that if this amendment is not adopted—and that is probably why the chairman of the committee is in favor of it—the Government will lose $500 million to $600 million this year.

Mr. METZENBAUM. Each year.

Mr. ANDREWS. That is half of the cost of the Wright amendment, which we just had a sharp debate on.

We are trying to balance the budget and trying to move ahead, and I hope we can vote on this compromise amendment, which has a number of cosponsors, and which I understand has support from the people who know the timber industry best in the Northwest part of the country.

This is not parochial from my standpoint, I say to the Senator. In North Dakota, the State tree is a telephone pole. But we think a deal is a deal.

I want to back the chairman of the committee, the senior Senator from Oregon, and I think we should vote on the issue.

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

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

Mr. WEICKER. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Does the Senator reserve his right to object?

Mr. METZENBAUM. Mr. President, I reserve my right to object.

I am certain the Senator from Connecticut intends to indicate that it be temporarily set aside and it retain its position and that immediately upon the conclusion of the next amendment that the pending amendment would be the pending business.

Mr. WEICKER. Mr. President, the Senator from Ohio is correct.

By way of explanation, it would be my intention to take up a noncontroversial amendment to be introduced by the distinguished Senator from Maine. Upon the completion of that amendment and if indeed if it is noncontroversial, then we will return to the amendment of the Senators from Oregon and Ohio.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut?

Mr. HEINZ. Mr. President, reserving the right to object, I wish to find out why the manager of the bill has decided to recognize everyone on that side of the aisle.

Mr. WEICKER. Mr. President, I say to the distinguished Senator from Pennsylvania the manager of the bill has been in this chair exactly 2 minutes and this is the first Senator he has recognized on either side of the aisle.

Mr. HEINZ. Mr. President, I wish to accommodate my friend from Maine and we both I think have short memories.

Mr. WEICKER. Indeed as the Senator from Pennsylvania knows no one will move this bill faster than the Senator from Connecticut. Indeed, I will be glad to set aside this amendment while we do others if that is possible and if it is possible and if it is with agreement of the sponsors of the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut that the pending amendment be temporarily laid aside?

Without objection, it is so ordered.

AMENDMENT NO. 2570

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MITCHELL) proposes an amendment numbered 2570.

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

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

The amendment is as follows:

At the end of the joint resolution insert:

SEC. . (a) The project for navigation at Eastport Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is not authorized after the date of enactment of this Act.

(b) The Secretary shall transfer without consideration to the city of Eastport, Maine, title to any facilities and improvements constructed by the United States as part of the project described in subsection (a) of this section. Such transfer shall be made as soon as practicable after the date of enactment of this Act. Nothing in this section shall require the conveyance of any interest in land underlying such project title to which is held by the State of Maine.

Mr. MITCHELL. Mr. President, I want to thank the chairman of the Committee on Appropriations, Senator HATFIELD, and ranking Democrat, Senator STENNIS, for their help on this amendment. I also recognize the assistance of Senator JOHNSTON, ranking member of the Appropriations Subcommittee on Energy and Water Development.

My colleagues on the Committee on Environment and Public Works, Senators STAFFORD and RANDOLPH, chairman and ranking Democrat of the full committee, and Senators ABDNOR and

MOYNIHAN, chairman and ranking Democrat on the Water Resources Subcommittee, have also been most accommodating. I very much appreciate their aid in facilitating favorable and timely considerations of this measure.

This amendment would deauthorize a Corps of Engineers navigation project in Eastport, Maine, and transfer title to the project to Eastport. The measure has broad-based support. I first learned of the need for the amendment from the State representative from the area, Harry Vose, and the chairman of the Eastport Port Authority, Bob Keezer. The Maine Department of Transportation and the Army Corps of Engineers also support the legislation. The amendment is noncontroversial, would require no Federal funds, and should receive early and favorable consideration.

Eastport, Maine is a depressed area with 30 percent unemployment. The town has taken the initiative to improve its economic status and its efforts include port development. In order to proceed with port improvements it is necessary to strengthen the Eastport breakwater, a Corps of Engineers navigation project authorized in 1960, and dredge its berth. This would provide a more competitive ship handling operation, increasing cargo exports from 50,000 to 80,000 tons per year.

A 1980 Corps of Engineers evaluation found that there was insufficient economic justification for future Federal maintenance or improvements to Eastport Harbor. Accordingly, the corps will not provide assistance to Eastport to modify the breakwater. Eastport would like to finance—through a State bond issue which is expected to be approved in early November—and conduct the work itself. All of the necessary permits and licenses have been approved and Eastport is very eager to begin work in November when financing is obtained. However, it is precluded from doing so by the River and Harbor Act which prevents it from making permanent alterations to a facility under corps authority. To resolve this problem it is necessary to congressionally transfer authority for the breakwater from the corps to Eastport.

It is important that the Eastport project be deauthorized as soon as possible so that work can begin in November. Eastport will have funding for the improvements by then and must either begin winter weather or wait until spring. I again stress, that the deauthorization measure would require no Federal funds and is noncontroversial. I urge my colleagues to give it favorable consideration.

Mr. President, this is a noncontroversial amendment which has been cleared with both the manager from the majority and the ranking minority member. It involves a deauthorization of a navigation project in Eastport, Maine. It will cost the Federal Government no money. It will indeed save the Federal Government money and, if I could briefly explain it, there is a breakwater project in Eastport, Maine. The Army Corps of Engineers owns the project and decided that there is insufficient economic justification for further Federal maintenance or improvement of that project.

Accordingly, the corps supports the State and community efforts to have the breakwater transferred to the community so that the State and community can pay for improvement of the breakwater project.

It is necessary to do this promptly so that the work can begin before the winter sets in.

This has been cleared on both sides of the authorizing committee and the chairman and ranking minority member of the Appropriations Committee.

Mr. President, I ask that this amendment be approved.

Mr. WEICKER. Mr. President, the majority of the committee has no objection.

I ask my colleague from Maine has this also been cleared with his colleague, Senator COHEN?

Mr. MITCHELL. Mr. President, it previously was. It was indeed attached to earlier legislation and the Senator from Maine (Mr. COHEN) stated standing right where the Senator from Connecticut is that he had no objection to it and indeed supported the effort.

Mr. WEICKER. I have no objection.

The PRESIDING OFFICER. Is there further discussion on the amendment?

The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 2570) was agreed to.

Mr. WEICKER and Mr. HEINZ addressed the Chair

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. WEICKER. Mr. President, a point of order.

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

Mr. HEINZ. Mr. President, may I inquire of the Senator from Connecticut what he wishes to do?

Mr. WEICKER. Mr. President, I wish to ask the Chair if that is the ruling of the Chair that the manager of the bill is seeking recognition, and the pending business is the amendment of the Senators from Oregon and Ohio, and I now wish to have unanimous consent, which I expect to do, to go to the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator is correct. The pending business is the amendment of the Senator from Ohio and the Senator from Oregon.

Mr. WEICKER. Mr. President, I ask unanimous consent that the pending amendment of the Senators from Oregon and Ohio be temporarily set aside, so that we might consider the amendment of the distinguished Senator from Pennsylvania, at the termination of which we return to the pending business which is the amendment of the Senators from Oregon and Ohio.

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

AMENDMENT NO. 2571

(Purpose: To require that part of the appropriation to the United States Customs Service be used to investigate steel import fraud and to purchase 4 spectrometers.)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) for himself and Mr. BYRD, Mr. GLENN, Mr. RANDOLPH, Mr. SPECTER, Mr. SARBANES, Mr. HOLLINGS, Mr. SASSER, Mr. PERCY, Mr. RIEGLE, Mr. LUGAR, Mr. MOYNIHAN, Mr. EAGLETON, Mr. NUNN, Mr. CRANSTON, Mr. DIXON, Mr. MELCHER, Mr. GRASSLEY, Mr. LEVIN, and Mr. DENTON proposes an amendment No. 2571.

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

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

The amendment is as follows:

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

SEC. . (a) In addition to any other amounts appropriated to the United States Customs Service by this joint resolution, there are hereby appropriated $1,000,000 for salaries and expenses.

(b) Notwithstanding any other provision of this joint resolution, of the funds appropriated by this joint resolution to the United States Customs Service—

(1) at least $4,240,000 shall be used to provide direct investigatory manpower positions which are to be devoted to the enforcement of those customs laws against fraud that involve the importation of steel, and

(2) at least $260,000 shall be used to purchase 4 mobile chemical spectrometers.

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself, Mr. BYRD, Mr. GLENN, Mr. RANDOLPH, Mr. SPECTER, Mr. SARBANES, Mr. HOLLINGS, Mr. SASSER, Mr. PERCY, Mr. RIEGLE, Mr. LUGAR, Mr. MOYNIHAN, Mr. EAGLETON, Mr. NUNN, Mr. CRANSTON, Mr. DIXON, Mr. MELCHER, Mr. GRASSLEY, Mr. LEVIN, and Mr. DENTON.

Mr. President, the amendment that I have sent to the desk addresses a matter of serious concerns not only to our ailing steel and support industries in the United States but also to our entire Nation. This amendment pro-

vides increased resources for the Customs Service's efforts to deter steel import fraud. An investigation conducted by my staff as well as a separate and independent 1½-year-long investigation by the House Energy and Commerce Oversight Subcommittee revealed the same conclusion: Massive amounts of steel import fraud committed primarily by large overseas trading houses and a grossly inadequate Customs effort to stop the practice.

There are presently over 60 major cases open, some dating back 5 to 7 years. Penalty notices on several cases currently open involve potential fines approaching one-half billion dollars. Without additional resources devoted to steel import fraud, the caseload will continue to increase without sufficient resolution of the current backlog and future discoveries will be limited and incomplete. Additionally, steel import fraud will likely increase due to present worldwide steel overcapacity, depressed world steel demand, the massive international debt problem of several steel exporters, and the recent quota restrictions on specialty steel and the EEC quota agreement. All of these conditions have led to fierce competition with a significant amount of illegal sales to the U.S. market.

Therefore, a minimum of $4.2 million should be directed solely to the investigation of steel import fraud. This represents only $1.4 million more investigatory funds over that projected for fiscal year 1984 by Customs. Additionally a minimum amount of $260,000 should be provided to purchase four mobile chemical spectrometers for steel analysis at major steel importing ports. This will give Customs a reasonable tool to detect fraudulent misclassification of steel type.

Given the tragic state of the U.S. steel industry, this potential amendment only serves to enhance our ability to enforce one of our present trade laws which is being flagrantly violated. Customs' lack of devoted resources to this problem encourages further transgressions.

It is a cruel injustice that many a job has been lost to fraudulently imported foreign steel. A strong Government effort at deterring fraud will certainly not alleviate all the problems of the industry, but it will be a significant help. It is also worth noting that such an action is not a protectionist measure. It is simply a matter of justice, of enforcing our present laws.

Of course it is a matter of revenue, since the Customs officials generally take in $19 for every dollar spent. One steel fraud case—the infamous Mitsui investigation—netted the U.S. Treasury $11 million.

It is generally recognized that steel import fraud has and is being committed on a massive scale. Treasury and Customs themselves have admitted as much. In written responses to the Senate Finance International Trade Subcommittee hearing on March 17, 1983, by Customs, it was asserted that:

> Customs learned that violations like those committed by Mitsui . . . had undoubtedly been committed by other large steel importers and that . . . fraud was perhaps even an industry wide problem.

At the House Energy and Commerce oversight hearings on steel import fraud on September 21 and 23, 1983, Chairman JOHN DINGELL stated that:

> . . . the schemes employed by Mitsui were not exceptional. Indeed there was evidence to believe that many other companies and countries had their industries utilize similar or identical services.

Steel import specialists testifying at these hearings also related that other exporters would employ similar schemes that Mitsui utilized. The domestic steel industry has expressed similar sentiments. The Mitsui fraud case cited here was settled in 1982 and involved various illegal fraud schemes conducted at numerous U.S. ports. Fraudulent steel imports of $100 million were uncovered. Five other cases under active investigation involve potential fraudulent steel imports of nearly $0.5 billion.

The size of many others is unknown due to criminal law secrecy requirements. It is, however, apparent that these illegalities occur on a very large scale.

The majority of present steel cases involve Far Eastern countries. Many involve large oriental trading houses which export hundreds of millions of dollars worth of steel to the United States each year in addition to many other commodities.

Given this overwhelming evidence of the alarming size of the illegal practice, the administration response has been to offer only token resistance. The Customs Service's fiscal year 1984 estimate of direct investigatory resources for steel import fraud is $2.8 million. There are currently over 60 open cases of major steel fraud under active investigation. Some of these cases date back 5 to 7 years. While the extreme complexity and seriousness of some of these cases necessitate a lengthy investigation, many have been drawn out excessively long due to a lack of resources.

The backlog of cases has been steadily growing with new cases initiated each month without resolution of a similar number of open cases. This is troublesome because Customs could resort to superficial case development to reduce the growing backlog.

At the House Energy and Commerce oversight hearings on steel import fraud Chairman JOHN DINGELL expressed his frustration:

> The evidence reports that the Federal Government has given import fraud a low priority. There has been a tremendous failure on the part of one administration after another to enforce the trade laws on the books. Coupled with lax enforcement, there have been administrative reductions in personnel.

Mr. President, this amendment would increase the amount that Customs devotes to direct investigatory manpower resources for steel import fraud to a minimum of $4.2 million. This represents only $1.4 million more than Customs' fiscal year 1984 estimated for this purposes; that is, $2.8 million. I would hope that they could allocate even more than $4.2 million, but I would prefer to review their performance with this added amount before suggesting other measures.

The second part of my amendment addresses the need for equipment resources at the ports. Physical resources at the ports are practically nonexistent. Currently no ports except New Orleans possess on site chemical analysis equipment, which greatly inhibits fraud detection as confirmed by dedicated import specialists testifying at Congressman DINGELL'S hearings. The steel industry has complained that steel grade misidentification is a presently used fraud scheme. In that steel's grade type is indistinguishable by sight, exporters can lower their duties or circumvent quotas by undergrading the material. Mobile spectrometers would uncover this form of fraud at the port. The New Orleans unit recently detected a chemical misclassification which resulted in $23,000 of additional duties. Given the apparent value of these machines to enhance our fraud detection capabilities as well as their payback prospects, and future deterrant effects, I believe that the acquisition of five of these units at a cost of $260,000 is a necessary investment if this Government is serious about combating fraud.

Finally, we should all recognize that the likelihood of steel import fraud is greater today than it has ever been. The worldwide recession coupled with persistent steel oversupply and overcapacity has led to fierce competition, much of which is illegal, to push steel through the path of least resistance; that is, the open U.S. market. Moreover, the October 1982, Steel Agreement and the recent specialty steel import restraints offer ingenious exporters many opportunities for fraudulent circumvention such as misdesignating the country of origin, grade misidentification, and so forth. I understand that Secretary of Commerce Baldrige has stated that aggressive enforcement of our trade laws could limit steel imports to 15 percent of the U.S. market. I look forward to that aggressive effort. Meanwhile, we must continue our efforts to tighten up fraud detection prosecution, and deterrence in the face of these increased import pressures.

Mr. President, we have chosen to concentrate our investigation and sub-

sequent amendment on only one commodity—steel—due to time constraints. Let me summarize by saying that I am appalled at the magnitude of this problem of which many of us including myself had been unaware. The effort Customs is giving to fraud is simply not going to measurably deter future fraudulent steel imports. Customs has declared fraud to be a new area of emphasis, but they must now follow through.

Frankly, this condition could exist on other commodities as well—although probably not involving the huge dollar amounts of fraudulent steel imports. I am not familiar with the facts involving other commodities but I would suspect that Customs should additionally reappraise its efforts in other areas as well.

I urge my colleagues to adopt this amendment to alert Customs of our dissatisfaction, to alleviate our inadequate resource problems, and to deter future fraud.

Mr. President, the amendment I have sent to the desk addresses a matter of serious concern not only to our ailing steel and support industry in the United States but also to the entire Nation.

What we do in this amendment is provide increased resources to combat and deter the growing problem of steel import fraud. This is something the Customs Service is desperately trying to do, but it does not have adequate resources to do so.

I would only add for the sake of keeping this debate brief that on investigation conducted by my staff as well as a separate 1½-year-long investigation by the House Energy and Commerce Oversight Committee all came to the same conclusion; namely, that the American public is being ripped off by massive amounts of steel import fraud committed primarily by large overseas trading houses, trading companies, and a grossly inadequate Customs effort to stop the practice.

Lest anyone worry about the financial aspects of this amendment, Mr. President, they are modest. We think we can do most of this by redirecting existing resources.

The fact is that any additional resources that we have would indeed repay us handsomely. It is a fact that since the Customs Service generally takes in about $19 in recoveries for every $1 spent and just for one steel fraud case, again this is the infamous Mitsui investigation, netted the Treasury $11 million on that case alone.

So, Mr. President, I hope the managers of the bill can accept this amendment.

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

Mr. HEINZ. I yield.

ENFORCE AMERICA'S TRADE LAWS

Mr. BYRD. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Pennsylvania, Mr. HEINZ. The purpose of this amendment is to provide the minimum resources necessary for the enforcement of the trade laws of the United States.

I have spoken on several occasions on the subject of this country's trade laws. I have stated that our trade laws are ineffective, and that foreign nations have taken full advantage of every weakness in those laws. That is particularly true of steel imports, which have cost West Virginia jobs.

Steel imported into the United States arrives in large volumes, usually in container ships. It is difficult for the Customs Service to fully verify the exact nature of each incoming cargo. The pending amendment would help provide the Customs Service with some of the manpower it needs to check incoming cargoes with greater precision.

The amendment also earmarks funds for the purchase of devices that measure the quality and composition of steel. Current agreements with our European trading partners provide limits on specific types of steel. The new devices will be used to insure compliance with those limits.

Mr. President, this is the least we can do to bolster enforcement of our relatively weak trade laws. I urge the adoption of the amendment.

STATEMENT OF SENATOR SPECTER

● Mr. SPECTER. Mr. President, I support the amendment offered by my distinguished colleague from Pennsylvania, Mr. HEINZ, to add $1,000,000 to the appropriation of the U.S. Customs Service for the purpose of combating steel customs fraud, through increased manpower and the purchase of four mobile chemical spectrometers.

The evasion of import quotas, the falsification of customs documents and other violations of present civil and criminal statutes all pose a grave threat to the stability of our Nation's steel industry. This industry is already plagued by intolerably high unemployment, low capacity utilization, and unfair foreign competition from subsidized and dumped imports. This amendment will help assure that it is not prey to unscrupulous foreign producers who willfully violate our customs laws.

The proposed amendment, which would add $1,000,000 to the budget of the U.S. Customs Service, also stipulates that $4,240,000 of the total amount appropriated be used for direct investigatory manpower devoted specifically for the enforcement of steel customs fraud. I believe that this targeted appropriation, along with the provision requiring the purchase of four mobile chemical spectrometers, is a sorely needed reform, as well as a cost-effective expense. I have stated repeatedly that free trade is desirable as long as it is fair trade, and I feel that this amendment takes an important step toward insuring the strict enforcement of our customs statutes to guarantee this end. I urge my colleagues to adopt this amendment.●

Mr. WEICKER. Mr. President, the committee has no objection to the amendment.

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

The amendment (No. 2571) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is the Senator from Utah seeking recognition?

Mr. HATCH. Yes, Mr. President.

Mr. President, I wonder if I could ask the Senator from Connecticut and Ohio if I could call up an amendment while they are still negotiating?

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Ohio.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, if it is all right with the distinguished Senator from Connecticut and it is all right with the distinguished Senator from Ohio that I could proceed with an amendment to try to resolve a bankruptcy problem that presently exists and should be resolved. So I ask to be able to proceed to do so.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the pending amendment be temporarily set aside?

Mr. HATCH. Yes.

Mr. WEICKER. I object.

Mr. HATCH. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may present this amendment.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WEICKER. Mr. President, I ask unanimous consent that the pending amendment of the distinguished Senators from Ohio and Oregon be temporarily set aside in order to permit presentation of an amendment by the distinguished Senator from Michigan at the conclusion of which we return to the pending business, which is the amendment of the Senators from Ohio and Oregon.

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

AMENDMENT NO. 2572

(Purpose: To propose funds for a program of health care for unemployed workers)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE), for himself, Mr. KENNEDY, and Mr. CRANSTON proposes an amendment numbered 2572.

At the end of the resolution, insert the following:

SEC. . Department of Health and Human Services.

HEALTH CARE BENEFITS FOR THE UNEMPLOYED

For payments for health care benefits for the unemployed, $500,000,000 to be available only if a program is enacted into law providing for such benefits.

Mr. RIEGLE. Mr. President, I thank the clerk for reading the amendment.

This is an amendment that has been worked out on the basis of a bipartisan agreement of Members on both sides. What this amendment would do would be to provide the money in this bill pending a later authorization of this legislation. It is anticipated that this legislation will be coming to the floor on the basis of the bipartisan agreement within a matter of hours, probably on Monday or very close to it.

The indication that we have from the administration is that they are prepared to accept this amendment because the authorizing legislation we will soon be considering provides funding to offset the cost of this program. There is a revenue provision that has been worked out with Senator DOLE so that this is budget neutral with respect to its impact on the deficit.

I might just say one other thing before yielding to the Senator from Pennsylvania, Senator HEINZ, who has been a very active leader in this effort, and that is to acknowledge, as well, the leadership of Senator SPECTER, who is very interested in this issue and is on his way to the floor at this time. This opening came in the schedule. I just wanted to acknowledge his efforts as well as Senator KENNEDY'S and many others.

Mr. HEINZ. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. HEINZ. First of all, Mr. President, I commend the Senator from Michigan for his determined interest in this subject. He has worked very closely with many other Senators, not only those he just mentioned but Senator QUAYLE, Senator HATCH, and other Senators on both sides of the aisles.

I have asked him to yield to me just so I may explain to my colleagues that the representations on behalf of the Senator from Kansas are indeed as I understand them to be; that is to say that it is my understanding that the chairman of the Finance Committee has agreed, first of all, to this amendment; second, that he has made a commitment to bring the authorizing legislation up next week; and, third, that this amendment has indeed been carefully worked out with Senator HATFIELD and other members of the Appropriations Committee.

I would only add that it has been a very long haul to get this far. But I want to pay my compliments and thanks to the Senator from Kansas who came to this floor about 6 months ago when a number of us were trying to offer a similar amendment and said that he felt it would be a better idea if we did not just press ahead and try and get legislation through that might be vetoed. But we found a way to pay for it.

Indeed, the Finance Committee has agreed among themselves on a way to pay for this through an adjustment, closing loopholes and income averaging, and we can present to both the other body and the President a program that does a very important job in serving the needs of our unemployed who do not have access to health care but also will not increase the budget deficit. Any time you can help people without increasing the budget deficit, Mr. President, you have indeed done a good thing.

So I just wanted to say to my colleagues on this side of the aisle that we believe this is a responsible amendment. I want to commend again the Senator from Michigan for offering it. And I ask that he include me as a cosponsor if he has not already done so.

Mr. RIEGLE. I thank the Senator very much.

Mr. President, I ask unanimous consent that the Senator from Pennsylvania, Mr. HEINZ, and the Senator from Michigan, Mr. LEVIN, be added as cosponsors.

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

Mr. RIEGLE. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join again with the Senator from Michigan and other colleagues on the other side of the aisle in urging the Senate this evening to consider this proposition. This is the fifth time this year that the Senate will have had an opportunity either to vote on this issue or to address it. It is a recommendation to address the needs of more than 6½ million Americans who have both lost their jobs and lost their health insurance. It leaves maximum flexibility up to the States to prepare such a program, and it does it without impacting the budget.

Mr. President, I am pleased to join with Senator RIEGLE in offering this amendment to provide $500 million in fiscal year 1984 for health care for unemployed Americans.

We have made a strong bipartisan effort in this area involving members of both the Finance and Labor and Human Resources Committees, and I am pleased to say that authorizing legislation should come to the floor within a few days. It is vital that we include the necessary funding in this continuing resolution, because there will be no other appropriate funding vehicle before the end of the session. Unemployed workers and their families have already lived far too long with the fear and anxiety that they will not be able to afford needed medical care because they lack health insurance. Further delay would be unconscionable.

I raised this issue on the floor on October 4 when the Labor-HHS appropriations was being considered. At that time the Senator from Connecticut, who I know is deeply committed to making funds available for this purpose, assured us that he would support including funds for health insurance for the unemployed in a suitable vehicle. I raised it again when we considered the supplemental. Senator RIEGLE and I withdrew our amendment on Senator HATFIELD'S assurance that he would include it in the bill we are discussing today. I hope that in view of the imminence of the authorizing legislation these members of the Appropriations Committee will support this amendment. Unemployed workers and their families cannot afford to wait any longer.

Mr. President, let me review the history of this legislation and the need for quick action.

The Senate is strongly on record in support of this program. In the spring, the Senate voted 90 to 9 in favor of including health care for the unemployed in the budget resolution. Last June, we voted 75 to 23 for a supplemental appropriations for fiscal year 1983. The House has already passed authorizing legislation. As I indicated, a bipartisan authorizing bill will come to the floor within the next few days.

With this strong bipartisan commitment in both Houses, I believe that enactment of this crucial legislation is possible before adjournment. By adopting our amendment, we can assure the prompt implementation of this much-needed program.

The dimensions of the problem are enormous. The United States has just suffered through the worst recession since the Depression—unemployment remains at over 9 percent.

One of the worst consequences of this deep recession is the loss of health insurance that too often compounds the tragedy of unemployment.

The Congressional Budget Office estimates that almost 9 million Americans and their dependents are unemployed and without health insurance. Millions are forced to go without es-

sential health care because they face the cruel choice between paying the bill for food and rent, or paying the doctor's bill. Infant mortality is rising in hard-hit States, where the number of women who receive no prenatal care has tripled.

But these are only the bare statistics. The real human tragedies are even more compelling. I told some of the stories of these individual cases on October 4. I will not repeat these cases in detail today, but they included an infant death that could have been avoided and individuals who lost life savings because they happened to get sick while they were temporarily unemployed.

I assure the Senate that these stories are tragic—and doubly tragic because they could have been avoided if the legislation that we are considering today had been on the books.

Only by reversing the administration's reactionary economic policies can we truly offer hope to the struggling families of America.

But it is not enough to wait for the recovery. Health care is too important to be sacrified on the altar of supply-side economics. No pregnant woman should be denied prenatal care because she and her husband are unemployed and cannot pay the doctor's bill. No workers should lose their health insurance because they lost their job. No families should lose their access to health care because they have become casualties of the administration's unfair war against inflation.

The amendment before us would provide $900 million for fiscal year 1984, the amount in the authorizing legislation we will consider today. Its expediture is dependent on enactment of that legislation, which includes sufficient tax funds to finance it. It is well below the $2 billion authorized by the budget resolution. I urge my colleagues to adopt this amendment.

Mr. RIEGLE. Mr. President, I ask unanimous consent to add Senator SPECTER as a cosponsor of the amendment.

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

Mr. RIEGLE. Mr. President, I just want to say a word about Senator DOLE on this. He was on the floor a moment ago. He is not here at the moment. He really has done an outstanding job in shepherding the effort to reach an understanding, a bipartisan understanding, with respect to the mechanics of this bill.

This amendment, of course, only provides the funding on the basis of a later authorization which we will be taking up next week. But his willingness to be a leader, along with many others, has been an important part of our ability to come here at this time.

The funding here is only for half the year, and for the remainder to be picked up in the supplemental later on.

Mr. MOYNIHAN. Mr. President, one of the most dire consequences of the recent recession, the worst in postwar history, has been the loss of health care coverage for the families of millions of unemployed workers. According to the Congressional Budget Office, prolonged high unemployment left nearly 11 million Americans without health coverage by the close of 1982. With unemployment projections continuing to run high through the end of 1984, this state of affairs promises to worsen.

One of the more emphatic bipartisan acts of the 98th Congress was the vote of 90 to 9 by which this body endorsed the proposal of the Senator from Kansas to provide $225 million in fiscal year 1983 and $900 million in fiscal year 1984 for health care benefits for the unemployed. When the fiscal year 1983 supplemental appropriations bill first came before the Senate, however, it recognized the problem but failed to include any funds for the remainder of fiscal year 1983. I therefore offered an amendment, approved by this body by a vote of 75 to 23, providing $225 million to the States over the last months of fiscal year 1983 to continue to provide basic health care for unemployed workers and their families.

In the same spirit, I rise in support of this amendment to appropriate $500 million for health care benefits for the unemployed, and their families, during the first half of fiscal year 1984. Without maintaining such assistance, these same victims of the recession will be in danger of losing all health care. As supporters of this legislation pointed out during the effort to secure benefits in fiscal year 1983, these unemployed workers and their families can barely feed themselves and pay the utility bills, let alone pay the high cost of medical care. At the same time, the hospitals and clinics to which these individuals flock will not continue to absorb the costs of care for so many millions of uncovered, nonpaying patients—they will not, because they cannot. The loss of employment will lead to the loss of good health, unless this body acts decisively in favor of the amendment.

Estimates of the extent of this recession's damage are, at best, tenuous; but the Congressional Budget Office has reported more than 10.7 million persons, since December 1982, have lost their health insurance as a result of unemployment; 7.4 million of these victims actually lost their jobs, the remainder are their dependents. In New York State, over 673,000 citizens are currently without work, with 153,000 of these individuals having gone without employment for 26 weeks or more. These jobs have been lost in the greatest recession since the Second World War.

I therefore regard the action we are advancing today as a necessary and humane response. All 50 States would share equitably in the $500 million of Federal benefits. Supplementing these benefits, if we accept, in future authorizing legislation, the most equitable formula, would be State contributions equivalent to between 5 percent and 25 percent of the Federal grant. Under this proposed formula, New York State would receive $31.1 million; in turn, it will put up $6.2 million in State funds.

A word about the formulas is also necessary. Under the proposed formula (which we will discuss next week), the matching amount required of each State would be based primarily, and appropriately, on the number of citizens unemployed for over 26 weeks, who therefore are no longer eligible for unemployment insurance. Under the formula, long-term unemployment would receive a two-thirds weighting, while the insured unemployment rate would receive only a one-third weighting. Thus, the emphasis would be placed properly on aiding the chronically unemployed, who have exhausted all benefits and are nearing the end of their resources. New York State, with nearly 153,000 long-term unemployed citizens, desperately needs such a formula; considerations of equity for those most in need suggest that the Senate accept this formula. I strongly urge my colleagues to do so; but as a first and essential step, we must accept the package to provide $500 million in health care benefits during this next fiscal year.

Mr. GRASSLEY. Mr. President. I oppose using income averaging as a financing mechanism for health benefits for the unemployed. Income averaging was the subject of debate recently before the Senate Committee on Finance. At that meeting, proponents of the change in this provision argued that modifying income averaging would not be harmful to taxpayers since the tax brackets are now indexed. These individuals argue that income averaging was instituted in the mid-1960's to permit taxpayers to mitigate the adverse effects of inflation. Since income tax indexing has now been enacted and taxpayers need no longer fear being pushed through the rate structures by cost of living increases, the proponents of change argue that this alteration of current law will not be harmful.

During the 1960's the United States had a very low rate of inflation. The purpose of income averaging when enacted was to prevent individuals with erratic income from facing a heavy tax burden in the year they received that income. Many taxpayers do not enjoy the luxury of a regular paycheck. In

recent years, farmers have been among the class of taxpayers with vastly fluctuating incomes. In my home State of Iowa, 10 to 15 percent of the tax returns prepared by the Iowa Farm Bureau in any given year use income averaging. In fact, 80 percent of Iowa farmers have used the income averaging provisions at one point in time.

As my colleagues are aware, farmers and small businessmen are often unable to control the factors which affect the amount of income they will earn in a particular year. Interest costs, drought, energy costs, and other vagaries of the economy have a particularly harsh impact on the incomes of these taxpayers. In a sense, they are a victim of factors beyond their control as are the unemployed. To me, it is particularly illogical to finance health insurance for the unemployed with a measure which helps individuals weathering hard times to distribute their tax burden over more prosperous years.

To conclude, I oppose any alteration to the current income averaging provision and encourage my colleagues to do likewise.

Mr. SPECTER. Mr. President, the widespread loss of health care benefits for the unemployed is a potentially devastating catastrophe. Millions of unemployed workers and their families face serious long-term health risks unless affordable health care insurance is restored to them.

The unemployed find themsleves in an impossible financial bind. Premiums for individual policies cost at least twice as much as the group policy they joined at work. These higher premiums could consume up to one-half of each monthly unemployment compensation check. And by accepting unemployment benefits, or taking a part-time job, they become ineligible for welfare medical assistance.

Faced with so many competing bills for basic needs, jobless workers are passing up health care. According to press reports, pregnant women are foregoing prenatal medical care, surgery is being postponed, and prescriptions are being ignored because they are just too costly. The tragic result will almost certainly be that minor health ailments will become serious, and simple health problems will reappear as traumatic medical emergencies that might have been avoided with timely, routine health care.

This is a national problem requiring a national solution.

Senator HEINZ and I have been working together since January to ease the health care problems of the unemployed. Since the fall of last year, we began to hear consistent reports of problems caused by the loss of employer-based health insurance. In January of 1983, when Representative Joseph Pitts (Chester County) introduced his Pennsylvania House bill 55 making the State's unemployed eligible for basic health insurance, we began to collaborate with him, Congressman MCDADE and Governor Thornburgh on how the Federal Government could assist the State with such a program.

After much research, we decided that the block grant concept would be the most efficient and expeditious way to assist States experiencing high unemployment rates. It was estimated that health insurance could cost as much as $75 to $100 per month, or 13 to 18 percent of the average unemployment compensation check. It became obvious to us that assistance from the Federal Government to the States in a block grant would not only provide the needed funds to offset the high cost of insurance, but also provide them with the flexibility to set up a program which suited the special needs of each State.

On March 5, Senator HEINZ and I held an open house in Midland. Midland is a town where the major employer, Crucible Steel, had closed down, and the unemployment rate was 50 percent. We had a high school auditorium full of people who emphasized that health care coverage for the unemployed was their number one concern. This meeting convinced us even more that action could wait no longer.

On March 15, 1983, Senator HEINZ and I introduced the Health Care for Displaced Workers Act of 1983 (S. 811). Under this legislation eligibility would be extended to unemployed workers who, one, were entitled to regular, extended or Federal supplemental compensation as of the date of enactment or who lost entitlement within the 12-month period preceding the date of enactment because of the exhaustion of their compensation benefits, and two, were participants in a group health plan contributed to by their employers. Family members of qualifying individuals would include the worker's spouse and worker's children 18 years of age or younger or a maximum of 22 years of age if they were full-time students.

Benefits under this program would be established by the State, but are defined as a program providing health care directly or through insurance.

The allocation of those Federal dollars would be based on a three-part formula targeting the funds to States of high unemployment: One, number of unemployed, two, number of unemployed individuals in excess of 6 percent of the civilian labor force, and three, number of individuals unemployed for 15 weeks or more.

When the social security bill was pending before the Senate on March 23, Senator HEINZ and I pressed Senator DOLE, chairman of the Finance Committee, to add our measure to that bill. Senator DOLE was very interested in our concept but urged us not to proceed at that time because of the complexities of the social security bill and a possible veto threat by the administration, which had reservations about passage of such legislation without prior, indepth review of it. However, because of his intense interest, Senator DOLE did collaborate with us in developing the concept in similar legislation, S. 951. He also set up a meeting with the administration on March 25 where we discussed the proposal with David Stockman of the Office of Management and Budget, Secretary of Health and Human Services Margaret Heckler, and Senator DURENBERGER, chairman of the Finance Subcommittee on Health.

On April 6, President Reagan had occasion to travel to Pittsburgh. Senator HEINZ, Governor Thornburgh, and I took the opportunity to inform the President that one of the issues most likely to be raised would be health care for the unemployed. The President did, in fact, receive such a question and expressed his concern about this serious problem. It was his first public comment on the issue.

The momentum continued to build as both the Finance Committee and Committee on Labor and Human Resources planned to hold hearings regarding the bills before them, on April 21 and May 3, respectively. The Finance Committee was looking at S. 951, which we had coordinated with some of its members, and the Subcommittee on Employment of the Labor and Human Resources Committee was reviewing S. 811, our original bill which had been referred to it.

I testified at both hearings, urging prompt action and explaining that the need for health care coverage for the unemployed could no longer be overlooked. We cannot afford risking the tragic irony of having the health of unemployed workers so neglected that they may be unable to return to work once the economy finally recovers.

Shortly after those hearings, which did indeed point out the desperate need for such a health care program, the Senate was considering its budget resolution for fiscal year 1984. In an encouraging move, the Senate voted 90 to 9 to include $1.8 billion of funding for a program, provided that matching revenues could be raised.

On June 15, the Senate had before it the fiscal year 1983 appropriations supplemental bill. At that time, it voted to appropriate $225 million for health care for the unemployed for the remainder of fiscal year 1983. This was the recommended figure in the budget resolution and was to be available when a program was enacted into law.

A week later, the Labor and Human Resources Committee reported out a bill authorizing a program for health

care coverage for the unemployed. The basic concept of the program had been taken from S. 811, which had been referred to that committee.

In the meantime, Congress was getting closer to a joint agreement on this issue in June when the budget conferees from the House and Senate compromised on a budget authority for this kind of program.

The Senate Finance Committee reported out legislation on July 14. The committee recommended financing for the program—which was a requirement in the budget resolution—by (a) making permanent the existing temporary provision which fixes the proportion of the part B medicare costs financed by enrollees at 25 percent of program costs and by (b) freezing for the 9-month period of October 1, 1983, to June 30, 1984, the prevailing limits for all physician services.

This type of financing for health care for the unemployed was not acceptable to many members, including myself. It was obvious that another source would have to be found.

On August 3, the House of Representatives voted by 252 to 174 on its version of a block grant program which is similar to the Senate bill in concept.

After recess, Dave Stockman, Director of the Office of Budget and Management, and Senators DOLE, DURENBERGER, HEINZ, HATCH, QUAYLE, and I met to discuss a more acceptable means of funding for the program, since the administration is adamant about including financing in the actual legislation. The group agreed that a change in income averaging would be the best source for funding. Income tax rates will now be indexed to the rate of inflation. Unless the 120 percent of base requirement is increased to 140 percent, people who income average will become "double dippers" and will receive an unnecessary windfall from the Government. It is estimated that changing this formula will raise revenues by approximately $2.8 billion over a 3-year period.

It will take a tremendous commitment from the U.S. Congress and the citizens of this country to help those people who have lost their health benefits through no fault of their own. Millions of men, women, and children, and even unborn children, are being exposed to the hazards of poor health care due to unemployment.

Mr. NICKLES. Will the Senator yield?

Mr. RIEGLE. Yes, I yield to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, do I understand the funding being requested is half a billion dollars to cover one-half of the year?

Mr. RIEGLE. That is correct. The authorizing legislation we will soon be considering has with it a funding source, the income-averaging provisions, so this is neutral with respect to its effect on the budget.

Mr. NICKLES. If the Senator will yield further, he says this is neutral, but would this not result in the appropriation of a half a billion dollars before the tax increase has been enacted?

Mr. HEINZ. Will the Senator yield?

Mr. NICKLES. I do not have the floor.

Mr. HEINZ. Will the Senator from Michigan yield to me?

Mr. RIEGLE. Yes, I am prepared to answer it, but I am happy to have the Senator from Pennsylvania respond.

Mr. HEINZ. I thank my friend from Michigan for yielding. I know he could answer it, but perhaps, as a member of the Finance Committee, I am in the best position to answer it.

The amendment offered by the Senator from Michigan is thoroughly conditioned upon authorizing legislation being enacted. Therefore, no money will be spent until the authorizing legislation is brought to the floor, passed by the Senate, passed by the House, and signed into law by the President.

The authorizing legislation that the Senator from Kansas has committed to bring to the floor next week is legislation from the Finance Committee that contains revenues sufficient to pay for the entire program, together with the authorization of an appropriation which we, if we pass that legislation, would hereby be appropriating in fact.

This appropriation, if you will, will make money available if, and only if, the entire legislative package goes through the legislative process and is signed by the President.

Now, we have been told that the President will accept this package as long as the means of paying for it is with it. That is exactly what the Finance Committee will bring to the floor next week.

Mr. NICKLES. Will the Senator from Michigan yield further?

Mr. RIEGLE. Yes.

Mr. NICKLES. The amendment reads: "to be available only if a program is enacted." This indicates that the "program" includes authorizing legislation which has not yet passed and a tax increase to cover its cost. This tax increase, which would be initiated by the Senate Finance Committee would be unconstitutional since revenue measures are supposed to be initiated in the House; is that correct?

Mr. RIEGLE. Well, the first part is correct, and that is that money cannot be spent unless an authorizing bill passes. It is the stated intention of the chairman of the Finance Committee to bring this legislation to the floor next week and to provide a financing mechanism.

That was the requirement of the White House in their acceptance, that that would be done. So it will be presented as a package. Unless the Senate accepts it, unless it survives a conference and unless it receives the President's signature, not 1 cent can be expended.

Mr. NICKLES. If the Senator will yield further, the language says a program. If we pass language that would authorize a program, but for some reason, there were objections by Senators on the tax portion of the bill—and we all realize that such portions have a hard time—and the tax portion does not go through, will we have authorized a program providing for health insurance for the unemployed without approving the tax portion. Or will the entire bill fail?

Mr. RIEGLE. I will be very blunt about that. The entire understanding is based on the notion that this will be financed by tax provisions.

Mr. HEINZ. Will the Senator yield?

Mr. RIEGLE. Yes.

Mr. HEINZ. If the legislation does not go through as a package, with the revenue to pay for the expenditure, there is not going to be an authorization; it will not pass. It will not pass this body and it will not be signed by the President.

Mr. NICKLES. I thank my colleague.

Mr. President, I wish to be heard on the amendment after my colleague completes his remarks.

Mr. RIEGLE. I am told that Senator DOLE intends to use the passed House bill.

I ask unanimous consent that Senator RANDOLPH and Senator LAUTENBERG be added as cosponsors.

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

Mr. RIEGLE. I thank the Chair. I reserve the remainder of my time.

Mr. NICKLES. Mr. President, I rise in opposition to this amendment. I hope the majority of our colleagues will not support it. Time and time again we hear Senators and we hear Congressmen state, "Yes, these budget deficits are too high." We have heard the statement that this is questionable. First, I question whether or not we will pass the tax increase. Second, I question what kind of a tax increase it is. Some say we will reduce the amount of income averaging that will be allowed. It remains to be seen, Mr. President, whether or not we will or will not do that. But one thing is sure, if this program is initiated, the financial demands on this program will greatly exceed what the Finance Committee and what this Senate will be able to appropriate to pay for it.

The pressure to increase coverage and expand the program will be tremendous. And before long, this will be close to having national health insurance. This is called "health insurance for the unemployed." Initially, if this is passed, it will cost a half billion dol-

lars for 6 months. If my math is correct, that means it will be $1 billion for 12 months.

Quite frankly, that will not even come close—Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Oklahoma.

Mr. NICKLES. I thank the Chair.

Quite frankly, $1 billion a year will not come close to providing the amount of funds that will be demanded or requested for this. In other words, you will have a lot of people who are unemployed who will say, "Wait a minute. I did not get this. My neighbor is unemployed and he was able to receive health insurance." Health insurance is very, very expensive. If you go out in the market for family coverage, you are probably talking in the neighborhood of approximately $170 or $200 a month, over $2,000 a year that we are talking about. Right now we have around 10 million people who are unemployed. If that is families, you are talking about a $20 billion a year program. And there are many people who are employed who do not have health insurance. Once they are brought into the program its cost will increase by several billion more dollars annually.

This is a brand new entitlement program. It has never been funded. Somebody decided that we need to have a new program. So they said, "Let us have health and accident insurance for the unemployed." It sounds like we will be performing a great service for the unemployed. But the program will be funded by taxes paid by those who are employed. This is simply one more scheme that will increase deficits. And the taxes called for in this resolution or contemplated by the Finance Committee will not come close to paying for the total cost for this program.

Mr. SYMMS. Will the Senator yield?

Mr. NICKLES. I yield.

Mr. SYMMS. I appreciate my colleague from Pennsylvania, Senator HEINZ, commenting. As another member of the Finance Committee, I might point out that the suggested idea to pay for this, income averaging, is going to have a very detrimental effect on agriculture in this country. All those Senators who come from agricultural States should recognize that farmers, who live with the whims of the weather, the markets, and so forth, make money 1 year and lose money the next 2 years, and then make money and have their incomes averaged, will be directly affected by this suggestion.

I question seriously whether or not income averaging, as proposed to pay for this, can actually pass this Senate when finally it is recognized that what it is amounting to is that we are going to raise taxes for the people who are working in this country so we can take more of their money and transfer it over to other families. It is another entitlement program.

The Senator pointed out 74 entitlement programs.

Mr. NICKLES. Seventy-four that automatically increase without any new authorization.

I see the majority leader is seeking the floor. I will be happy to yield to him.

Mr. BAKER. Mr. President, I thank my colleague from Oklahoma and my colleague from Idaho.

Mr. President, I have just come from a meeting with the Speaker of the House of Representatives on the question of their schedule and our schedule for the rest of the evening.

Mr. President, I reported to the Speaker and the chairman of their Appropriations Committee that I believed we could finish this bill in the next couple of hours. That may be a "tad" optimistic but I hope not. In any event, the Speaker agreed that the House would remain in session and agreed to appoint conferees tonight and agreed to go to conference tonight.

However, it is by no means certain that the conference documents, even assuming a conference report is agreed to, can be prepared for presentation to the House, which must act first, before the early morning hours or perhaps midmorning of tomorrow.

I am sorry to report that because what that means is that both the House and Senate will be in session tomorrow, unless there is some break that I do not now anticipate.

Rather than delay reporting that to the body, I wanted Members to know that as hard as we are trying and as late as we have to stay in order to finish this bill in the Senate tonight, we must do that. My announcement earlier was that I hoped we could also act on the conference report tonight. That apparently has been dashed. It will be tomorrow, I am afraid, before we can act on the conference report.

So, Mr. President, the plan for this evening will be to continue on this bill until we finish it, and to message the bill over to the House of Representatives with the request for a conference. It is my understanding then that the Speaker tonight will appoint conferees, as will we, and that the conferees will go to conference tonight, perhaps working most of the night in order to complete their action. The staff will then prepare the conference documents for presentation to the House of Representatives first, as must be the case, and that will be no earlier than tomorrow morning.

Therefore, I see no way to escape a session on Friday. I regret to give that advice to the Senate but I thought it better to do it now rather than later.

I thank the Senator for yielding.

Mr. NICKLES. Mr. President, I make a point of order, that this amendment appears to violate rule XVI, paragraph 4.

The PRESIDING OFFICER. Does the Senator bring a point of order against the amendment?

Mr. NICKLES. That is correct.

The PRESIDING OFFICER. The amendment of the Senator from Michigan, which provides that certain appropriations will be available only in the event of subsequent passage of legislation, is, in fact, a legislative proposal and, therefore, violates the provisions of rule XVI, paragraph 4.

Mr. RIEGLE. Mr. President, I assert that this is a proper time to do this. We have discussed this before in previous legislative initiatives on the floor. We have discussed it with the chairman of the committee. In fact, there were earlier agreements that if we got to this final stage and we had not reached a point where this matter has been acted upon, it would be acted upon in this way at this time. As a matter of fact, the RECORD will show that, in those earlier instances, we withdrew other amendments to providing funding at that point in deference to the requests from the managers of the bill before us.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Is there further debate on that question? If not, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

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

The result was announced—yeas 47, nays 36, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—47

Abdnor	Grassley	Percy
Andrews	Hatch	Pressler
Armstrong	Hatfield	Proxmire
Baker	Hawkins	Roth
Bentsen	Hecht	Rudman
Boren	Helms	Stafford
Boschwitz	Humphrey	Stennis
Chafee	Jepsen	Stevens
Cochran	Johnston	Symms
D'Amato	Kassebaum	Thurmond
Danforth	Kasten	Trible
Denton	Long	Warner
East	Lugar	Weicker
Exon	Mattingly	Wilson
Garn	Nickles	Zorinsky
Gorton	Packwood	

NAYS—36

Baucus	Eagleton	Metzenbaum
Biden	Ford	Mitchell
Bingaman	Heflin	Moynihan
Bradley	Heinz	Nunn
Bumpers	Huddleston	Pell
Burdick	Kennedy	Quayle
Byrd	Lautenberg	Randolph
Chiles	Leahy	Riegle
Cohen	Levin	Sarbanes
DeConcini	Mathias	Sasser
Dixon	Matsunaga	Specter
Dole	Melcher	Tsongas

NOT VOTING—17

Cranston	Goldwater	Murkowski
Dodd	Hart	Pryor
Domenici	Hollings	Simpson
Durenberger	Inouye	Tower
Evans	Laxalt	Wallop
Glenn	McClure	

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the judgment of the Chair was upheld.

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

The motion to lay on the table was agreed to.

Mr. BOSCHWITZ and Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The question before the Senate at this point is the amendment of the Senator from Ohio, concerning timber sales contracts.

The Chair advises the manager of the bill that the Chair will recognize him, but the Senator from Minnesota asked for recognition first.

Mr. HATFIELD. Mr. President, I ask unanimous consent to lay aside the Metzenbaum-Hatfield amendment which is pending, so that we may consider other amendments.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object—and I do not intend to object—I do not think that the Senator from Oregon meant it in this way.

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

The PRESIDING OFFICER. The Chair asks that the Senate please be in order. The Chair advises the staff that if we cannot conduct business in an orderly manner, the Chair will ask the Sergeant at Arms to clear the Chamber.

Mr. HATFIELD. Mr. President, may I restate my request, now that we have a little more order.

I have asked unanimous consent to set aside the Metzenbaum-Hatfield amendment temporarily, in order that we may consider the next amendment—singular.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. Mr. President, I ask Senators at this time to help us to handle this matter as expeditiously as possible by giving us some indication of amendments that Senators have plans to offer.

We are trying to set up a list here in order to know how long it is going to take. We have to get information to the House as quickly as possible as to when we expect to go to conference.

I say to Senators that I think we can handle almost any amendment, possibly with one or two exceptions, without a rollcall vote. I do not think we have to have rollcalls. We are in a position to accept a number of amendments and will be reasonable in accepting them. I am not saying how long they will stay on the measure when we get to conference.

We are trying to get to conference and not continue this self-flagellation. I do not think this idea of forcing ourselves until 3 or 4 o'clock in the morning is necessary.

We are going to conference on the supplemental on Monday. I reemphasize—we are going to conference on the supplemental on Monday. A lot of Senators want now to redraft the continuing resolution in the image of the supplemental. We do not really have to do that. We are going to have the supplemental back here for consideration next week. So I urge Senators not to try to bring everything out of the supplemental and piggyback it on the continuing resolution.

I ask Senators who have amendments to so indicate, so that we can put down their names. I am not controlling the order of worship, but I am trying to get some order so that we can move this matter along rapidly.

AMENDMENT NO. 2573

Mr. BOSCHWITZ. 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 Minnesota (Mr. BOSCHWITZ) proposes an amendment numbered 2573.

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

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

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . Funds appropriated or otherwise made available for fiscal year 1984 pursuant to Section 101(f) of this joint resolution or the enactment into law of H.R. 3222 shall be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Exchange Act of 1948, as amended until November 18, 1983.

Mr. BOSCHWITZ. Mr. President, this amendment has been cleared on both sides.

It is an amendment that would waive for 8 days the necessity to pass the State Department authorization bill. The State Department authorization bill is presently in conference. There were 96 issues, and they are down to 1 issue. We expect the conference to be resolved shortly, but they need an 8-day window for such authorization.

I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? The Chair hears none. Therefore, the question is on agreeing to the amendment.

The amendment (No. 2573) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent to set aside the Metzenbaum-Hatfield amendment in order that the Senator from Utah may offer an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 2574

(Purpose: To amend the Bankruptcy Act regarding the referees salary and expense fund.)

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

Mr. FORD addressed the Chair.

Mr. HATCH. Mr. President, I believe I have the floor.

Mr. BYRD. Mr. President, the Senator does not have the floor. He has offered an amendment. Once he offers an amendment, he loses the floor. He may have the floor, so far as I am concerned.

Mr. FORD. The minority leader is correct.

The PRESIDING OFFICER. The amendment sent to the desk is not considered reported until the clerk reports it.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), for himself and Mr. HEFLIN, proposes an amendment numbered 2574.

Mr. HATCH. Mr. President, I ask unanimous consent that 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 resolution add the following:

SEC. . (a) This section may be cited as the "Referees Salary and Expense Fund Act of 1983".

(b) Section 403(e) of the Act of November 6, 1978 (92 Stat. 2683; Public Law 95-598), is amended to read as follows:

"(e) Notwithstanding subsection (a) of this section—

"(1) a fee may not be charged under section 40c(2)(a) of the Bankruptcy Act in a case pending under such Act after September 30, 1979, to the extent that such fee exceeds $200,000;

"(2) a fee may not be charged under section 40c(2)(b) of the Bankruptcy Act in a case in which the plan is confirmed after September 30, 1978, or in which the final determination as to the amount of such fee is made after September 30, 1979, notwithstanding an earlier confirmation date, to the extent that such fee exceeds $100,000;

"(3) after September 30, 1979, all moneys collected for payment into the referees' salary and expense fund in cases filed under the Bankruptcy Act shall be collected and paid into the general fund of the Treasury; and

"(4) any balance in the referees' salary and expense fund in the Treasury on October 1, 1979, shall be transferred to the general fund of the Treasury and the referees' salary and expense fund account shall be closed.".

Mr. HATCH. Mr. President, I yield to the distinguished Senator from Kentucky.

Mr. FORD. Without the Senator losing his right to the floor.

Can the manager of the bill or the Chair advise this Senator about the procedure? Is it the procedure that whoever gets the eye of the Chair is able to call up the next amendment?

The Senator from Oregon was trying to get a list a few moments ago.

Mr. HATFIELD. Mr. President, I respond to the Senator by indicating that the Senator from Ohio (Mr. METZENBAUM) and I have agreed to set aside our amendment temporarily, on a one-by-one basis, rather than on a blanket basis.

I asked for a list of names, and I would like to alternate on both sides of the aisle, so that we can follow down a list, and Senators will have an idea of when they are going to be able to offer their amendment. That is the plan we will follow, unless there is an objection.

Mr. FORD. It suits me fine. I just wanted information. I thank the distinguished Senator from Oregon.

Mr. STENNIS. Mr. President, I commend the Senator from Oregon. A little system here will save hours.

We are running a contradiction. The so-called managers of the bill and others want to hear what is going on and what is said and what is in these amendments.

The contradiction is the turmoil and talking and walking and everything else here to the extent that we cannot hear what is being said even from the Chair or from the one who is speaking.

If that is the will of the Senate, I can live with it. But we are just making ourselves look very odd to the public the way we carry on here without a chance to hear each other and understand at least and transmit it on.

I thank the Senator for yielding to me.

I am not personally complaining, but it is a terrible situation we have to work in.

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

Mr. HATCH. Mr. President, the amendment I have sent to the desk simply places a cap on fees charged to bankrupt estates to support the referee's salary and expense fund. This fund was eliminated in 1978. Therefore, it only mades sense to place a cap on fees going into the fund from liquidation proceedings pending in 1978 and extend the present cap on reorganization proceedings.

I might mention that this exact language has passed the Senate twice. It is noncontroversial. It passed the House of Representatives last year.

S. 1013, the Senate-passed bankruptcy bill, is ensnarled in the processes over there in the House of Representatives, It does contain this language, but there seems to be little chance that the House of Representatives will get any time soon to remedy the situation created by the Supreme Court Marathon decision and the 1978 Bankruptcy Act.

While this legislation languishes in the House of Representatives, some bankruptcy estates are being drained by an oversight because of the 1978 act. If we do not address this simple amendment, creditors are deprived of their due because of the needless drain.

This has been basically accepted by the distinguished chairman of the Judiciary Committee, the chairman of the appropriate subcommittee here.

The purpose of this amendment is to correct an oversight in the Bankruptcy Reform Act of 1978, in which the Congress eliminated an anachronism known as the referees' salary and expense fund.

The referees' fund had been in existence since the 1940's. Its purpose was to impose fees on certain bankrupt estates in order to pay the cost of supporting the bankruptcy court system. In 1978 the fund was recognized as an oddity which no longer had any sound rationale, and the decision was made to have the bankruptcy court system supported by the General Treasury, just like the other Federal courts. In so doing, Congress decided that it should be the goal of the bankruptcy laws to insure maximum return to the creditors of the bankrupt. Thus, in 1978 the referees' fund was eliminated.

The problem this amendment attempts to correct is the very uneven way in which Congress dealt with bankruptcies which had already begun and were still pending on the effective date of the 1978 act. Prior to the 1978 act, the referees' fund fees had been levied only on estates in chapter VII liquidation proceedings, chapter XI reorganization proceedings and wage-earner plans; they were not levied in chapter X reorganizations or in chapter IX or chapter XII cases. The 1978 Reform Act wiped out the fees for all future cases. For bankruptcies which were still pending, the 1978 act put a $100,000 ceiling on the fees for chapter XI reorganization cases but provided no such cap or other relief for chapter VII liquidation or wage-earner cases.

The discriminatory difference in treatment of pending chapter XI cases and pending liquidation cases is obvious and should be eliminated, as this amendment seeks to do by placing a $200,000 cap on fees charged to pending liquidation cases. There is no acceptable rationale for the difference. The amendment also extends the ceiling of $100,000 on administrative fees payable in chapter XI reorganization proceedings.

One of the laudable goals of the 1978 act, after all, was to insure that an estate's assets went to the creditors who were due them rather than to the Government which had no logical claim against them. But through inadvertence that purpose has been frustrated in pending liquidation cases. It makes no sense to have any bankrupt estate pay a substantial portion of estate assets to the Federal Government for a fund which is no longer in existence, particularly on the discriminatory basis where all other types of bankruptcy proceedings are either exempted altogether or protected by a ceiling on the charge.

The House Judiciary Committee report on a House bill passed last Congress identical to this amendment:

"A fee ceiling in Chapter VII cases is consistent with the underlying rationale of present Section 403(e) and with Congressional action in eliminating the fee for all cases brought after September 30, 1979. The fees which are assessed in these cases and paid into the now-abolished Referees' Salary and Expense fund should be limited to some reasonable amount in order to maximize the return of the assets of the estate to the creditors." (House of Representatives Report No. 97-415, p. 3)

If pending chapter XI bankruptcies deserve relief by way of a ceiling, as the Congress recognized in 1978, then pending liquidation bankruptcies are even more deserving of relief because,

unlike chapter XI debtors that survive, liquidated companies are unable to make use of net operating loss carryforwards. For example, the W. T. Grant estate now has an unused net operating loss carryforward substantially in excess of $300 million, almost all of which will still be unused when the estate is closed and which under the tax laws can never be used.

Moreover, since the 1978 abolishment of the referees' fund, the W. T. Grant estate has paid to the Internal Revenue Service approximately $30 million in back income taxes to which the net operating losses could not be applied.

Finally, the bank creditors of W. T. Grant have lost some $250 million of their $641 million in loans to Grant—as staggering loss—not counting lost interest on the loans—the effective recovery by the banks in light of recent interest rates is actually about 40 percent. The clear intent of the 1978 act was to insure maximum return of an estate's assets to such creditors.

Both the House and Senate have separately recognized the inequities inherent in this situation and both have approved bills containing provisions identical to the one now under consideration. On September 22, 1980, the House passed its version of the bankruptcy technical amendments bill (S. 658) containing just such a provision with a $100,000 cap of fees. The provision moved through the Judiciary Committee and the House floor without objection. However, there were serious differences between the House and Senate on other, unrelated aspects of S. 658, which prevented the bill from becoming enacted in the 96th Congress.

During the current 97th Congress, the Senate passed on July 17, 1981, without objection, another version of the bankruptcy technical amendments bill (S. 863), which contained a provision identical to this amendment. Because members of the House Judiciary Committee objected to other, unrelated features of S. 863, however, a separate House bill, H.R. 5116, separate measure by representatives EDWARDS of California, RODINO of New Jersey, RAILSBACK of Illinois and EVANS of Georgia. The bill was favorably reported and recommended for passage by the House Judiciary Committee and subsequently was passed by the full House of Representatives on December 16, 1981. Thus, both Houses of Congress have independently passed measures which recognize and correct the inequity created by oversight when the 1978 act was enacted.

During the 97th Congress, the House passed H.R. 5116 which placed a $200,000 cap on fees charged to pending liquidation cases and the Senate passed a similar provision in S. 863. The Senate again in this Congress approved the same provision when it passed S. 1013. None of these bills were enacted into law because of difficulties with other provisions, but both the Senate and the House were in agreement on the need to remedy the discriminatory treatment of liquidation proceedings. Each time that the Senate has approved this provision, Mr. President, it has been without objection and without controversy.

The amendment to the continuing resolution I am introducing today addresses this inequity in exactly the same way as H.R. 5116 and S. 863 by placing a $200,000 cap on fees assessed in liquidation proceedings which were pending on the effective date of the 1978 act. I believe that Congress recognizes the basic unfairness of the current situation and is willing to accept the responsibility of correcting this injustice as evidenced by our actions during the 97th Congress as well as during the current Congress.

This amendment, Mr. President, has been cleared by the chairman and ranking member of the Senate Judiciary Committee, and by the chairman and ranking member of the courts subcommittee which has jurisdiction over bankruptcy matters.

● Mr. HEFLIN. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Utah (Mr. HATCH). The text is drawn from a provision contained in S. 1013, the Bankruptcy Court and Federal Judgeship Act, which passed the Senate earlier this year. As Members are aware, this bill is stymied in the House of Representatives over an issue unrelated to this amendment—that is, the restructuring of our Nation's bankruptcy courts.

This technical amendment would remedy two drafting errors in the 1978 Bankruptcy Reform Act which need to be corrected this year. Under the old Bankruptcy Act, a percentage of the estate assets in liquidation and corporate reorganization cases had to be paid into the referee's salary and expense fund for the purpose of offsetting the operating costs of the bankruptcy system. In 1978, Congress abolished the fund, which had only generated a small percentage of the total bankruptcy operating costs, and placed a cap on payments that would be required to be made to the fund by bankruptcy trustees in cases under the old act.

The drafters of the 1978 Reform Act, however, made two drafting errors. First, they neglected to include a provision placing a limit on payments under the old act in liquidation cases. Second, the limitation on payments on chapter XI corporate reorganization cases inadvertently failed to include certain pending cases.

This amendment remedies both problems. It places a $200,000 cap on payments in liquidation cases filed under the old act. The amendment also would amend the 1978 Bankruptcy Act so as to insure that fees in excess of $100,000 will not be charged under section 40(c)(2)(b) of the Bankruptcy Act in a case in which the final determination as to the amount of the fee is made after September 30, 1979, notwithstanding an earlier confirmation date.

The 1978 Bankruptcy Act provided that all cases commenced under the former Bankruptcy Act would continue to be governed by the prior law. However, section 403(e) of the 1978 act placed a $100,000 limit on fees charged under the old law in chapter XI cases where the plan was confirmed after September 30, 1978. The cap was designed to limit the extraordinarily high fees in one or more very large asset chapter XI cases which were pending at the time and which were brought to Congress attention.

Inadvertently, Congress failed to include within the fee limitation a chapter XI case in which the plan had been confirmed prior to September 30, 1978, but the final fee had not been determined until after September 30, 1979. Thus, this amendment is intended to correct this technical oversight in the 1978 act and to insure that similarly situated cases receive the same treatment.

Under the amendment, it is intended that the $100,000 fee cap would apply to a chapter XI case, where the confirmation order was entered prior to September 30, 1978, but the court order fixing the precise amount payable to the fund is entered by the court after September 30, 1979. The amendment would cover a case brought in the U.S. Bankruptcy Court for the Southern District of New York (Lifetime Communities—formerly in re Fidelity Mortgage Investors), and any other pending cases where the plan had been confirmed prior to September 30, 1978, but the final determination as to the exact amount of the fee is made after September 30, 1979.

Mr. President, I ask unanimous consent that parts of the report accompanying H.R. 5116 from the 97th Congress be printed in its entirety to give further explanation for my colleagues on parts of this amendment.

Mr. President, I urge my colleagues to support passage of this amendment.

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

[97th Congress, 1st Session, House of Representatives, Report No. 97-415]

FEES CHARGED UNDER THE BANKRUPTCY ACT

(December 15, 1981.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed)

(Mr. Rodino, from the Committee on the Judiciary, submitted the following)

The Committee on the Judiciary, to whom was referred the bill (H.R. 5116) to amend

the Act of November 6, 1978, with respect to certain fees charged under the Bankruptcy Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. PURPOSE OF H.R. 5116

H.R. 5116 would place a $200,000 ceiling on the fees required to be paid into the now-defunct Referees' Salary and Expense Fund in Chapter VII liquidation cases brought under the former Bankruptcy Act, the Bankruptcy Act of 1898, and pending under such Act after Septemer 30, 1979.

The Referees' Salary and Expense Fund was abolished by Congress in 1978, as an anachronism. The bill is consistent with prior Congressional policy that these administrative fees in bankruptcy cases should be limited to a reasonable amount, especially in light of the fact that Congress abolished the fee for all cases commenced after September 30, 1979.

II. SUMMARY OF REPORTED BILL

H.R. 5116 would amend Section 403(e) of the 1978 Bankruptcy Act (92 Stat. 2683; Public Law 95-598) to set a limit of $200,000 on the Referees' Salary and Expense Fund fees assessed in Chapter VII liquidation cases brought under the Bankruptcy Act of 1898 and pending under such Act after September 30, 1979.

III. BACKGROUND

H.R. 5116 would place a ceiling on administrative fees paid into the now-abolished Referees' Salary and Expense Fund in certain large-asset cases pending under the former bankruptcy law, the Bankruptcy Act of 1898.

The Referees' Salary and Expense Fund was established long ago in an era when the bankruptcy courts were supposed to be self-supporting. Under the 1898 bankruptcy law, the bankruptcy court system was intended to be financed by filing fees and by additional fees assessed on the bankrupt estate and paid into the Referees' Salary and Expense Fund. The Referees' Fund was established to reimburse the bankruptcy court for expenses incurred in connection with bankruptcy proceedings and was until 1946 the source of the bankruptcy referees' compensation. Under Section 40c(2) of the old Bankruptcy Act, a fee was levied on estates in Chapter VII liquidations, Chapter XI reorganizations, and Chapter XIII wage-earner plans and was assessed in accordance with a graduated fee schedule determined by the Judical Conference.

In 1978, Congress abolished the Referees' Salary and Expense Fund and eliminated the percentage fee for all cases brought under the new Bankruptcy Code. The Fund had been running a large deficit for a number of years, and there was general agreement that the bankruptcy court system should be funded from the general revenues of the Treasury, just as the remainder of the judicial system is funded.

On several earlier occasions, the Judicial Conference had recommended to Congress that the Fund be abolished in recognition of the fact that the bankruptcy court system could not be self-supporting without placing an inordinate burden on bankrupts through increased filing fees and on creditors through increased percentage charges on the assets of the estate.

The burden of the percentage fees assessed on the bankrupt estate fell on the creditors since the fees were simply deducted from what would otherwise go to them in repayment of the amounts owed.

Thus, the Fund and the percentage fee system were eliminated as to all cases commenced after September 30, 1979.

The 1978 Bankruptcy Act provided that all cases commenced under the former Bankruptcy Act would continue to be governed by the prior law (Public Law 95-598, Section 403(a)), but Section 403(e) of the 1978 Act placed a $100,000 limit on fees charged under the old law in Chapter XI cases where the plan was confirmed after September 30, 1978 (Public Law 95-598, Section 403(e)). The cap was designed to limit the extraordinarily high fees in one or more very large-asset Chapter XI cases, which were pending at the time (but had not yet been confirmed) and which were brought to Congress' attention.

Congress was not aware of any such extraordinarily high fee cases under Chapter VII. No large-asset Chapter VII cases were brought to Congress' attention at the time of the 1978 legislation, and Chapter VII liquidation cases generally do not generate extremely large fees. Chapter XI reorganization cases are usually larger than straight bankruptcy cases and therefore generally produce much higher fees.

H.R. 5116 would amend Section 403(e) of the 1978 Bankruptcy Act to set a limit of $200,000 on the Referees' Salary and Expense Fund fees assessed in Chapter VII liquidation cases brought under the former Bankruptcy Act and pending under such Act after September 30, 1979. The bill would place a $200,000 cap on the fees owing in at least three Chapter VII liquidation cases pending under the old Bankruptcy Act—*In re W. T. Grant* (involving fees of $20 million), *In re Associated Transport, Inc.* ($1.5 million in fees), and *In re Eastern Freight Ways, Inc.* ($500,000 in fees). The reduction in the fees payable to the now-defunct Referees' Salary and Expense Fund will result in more money being available to pay creditors.

A fee ceiling in Chapter VII cases is consistent with the underlying rationale of present Section 403(e) and with Congressional action in eliminating the fee for all cases brought after September 30, 1979. The fees which are assessed in these cases and paid into the now-abolished Referees' Salary and Expense Fund should be limited to some reasonable amount in order to maximize the return of the assets of the estate to the creditors.

An identical provision placing a $200,000 cap on Chapter VII cases pending under the former Bankruptcy Act passed the Senate on July 17, 1981 as part of S. 863, the Bankruptcy Amendments Act of 1981. Legislation similar to H.R. 5116, but involving a $100,000 cap was passed by both the House and Senate in the 96th Congress as part of the so-called bankruptcy technical amendments bill, S. 658. However, other unrelated provisions of that bill differed in the House and Senate versions, and it was not enacted into law.●

Mr. HATCH. Mr. President, I move the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 2574) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BUMPERS and Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily lay aside the pending amendment of Mr. METZENBAUM and mine in order that we may have a colloquy and then take up an amendment by the Senator from Illinois (Mr. DIXON).

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

Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Appropriations Committee.

I had intended to offer an amendment on behalf of myself, and Senator SIMPSON, Senator CRANSTON, Senator DECONCINI, and Senator MITCHELL, relating to funding for an agent orange study because that funding is very necessary to have the appropriate testing on that subject.

But the funding issue is in the supplemental appropriations bill, and I have had a discussion with the distinguished Senator from Utah (Mr. GARN) who has given me appropriate assurances the matter would be handled in the supplemental appropriation, and I wish to engage in a colloquy with the distinguished Senator from Utah at this time on that subject.

Mr. GARN. I thank the distinguished Senator from Pennsylvania.

Mr. President, I do support this amendment. It is already part of the supplemental. The chairman of the Appropriations Committee has mentioned that we will go to conference on Monday, and I know of no opposition to that amendment. I certainly will be there as part of that conference to defend the amendment that will not be offered on this bill tonight, but I assure him I will do everything I can to see that it stays in the conference in the supplemental appropriations bill.

Mr. SPECTER. I thank the distinguished Senator from Utah (Mr. GARN), and I say it is unnecessary to take up additional time of the Senate at this time.

I thank the chairman of the Appropriations Committee. I yield the floor.

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

AMENDMENT NO. 2575

(Purpose: To provide for the sale of uncirculated coins)

Mr. DIXON. 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 Illinois (Mr. DIXON) proposes an amendment numbered 2575.

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

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

The amendment is as follows:

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

SEC. 621. Section 5132(a)(1) of title 31, United States Code, is amended by inserting after the second sentence thereof the following: "The Secretary shall annually sell to the public, directly and by mail, sets of uncirculated and proof coins, and shall solicit such sales through the use of the customer list of the Bureau of the Mint.".

Mr. DIXON. Mr. President, my amendment has a simple purpose: It requires the Bureau of the Mint to resume the production of mint sets. Until 1982, the Mint produced both proof sets and mint sets. These sets are extremely popular with coin collectors. In 1981, for example, the Mint sold a combined total of nearly 7 million of these sets.

However, last year the Office of Management and Budget ordered personnel cuts at the Mint as part of a Government-wide reduction in personnel. The result was that the Mint ceased producing mint sets.

Now, I am not urging the Senate to require the Mint to resume production of mint sets simply because they are popular with the public. I believe this amendment is important and necessary because mint sets are profitable to the U.S. Government and will help make a small contribution toward reducing our budget deficits.

In fact, it should be pointed out that OMB's personnel reductions at the Mint did not save the Government money; they cost the Government money. Mint set production and sale is profitable. Resuming mint set production would result in an annual profit of at least $9 million to the United States over and above any additional costs. In fact, if the seigniorage on the coins is included—that is, the difference between the face value of the coins and the cost to manufacture them—the combined annual profit would be in excess of $20 million.

Ordinarily, I would not be offering an amendment of this kind to an appropriations measure. A provision requiring the Bureau of the Mint to resume production of mint sets was included in the House-passed Mint authorization bill by my distinguished Illinois colleague, Representative FRANK ANNUNZIO. My preference would be to attempt to include the matter in the Senate version of the bill, which was reported by the Senate Banking Committee, on which I serve, in May of this year.

However, I have been informed by Senator GARN, chairman of the Senate Banking Committee, that there are no longer any plans to bring the Mint authorization bill to the Senate floor for action, since fiscal 1984 has already begun. Therefore, this resolution, which includes appropriations for the Mint, is the only vehicle available.

There are some who may argue that we should not place this requirement on the Mint, that private coin dealers are assembling mint sets themselves, and that it is appropriate to leave this matter to the private sector. I believe that argument is wrongheaded in both its logic and its facts. Coinage is a responsibility of the U.S. Government, not of the private sector, and the production of both mint and proof sets, therefore, should be at the U.S. mints.

Let me conclude, Mr. President, by reiterating the principal reason for this amendment: It does not cost the Treasury money; it makes money for the Treasury. I am not proposing adding one dollar in cost to this appropriations bill, but adoption of my amendment will result in at least $9 million in net new revenues for the Government. That may not sound like much in comparison to annual deficits of over $200 billion, but if we are ever to reduce and finally eliminate these terrible deficits, we must take every step we can. I urge the Senate to adopt the amendment.

This amendment has been agreed to by the chairman of the appropriate jurisdictional subcommittee, Senator ABDNOR, and by the chairman of the committee. It is an agreed amendment. I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2575) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Chair will advise the Senate that it will be the procedure of the Chair for the remainder of this time to recognize the Senator from Oregon who has a list of amendments that he asked that they do that in order that they may do it in any orderly procedure for presenting them.

Is there objection to that?

Mr. BYRD. Mr. President, I object to that.

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

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Hatfield-Metzenbaum amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

Mr. HATFIELD. Mr. President, I am sorry. I was taken from the floor momentarily.

I wish to ask unanimous consent, but we have a list here that we are alternating between the two sides as we indicated a little bit earlier.

Mr. BUMPERS. I am sorry.

Could the Senator give us that order so we would know when we are going to be called up?

Mr. HATFIELD. Yes.

Mr. President, at this time I ask——

Mr. BYRD. Mr. President, who has the floor.

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

Mr. BUMPERS. Mr. President, I am happy to yield to the minority leader.

Mr. President, has there been an order agreed to by the Senator that Senators will be recognized only on the basis of when they appear on the list?

The PRESIDING OFFICER. There has been no such order.

Mr. BYRD. Then I will object.

I ask that the Chair follow the Rules of the Senate in the recognition of Senators. The Chair may be challenged but I am against pursuing calling up of amendments by virtue of a list that has been drawn. I prefer to go by the rules and treat everyone alike.

Mr. BUMPERS. Mr. President, I have a request pending to temporarily set aside the Hatfield-Metzenbaum amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

Mr. HATFIELD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

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

Mr. BUMPERS. Objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. RANDOLPH. Mr. President, I suggest that further proceedings under the quorum call be dispensed with at this time, and I ask that I may proceed as in morning business.

The PRESIDING OFFICER. Is there objection to lifting the quorum call? Without objection, it is so ordered.

The Senator from West Virginia.

VETERANS DAY, NOVEMBER 11, IS A TIME FOR TRIBUTE TO THE VETERANS OF OUR ARMED FORCES

Mr. RANDOLPH. Mr. President, tomorrow throughout the United States of America, there will be programs on Veterans Day to express special tribute for the service and sacrifice of those individuals who have served in the Armed Forces of our Republic.

We know that there are approximately 30 million veterans living in the United States who have fought in our wars and on duty in peacetime.

These men and women have served in the Army, the Navy, the Air Force, the Marines, and the Coast Guard. Many of them have served well at home and gallantly overseas. They are the survivors, I emphasize, of the Spanish-American War era and through the conflicts in which we are engaged at the present hour.

Veterans Day, as we know, is observed on November 11, tomorrow, and there is a reason. It is not another Monday holiday. Veterans are observing this day, and the people of America are observing it, because it is the day that the armistice was signed ending World War I.

We are a grateful Nation, and I repeat that the courage and sacrifice of these approximately 30 million veterans are worthy of our attention, before we leave here tonight or early in the morning. I am appreciative of my colleagues who have allowed me to speak.

There are approximately 235,000 of these veterans who are West Virginians.

We say thanks to these men and women. We say thanks to their wives, to their children, to their families, who lost a father or a parent in the conflicts in which America has not been the agressor but fought to preserve, hopefully, the peace of the world and the understanding of humankind.

FURTHER CONTINUING APPROPRIATIONS, 1984

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Let me say to the floor manager that if we are going to have a system to recognize Senators, I think Senators should know where they are on the list. I do not want to be obstreperous, but I do think there ought to be a list with the time requests so that everyone would know when their amendment should be offered.

Mr. HATFIELD. There is no system. Every Senator will be on his own in terms of being here ready to offer his amendment, to seek recognition.

I had another request to try to set up a way where Senators could know a little bit ahead of time when they would have their turn at bat, so to speak.

We got into the situation where the Senator from Ohio has an amendment pending which they are working on, trying to resolve. He asked that we not set aside his amendment other than one at a time, rather than make it a blanket request for further amendments. I was trying to accommodate him.

Someone on the minority side suggested that the Chair was recognizing mostly those on the majority side. The minority manager and I tried to put together an alternating system. We did not have unanimous consent for that. Consequently, we are back now to the basic rules of the Senate as requested by the minority leader. I am only saying that we are ready to consider any amendment at any time. There will have to be a unanimous-consent agreement to set aside Mr. METZENBAUM's amendment one at a time.

Mr. BUMPERS. I asked a moment ago that his amendment be set aside so we could proceed. I did that because you were off the floor. Are we now going to stay on the Hatfield-Metzenbaum amendment?

Mr. HATFIELD. The Senator from Ohio is not ready to take up his amendment, so we would have to set aside his amendment.

Mr. BUMPERS. Can the Senator from Oregon make that request?

Mr. HATFIELD. I am happy to make that request.

I ask unanimous consent, Mr. President, that we set aside the Metzenbaum amendment for the purpose of someone offering an amendment.

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

AMENDMENT NO. 2577

Mr. BUMPERS. Mr. President, I send an amedment 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 Arkansas (Mr. BUMPERS), for himself, Mr. COCHRAN, Mr. PRYOR, Mr. DECONCINI, Mr. MELCHER, Mr. HEFLIN, Mr. BENTSEN, Mr. SASSER, and Mr. EXON proposes an amendment numbered 2577.

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

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

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . No funds appropriated under this Act shall be available to the Secretary of Agriculture to implement or enforce that portion of any regulation, ruling, policy, or administrative determination which allows the inclusion of projected production determinations from payment-in-kind or land diversion program participation, or any source other than actual production, in making a single enterprise production loss determination for the 1983 crop year under section 1970 of Title 7, U.S.C.

Mr. BUMPERS. Mr. President, this was discussed in the committee meeting the other day and it was agreed that it would be presented on the floor rather than in the committee.

In order for a farmer in this country to qualify for disaster relief, he has to prove that he lost 30 percent of his crop.

Secretary Block has now said that in order for a farmer to qualify for disaster relief, he has to not only show 30-percent loss on the crop that he grew, but he also has to include the PIK lands that he set aside. The best way to explain it is to give a hypothetical case.

Let us assume that a farmer had 200 acres of land that he normally planted corn on. Assume that he set half of his corn land aside and put it in the PIK program. Then the drought came along this past summer and he lost 50 percent of the 100 acres that he planted.

Under the Block formula, he would not qualify because he puts the extra 100 acres of PIK land in, and a 50-percent loss on 100 acres only represents a 25-percent loss on 200 acres. It is unfair, it is inequitable, it is something that the Senate and the Congress never intended. It is unfair.

This amendment simply says that none of the funds herein may be expended to carry out that kind of a formula in determining whether or not a farmer suffered a drought disaster and is entitled to disaster relief.

Mr. President, I do not want to take undue advantage of the floor manager. I assume this is agreeable to everybody, and I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. Mr. President, is there any estimate on what the cost of it would be?

Mr. BUMPERS. I can only tell you this, Mr. President, that about 95 percent of the farmers in this country participated in the PIK program. Of the 413 million acres of land that we normally have under cultivation, 86 million acres were set aside and not planted with anything.

Nobody said to those farmers:

If you set this land aside and you have a flood, a drought, or anything else, and lose part of your crop, you are going to be ineligible for disaster relief because you are setting the land aside.

Under the illustration I gave a moment ago, a farmer would have to lose 60 percent of his crop in order to be eligible for disaster relief. I am saying that that was never intended. In other words, there would not have been any point in a farmer setting his land aside, if he had known he was

going to be penalized like that. It is a penalty. It makes no sense whatever.

I cannot tell you the cost, but I know this, that the Congress appropriates money for disaster relief, and we intend for farmers, when they have a disaster in the respective States, to get relief.

What the Secretary has done here is to try to crowd out as many farmers as he can in this country and make them ineligible.

In every State across this country farmers suffered unbelievable damage this year because of drought.

To come along and change the rules in the middle of the game to try to save that money and try to deprive farmers of the relief Congress intended them to have is palpably unfair.

Mr. HELMS. Mr. President, I wonder if I may ask the distinguished sponsor of the amendment a couple of questions.

Has the Senator computed the cost of this amendment?

Mr. BUMPERS. I have not, Mr. President. The Senator from Mississippi (Mr. COCHRAN), had this in the conference. This is a Bumpers-Cochran amendment, and we have several cosponsors. Senator COCHRAN held hearings all across Tennessee and Mississippi on this matter, and I believe he does have an estimate of the cost. I do not have, I am sorry. I do believe the Senator from Mississippi is here.

Mr. HELMS. The information I have is that the computed cost of this amendment would be $133 million in direct cost due to the subsidy, the 5-percent loan. Another $11 million would be spent in administration costs and an additional $650 million in loans would be involved.

I wonder if we could wait until Senator COCHRAN can be here. Maybe he has figures to verify or contradict the information available to me.

Mr. BUMPERS. I did not understand the Senator.

Mr. HELMS. I was wondering if the Senator from Arkansas would be willing to wait until we could request Senator COCHRAN to come to the floor so we could discuss the cost. I think that ought to be part of the RECORD.

Mr. BUMPERS. I shall be happy to do that, Mr. President.

Let me make one other point. Not only has the Secretary chosen to include PIK lands in drought relief to farmers, he has chosen to include any paid diversion lands. This is a different situation from what it has been. Last year, we had paid diversion lands included, but not PIK lands. Last year, the farmers who were entitled to drought or any kind of disaster relief were never made accountable for any paid diversion land. This is the first time it has been done and my position is it is being done in opposition to the full intent of Congress to give disaster relief to farmers.

Mr. EAGLETON. Mr. President, I would like to voice my support for the pending amendment.

Many farmers in my State are in a desperate financial situation. They survived a drought in 1980, 2 years of miserable prices in 1981 and 1982 and then were hit with another drought this year. It has been estimated that losses due to this year's drought alone may reach $1.4 billion in Missouri.

The response from the Reagan administration to this situation has been tepid at best. They have reluctantly declared counties eligible for emergency loans from the Farmers Home Administration using a process that is contrary to the intent of current law and which may arbitrarily deny farmers access to this program. They have refused to release surplus commodities for use by livestock producers to maintain their breeding stock even though these commodities are costing taxpayers millions of dollars to continue to store. And they have redefined the PIK program so that it should now be viewed as the most generous drought relief effort ever carried out rather than the least expensive acreage diversion program as it was once portrayed.

The pending amendment is intended to correct an inequity in the manner in which the administration is carrying out the emergency loan program of the Farmers Home Administration. What we intend is that eligibility for emergency loans and, consequently, loan amounts be determined based upon actual planted acreage. Farmers should not be penalized because they have taken part in the PIK program.

The Farmers Home Administration, in determining a farmer's eligibility, is assuming the farmer produced a normal crop on all the acreage he set aside from production in 1983. This is just plain unfair. If a farmer set aside 50 percent of his acreage under the 1983 farm program, he received no PIK or diversion payment for 20 percent of his acreage and received a PIK payment on the remaining 30 percent of his land equal to only 80 percent of his normal production on that acreage. However, in making its eligibility determinations, Farmers Home is assuming the farmer produced a normal crop on all of his set-aside acreage. This policy is not only unfair; it is absurd.

The amendment before us will correct the inequity of the current policy. I urge my colleagues to support this amendment.

FAIRNESS NEEDED IN DISASTER RELIEF

● Mr. BENTSEN. Mr. President, I am pleased to join the Senator from Arkansas (Mr. BUMPERS) as a cosponsor of this amendment to require the U.S. Department of Agriculture to provide disaster assistance to farmers in a fair and equitable manner. I urge the Senate to adopt this amendment.

This provision will simply provide that USDA must determine disaster eligibility for individual farmers in the same manner that they use for determining disaster eligibility for counties. This would seem to be a very reasonable and fair thing to do, but USDA has not chosen to do it this way.

USDA has announced the PIK acreage would not be considered in determining whether a county was eligible for disaster assistance. Disaster assistance eligibility standards require a 30-percent loss, and USDA has determined county eligibility by excluding PIK acreage, since this acreage was not farmed. However, USDA has since announced that individual eligibility would be determined by including the PIK acreage, and the payments for not farming that acreage, as if the farmer had farmed that land.

This double standard has the practical effect of allowing USDA to make a disaster declaration, with attendant publicity, and then refuse disaster aid to the farmers from that county who apply. It is entirely possible that a county could be declared eligible for disaster assistance, but that not a single farmer in that county would be able to qualify for a disaster loan.

Fairness and equity should be a basic part of our Government. But this administration believes in a government of magic tricks and mirrors. These now-you-see-it-now-you-don't shenanigans with Federal disaster programs make a mockery of the very purpose of these programs.

These programs are supposed to help farmers who are in trouble due to natural disasters, not generate favorable press releases for the administration and its political party. Yet the Senator from Kentucky (Mr. HUDDLESTON) has recently pointed out that even the initial disaster declarations are made on the basis of partisan politics.

He pointed out that the State of Illinois, which has a Republican Governor and is the home State of Agriculture Secretary Block, got disaster designations approved in 3 days with only a telephone call. USDA procedures require written requests with supporting documentation to substantiate the amount of the loss.

By contrast, my home State of Texas has a Democratic Governor. Governor White and I have both been critical of USDA's refusal to use their existing authority to provide needed livestock feed assistance during this drought. Not only did Texas have to submit written requests instead of telephone requests, but it took 54 days, not 3 days, to get the first of these designations approved for Texas.

These partisan political games with our disaster relief programs must stop. If the USDA will not use their vast discretionary powers to administer

these programs fairly, then the Congress must exercise its oversight authority to force them to correct inequities such as the one addressed by this amendment.

I believe that one fair standard should be used for all in making Farmers Home Administration disaster loans and I urge the adoption of this amendment to require USDA to meet that simple standard of fairness.

Mr. HELMS. Mr. President, I ask unanimous consent that this amendment be laid aside temporarily so we may consult with Mr. COCHRAN.

The PRESIDENT OFFICER. Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 2578

(Purpose: To require the President to submit a balanced budget for each fiscal year to the Congress)

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

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

The PRESIDING OFFICER. Is there objection to setting aside the amendment of the Senator from Ohio? Without objection, it is so ordered.

The clerk will state the amendment of the Senator from Kentucky.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an amendment numbered 2578.

At the appropriate place in the bill, insert the following:

"SECTION —. Prior to each fiscal year, the President shall transmit to the Congress a budget for the United States Government for that fiscal year in which total outlays are no greater than total receipts, except the President may transmit to the Congress a budget for a fiscal year in which total outlays are greater than total receipts if the President includes with such budget a detailed statement specifying the reasons why total outlays for such fiscal year should exceed total receipts for such fiscal year."

Mr. FORD. Mr. President, the amendment I am offering will make it easier for Congress to consider deficit reduction legislation while giving President Reagan a chance to match his repeated public statements with concrete action to reduce Federal budget deficits.

This amendment requires the President to submit a balanced Federal budget to Congress in his annual February budget submission.

Mr. President, this Nation is in a perilous economic condition. Outwardly, the economic statistics have been improving: Inflation has moderated, the economy is growing, and unemployment figures have been falling. But these economic figures are encouraging only because this Nation is in the early stages of a large, budget-deficit-induced recovery from a deep recession.

The underlying story is alarming: Skyrocketing budget deficits, an overvalued dollar, high interest rates.

Everyone is talking about high Federal budget deficits but nothing—absolutely nothing—is being done by the President or Congress to take the tough action that is necessary to reduce budget deficits. We are facing a budgetary impasse. With the upcoming election year, Congress is unable to display the courage to take tough budget reduction action. This situation is made worse by a President who not only fails to provide the necessary leadership to reduce deficits, but who makes things worse by riding the high horse of rhetoric against congressional budget-writing efforts.

Mr. President, the administration of Ronald Reagan is responsible for the largest budget deficits in history.

The facts show that responsibility for the fiscal nightmare currently confronting this Nation rests squarely on the shoulders of the Reagan administration. Those facts show that current and projected deficits are primarily the result of the administration's grossly unbalanced budget policies.

In July 1981, prior to enactment of the Reagan economic and budget programs, the Congressional Budget Office—CBO—forecast that, based on the economic trends and budget policies in place at that time, the Federal Government would accumulate a budget surplus of $212 billion during the 4 years from fiscal year 1982 through fiscal year 1985. In February of this year, CBO forecast that, rather than building up a surplus, the Federal Government would instead accumulate a record-breaking deficit of $706 billion between fiscal year 1982 and fiscal year 1985. In other words, principally as a result of the economic and budget policies implemented during the first 2 years of the Reagan administration, a staggering $918 billion of red ink was added to the projected budget for fiscal years 1982-85, erasing the surplus originally forecast in 1981 and replacing it with a record-breaking deficit. Yet, President Reagan continues to assault Congress with charges of fiscal irresponsibility and economic treason.

We have witnessed in the last 2 weeks a commendable effort by members of the Senate Finance Committee to work on a significant deficit reduction package. This effort has included liberals and conservatives, Democrats and Republicans, in a politically courageous effort to reduce Federal budget deficits. But those efforts have been shot down by the rhetorical flourishes of President Reagan.

The President is scoring political points by ambushing Congress on defense spending, on cost of living adjustments, on tax increases. He is standing in the way of deficit reductions while continuing to blame Congress and past administrations for deficit spending.

Something needs to be done: Congress needs the leeway to be able to reduce deficits without being ambushed by the President of the United States.

This amendment does that: It requires the President to go on record and make the difficult recommendations on how to balance the Federal budget.

This amendment requires the President to provide the leadership that is necessary for real action on the budget—not just empty talk but real action to reduce the Federal budget deficits.

The amendment does not give the President increased powers. It does not necessarily mean that the budget will be balanced. But by putting the President on the record on how he would arrive at a balanced budget, it will give Congress leadership and the guidance to work toward deficit reduction. It will prevent, Mr. President, exactly what is going on right now—the undercutting by the President of the very difficult, politically courageous efforts of the Senate to put together a budget reduction package.

I offered this same amendment during Senate consideration last year on a constitutional amendment to balance the budget. My amendment was narrowly defeated at that time because it got caught up in the strategy over how best to pass a constitutional amendment to balance the budget. In my opinion, this amendment should have widespread support now. It should have the support of every Senator who is truly concerned about deficit spending. True, it does not actually reduce the deficit, but by putting the President on record in support of specific changes to achieve a balanced budget, it will make it much easier for Congress to make progress on deficit reduction efforts.

I should add also, Mr. President, that this does not straitjacket the President. If he cannot come up with a program to balance the budget, he may submit a deficit budget if he includes a detailed statement specifying the reasons why he believes the budget should not be balanced.

Mr. President, I urge my colleagues to support this amendment, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. DECONCINI. Will the Senator yield?

Mr. FORD. Mr. President, I ask unanimous consent to yield to the distinguished Senator from Arizona without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DECONCINI. Mr. President, I commend the Senator from Kentucky for offering an amendment that was offered during the time that we had the balanced budget constitutional amendment on the floor of the Senate which was not approved, although it was an excellent amendment. It was only not approved because of a lot of commitments on the existing amendment reported out of the Judiciary Committee. This amendment does nothing but require the President of the United States to stop talking balanced budget and submitting the biggest deficits that this country has ever seen. It requires that the President submit a balanced budget or a detailed explanation of why it is unbalanced, instead of blaming the Congress and past administrations. We have seen an administration for 3 years now submit the biggest deficits ever. We do not talk about deficits anymore from the White House. Those days seem to have passed us by.

It used to be, you will remember, Mr. President, the President-elect, former Governor Reagan, talked about a balanced budget. When Jimmy Carter came into office, he had a deficit of $28 billion, and he left with $60 billion the last year he was President. I took the floor and objected, and I daresay my colleagues on both sides of the aisle stood up and said, "We cannot continue with these kinds of deficits today." This was 3½ years ago.

Today we are faced with a deficit for 1983 of $196 billion. Where is the President taking his share of the blame for submitting the absolutely most radical economic program that has ever been approved and implemented and then going ahead and trying to finger the deficits toward someone else?

Mr. President, I hope that via this amendment we will have an opportunity to express a view that the President should prove to the American public that he wants a balanced budget. He has had an opportunity for 3 years now to submit a balanced budget. As we know, the budget that we approved in this body called for a $184 billion deficit. That was the President's budget. The Budget Committee reported a deficit of $23 billion less. I think it is long overdue, Mr. President, and I compliment the Senator from Kentucky on bringing forth an amendment that lays out where it is. If we are talking about deficits, let us have some leadership from the President of the United States instead of campaign rhetoric.

I thank the Senator.

Mr. GARN addressed the Chair.

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

Mr. FORD. Mr. President, I thank the distinguished Senator from Arizona for his kind remarks.

Mr. President, there is just one additional point I wanted to emphasize, and then I will yield the floor.

I think the chairman of the Finance Committee, along with, as I said, radicals and conservatives, Democrats and Republicans, is making an honest effort to come up with a budget deficit reduction package. Then we hear that any increase in taxes is going to be vetoed, any change in anything is going to be vetoed. And so, if we are going to be placed in that position when we make an honest effort, we cannot get it done. If that is the way it is going to be, let the shoe fit on the other foot and let that budget, when it is presented to us, be balanced. If it cannot be balanced, let the President tell us why not. Let Mr. Stockman write his statement and then we will know.

I have talked to my friends on the other side. There are more of them up for reelection next year than on this side, and they face people the same as I do and they talk about those deficits. When we look at $900 billion short, then I think it is time that we begin to look at what can be done. There ought to be teamwork at both ends of Pennsylvania Avenue. The President should not send a budget up here that has a $200 billion deficit and then point the figure at Congress because they cannot balance the budget.

I yield the floor, Mr. President.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, I realize the hour is late, and I will be very brief. My colleagues are entitled to their own opinions, but there is one central fact, and that is the President recommends the budget. He can plead for it, he can yell, scream, shout, threaten, and veto it. But no President of the United States, from George Washington to Ronald Reagan, has ever spent one dime that was not appropriated by the Congress of the United States because the Constitution says so.

So whatever Ronald Reagan or Jimmy Carter or anybody else sends up here, we have the power to change it if we really do not like deficits. Nobody in this country except the Congress, given the right of appropriation by the Constitution, has any right to change it. So let us quit passing the buck, whether it is this President or any other, and remember that fact from the Constitution. Stop the rhetoric, and let us vote in the House and the Senate. That is where the people ought to look. That is who has appropriated the money and no one else.

The PRESIDING OFFICER. Is there any further discussion?

Mr. DECONCINI addressed the Chair.

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

Mr. DECONCINI. I want to respond to the Senator from Utah.

It is also Congress that cuts the taxes, and this Senator voted with the Economic Recovery Act that the President proposed because I thought he was entitled to an opportunity. Only 10, I believe, or maybe 11 Senators did not join in that. After you see the disaster and the radical economic effects of this effort to balance the budget, you can see that you want to change it. The Senator from Utah wants to lay the blame on Congress, and I will take plenty of that blame along with the Senator from Utah, but the President of the United States has not brought up to us even a recommendation of a balanced budget for the 3 years that he has been in office.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I will just take a minute because I know there are a lot of other important things—and this is important—to indicate to my colleagues that we have not given up in the Senate Finance Committee on trying to figure out some approach, but there are a few roadblocks around, some down on 1600 Pennsylvania Avenue, some across in the House of Representatives. Unless we have the two giants in this town, Ronald Reagan and TIP O'NEILL, on board we can stand up all night and offer resolutions and make speeches but nothing is going to happen.

I say to my colleagues on both sides, in my view it has to be a balanced package. I do not think anybody wants to vote to balance the budget all with taxes. There are plenty of areas where we can reduce spending, and it ought to be a 50-50 proposition at least. Even though we have had a few reversals the past few days, or at least a few indications of less than enthusiastic support from the Speaker, from the President, and from others, we still have an obligation to try to put it together, and I hope that by next week we will do something.

Mr. FORD. Mr. President, I complimented the distinguished chairman of the Finance Committee in his effort to put together a package that would reduce the deficit. But I think his work and that of our colleagues is for naught, when the President says that he is going to veto any package that comes to his desk, any legislation that comes to his desk that has any increase in taxes.

The distinguished Senator from Kansas knows that he has to put together a package that contains some sort of increase in taxes or to reduce

or to close loopholes. That is what the chairman has to do.

If we get a package up here that the President of the United States—and there are 55 of his party on that side of the aisle, and most of the time they go along with him in lockstep. It appears to me that if the President sends a budget up here that is balanced or gives a reason why, it makes it a lot easier for you to do your job. Knowing that you are going to have a veto, you do not have the enthusiasm to try to put together something that will work.

So, Mr. President, I hope we can go ahead and take this to a vote and that my colleagues will support this amendment. If not, at least it will give them an opportunity.

SEVERAL SENATORS. Vote! Vote!

Mr. FORD. Mr. President, I have the floor, and I have not given it up.

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

AMENDMENT NO. 2579

(Purpose: To require the President to submit a balanced budget for each fiscal year to the Congress)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an amendment numbered 2579.

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

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The amendment will be stated.

The assistant legislative clerk read as follows:

Strike all after the word "Section —." and add the following:

Prior to the next three fiscal years, the President shall transmit to the Congress a budget for the United States Government for that fiscal year in which total outlays are no greater than total receipts, except the President may transmit to the Congress a budget for a fiscal year in which total outlays are greater than total receipts if the President includes with such budget a detailed statement specifying the reasons why total outlays for such fiscal year should exceed total receipts for such fiscal year."

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

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

The yeas and nays were ordered.

Mr. FORD. Mr. President, this amendment merely changes the amendment in the first degree from forever to the next 3 years. I think that will give us an opportunity to see if it works.

Then, at the end of the 3-year period, if it works, if we get on that track, I think we will have teamwork. At least, we will have two of the three big hitters. I hope my colleagues will help in this.

I am willing to ask to vitiate the order for the yeas and nays on the amendment in the second degree, if that will be acceptable and helpful, and we could go ahead and have a vote on the original amendment as amended.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Is there further debate?

SEVERAL SENATORS. Vote! Vote!

Mr. HELMS. Mr. President, I suggest that the Senator ask to vitiate the order for the yeas and nays and let the Senate vote on it by voice vote.

Mr. RANDOLPH. Mr. President, I cannot hear.

The PRESIDING OFFICER. The Chair asks the Senator from North Carolina to use his microphone.

The Senator from North Carolina is recognized.

Mr. HELMS. I suggest that the Senator ask to vitiate the order for the yeas and nays and let the matter be considered on a voice vote. I believe he offered to do that.

Mr. FORD. On the second-degree amendment.

Mr. HELMS. Yes.

Mr. FORD. May I check with the Parliamentarian?

Mr. HELMS. The Senator may want to check with the Parliamentarian.

Mr. FORD. The Senator from North Carolina has been here a little longer than I have.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I want to be fair to the Senator from Kentucky, because while he was still Governor of Kentucky, I was on the second floor pleading for a balanced budget, and I think my record will show that I have a voting record to support my position in that regard.

I know that the Senator from Kentucky is a little concerned about the second-degree amendment I will offer, and I do not believe I ought to engage in any concealment. I want him to know what my second-degree amendment will be. It reads as follows:

At the end of the amendment—

That is to say, the amendment offered by the distinguished Senator from Kentucky.

At the end of the amendment, add the following:

All Senators voting for this amendment affirm that they will support the necessary reductions in entitlement programs and other governmental programs sufficient to achieve the ends sought by this amendment.

If that is not a fair proposition, I cannot imagine one; and at the proper time, I will get the floor and I will offer this amendment.

If we are going to play games about who did what to whom over the past 35 years, we could embark on a great deal of discussion. But I think the facts are very clear about who the big spenders are and have been in the Senate.

Here it is, 10:29 at night, and we have an amendment with which I do not disagree. But I think we should have a little more to it and put Senators on record tonight as to what they are willing to do—not just complain about what the President has done or has not done, or what Congress has done or is doing, but put ourselves on record as to what we are willing to do. That would be the most refreshing development in the Congress of the United States in a long time.

The Senate of the United States should go on record and show that we have the guts to do the cutting in Federal spending that is necessary to achieve the purpose which the Senator from Kentucky says he wishes to achieve by his amendment.

So, at the proper time, I will offer the amendment, and I want to give the Senator fair warning as to what I am going to do.

The PRESIDING OFFICER. Is there further debate?

Mr. FORD. Mr. President, I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I was listening on the squawkbox to the debate and then came to the floor and heard the comments of the Senator from North Carolina.

I know, Mr. President, when we are facing a serious national problem as I think most of us recognize we are with these large deficits, there is a strong tendency to want to find someone else to blame, and it is easy to blame the President, it is easy to blame Members of Congress, but I would suggest that there are 536 people in America who are responsible for the situation—the President and every Member of Congress.

And I think if we are going to solve the problem, it is going to take a degree of cooperation which other than in the Finance Committee I have seen very little of, and it is going to require bipartisanship. It is going to require an increase in revenues. It is going to require some control of the growth of the size of the entitlement programs. All of these are very, very difficult questions.

I think if we are going to face them and do so in a responsible way, it means that the note of partisanship and the note of one-upmanship which

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can be very easily expressed in what amounts to kind of a sense-of-the-Senate proposition, which this is on an appropriation bill, it is going to require something more than that. It is going to require a real degree of cooperation.

So, Mr. President, I think that it is inappropriate at this time, 10:30 in the evening, for us to get involved in what is in essence a finger-pointing contest on the size of the deficit.

I inquire of the Chair whether the underlaying amendment and the amendments to the amendment do not constitute legislation on an appropriations bill.

The PRESIDING OFFICER. Is the Senator making a point of order?

Mr. DANFORTH. The Senator does make the point of order that the underlying amendment, together with Senator HELMS' proposed amendment, would be legislation on an appropriations bill.

The PRESIDING OFFICER. The underlying amendment affects the duties of the President and, therefore, constitutes legislation. The point of order is sustained.

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

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

The question is, Does the decision of the Chair stand as the judgment of the Senate. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 42, nays 40, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—42

Abdnor	Gorton	Percy
Andrews	Grassley	Pressler
Armstrong	Hatch	Quayle
Baker	Hatfield	Roth
Boschwitz	Hawkins	Rudman
Chafee	Hecht	Specter
Cochran	Heinz	Stafford
Cohen	Humphrey	Stennis
D'Amato	Jepsen	Stevens
Danforth	Kassebaum	Thurmond
Denton	Kasten	Trible
Dole	Lugar	Warner
East	Mattingly	Weicker
Garn	Packwood	Wilson

NAYS—40

Baucus	Ford	Mitchell
Bentsen	Heflin	Nickles
Biden	Helms	Nunn
Bingaman	Huddleston	Pell
Boren	Johnston	Proxmire
Bradley	Kennedy	Randolph
Bumpers	Lautenberg	Riegle
Burdick	Leahy	Sarbanes
Byrd	Levin	Sasser
Chiles	Long	Symms
DeConcini	Mathias	Tsongas
Dixon	Matsunaga	Zorinsky
Eagleton	Melcher	
Exon	Metzenbaum	

NOT VOTING—18

Cranston	Goldwater	Moynihan
Dodd	Hart	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	Tower
Glenn	McClure	Wallop

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HATFIELD. Mr. President, may I make an inquiry?

The PRESIDING OFFICER. The amendment of the Senator from Ohio is the pending business.

Mr. HATFIELD. Mr. President, may I make an inquiry of the Chair? What is the status of the Bumpers amendment?

The PRESIDING OFFICER. Unanimous consent was granted that that amendment be set aside in order that an amendment could be presented by the Senator from Mississippi.

Mr. HATFIELD. I wonder if the Senator from Pennsylvania would withhold for a moment.

Mr. President, I believe the Senator from Arkansas has worked out his amendment. I would like to see if we can dispose of that at this point and not let amendments pile up, as we seem to be beginning to do. Is that correct?

Mr. BUMPERS. The Senator is correct.

The Senator from Mississippi wanted to speak on this.

AMENDMENT NO. 2577

Mr. HATFIELD. Mr. President, I ask unanimous consent that we temporarily lay aside the Metzenbaum amendment in order to clear the way for the resolution of the Bumpers amendment that would then be pending.

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

The Senator from Arkansas.

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

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2577) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I renew my request to temporarily lay aside the Metzenbaum amendment so that another amendment may be considered.

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

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2580

(Purpose: To provide funding for the Joint Study Panel on the Social Security Administration)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and Mr. DOLE, proposes an amendment numbered 2580.

Mr. HEINZ. 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 resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there are hereby appropriated $165,000 for the Joint Study Panel on the Social Security Administration for purposes of carrying out the study required by section 338 of the Social Security Amendments of 1983, to remain available until September 30, 1984.

Mr. HEINZ. Mr. President, I offer this amendment on behalf of myself and Senator DOLE. This amendment will appropriate funds in the amount of $165,000 to institute the work of the Joint Study Panel on Social Security Administration, which panel has been commissioned by the Congress to study the necessity of and the nature of an independent agency for social security.

I might point out to my colleague, Senator HATFIELD, that the original House social security bill, H.R. 1900, contains appropriations out of the

trust fund, but at the request of the chairman of the Appropriations Committee it has been changed and would require an appropriation from the general fund of the Treasury.

Mr. HATFIELD. That is correct. I would say to the Senator, this is one of those very necessary amendments that we will accept.

Mr. HEINZ. I thank my colleague.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2580) was agreed to.

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

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, could I inquire, is the Metzenbaum amendment the pending business?

The PRESIDING OFFICER. That is correct.

Mr. MATHIAS. Mr. President, would the chairman be willing to lay it aside temporarily so that I may offer an amendment?

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Metzenbaum amendment be temporarily laid aside so that another amendment can be considered.

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

AMENDMENT NO. 2581

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS), for himself, Mr. LEAHY, Mr. PELL, Mr. SARBANES, Mr. PROXMIRE, Mr. SASSER, Mr. ANDREWS, and Mr. HATFIELD, proposes an amendment numbered 2581:

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

"Notwithstanding any other provision of this joint resolution, not more than $421,000,000 shall be made available by this joint resolution to carry out the provisions of section 503 of the Foreign Assistance Act."

Mr. MATHIAS. Mr. President, this amendment in its simplest form, reduces the military assistance program from the amount specified in the bill, $697 million, to $421 million.

The amount in the bill represents an 81-percent increase over the current year. It is more than the Foreign Relations Committee had recommended as an authorized figure.

The figure that I have recommended in this amendment is an increase over the current amount for military assistance. It is a 10-percent increase over the current level of expenditures.

I believe that is a reasonable amount of growth. If you figure 3 percent for inflation, that allows for 7 percent of real growth in the military assistance program.

Very simply, that is my case. I believe that the figure that we propose in this amendment, an amendment in which I am joined by a number of other Senators, will be adequate to carry out the objectives of the military assistance program.

Mr. SARBANES. Will the Senator yield?

Mr. MATHIAS. Yes.

Mr. SARBANES. Is it not correct that this amendment runs to grants, not to loans? In other words, this deals only with grant military assistance.

Mr. MATHIAS. That is correct, Mr. President.

Mr. SARBANES. Mr. President, I support the amendment. I think it permits a reasonable growth. There is larger growth than this on the loan side of the military budget. The figure in the amendment is significantly above the figure which the Foreign Relations Committee reported for this area. I think it represents a reasonable approach to the situation.

Mr. LEAHY. Mr. President, would the Senator yield?

Mr. MATHIAS. I am happy to yield.

Mr. LEAHY. Mr. President, I am pleased to join as a cosponsor to this amendment, along with Senators HATFIELD, PELL, ANDREWS, SARBANES, SASSER, and PROXMIRE. I think it is a good amendment. It is a bipartisan attempt to practice the budget restraint that we are all preaching. It gives us a chance to actually use some budget restraint here on the floor, not just in the Rotary Club speeches back home.

This amendment would provide for a 10-percent increase over the 1983 levels for the grant military assistant program. In fact, even with our amendment—they are asking for an 80-percent increase in the bill. We are cutting that back to a 10-percent increase. Even that 10-percent increase is a larger increase than we just voted for our own, for the U.S. defense budget.

Some may even wonder how a 10-percent increase could be a cost-cutting proposal. I think that is a good question. It is a lot better than the level of the spending in the bill before. Ten percent is a lot better than the 81 percent we had before.

We may hear how this country or that country needs a doubling or a tripling of their aid. I am not sure how I could explain my voting for doubling or tripling of their aid to my farmers back in counties in Vermont, for example, and explain why we are cutting a number of domestic programs that involve them.

I am sure all of these countries would like more funds, but we are not cutting them off. We are giving them 10 percent more than they had before. That should be enough.

As I listened to last week's debate on the debt ceiling bill, I could understand some Senators' concern about runaway spending. This addresses it.

We all have our favorite programs. Some of us appear even to have our favorite countries. Both those favorite programs and those favorite countries are going to have to show a little restraint.

One of my favorite programs happens to be, in this country—the United States—the dairy program. I think our Vermont dairy farmers are hardworking citizens who deserve our support. But I also know we cannot live with a $200 billion deficit, so we have to cut. We did even there in the dairy program. We cut that one by 51 percent. We are talking here about foreign aid increasing by 10 percent.

I would say that to my good friend from West Virginia and my other friends that I could support a 10-percent increase in this bill but not an 81-percent increase.

This is just one program in the total foreign aid budget. There are a lot of other programs that have already gone up. Foreign military sales loan guarantees have already gone up 75 percent in the last 3 years. The distinguished Senator from Maryland (Mr. SARBANES) alluded to that a few minutes ago.

While we have held the development assistance levels of spending level, the total military aid budget authority has gone up by 179 percent over the past 3 years.

We have a sensible and reasonable amendment here. I think that budget discipline should apply to all Federal programs. Budget discipline ought to apply to foreign aid, too. If we are going to apply it to our domestic programs, let us apply it to foreign aid as well. So let us take a close look at it. I know it is late.

I say to my good friend, the senior Senator from Maryland, I imposed further on his time than I intended to. I apologize for that. I think it is a good amendment and it should be supported.

Mr. MATHIAS. Mr. President, I think the point of the Senator from Vermont is a valid one. I remind my colleagues that we have, since 1980, increased the military assistance program by 100 percent. So we have, in the past 3 years, made very substantial increases in this program. We are, by this amendment, permitting a further 10-percent increase.

Mr. JOHNSTON. Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, Senator INOUYE, who is the ranking minority member of this Foreign Operations Subcommittee, is not here tonight. But the Kasten number, which is $679 million, was worked out very carefully between Senator INOUYE and Senator KASTEN. According to Senator INOUYE and according to the views of our Foreign Operations Subcommittee, this amount is absolutely essential. Let me explain very briefly to my colleagues why this is so.

We have a number of $679 million in the Kasten-Inouye number. Of this, Turkey has been earmarked for $230 million. That is earmarked already in the bill that has gone through tonight.

That would leave, if the Leahy number, which is $421 million, were adopted and we subtract from it the Turkey number of $230 million already earmarked, that would only leave $189 million for the rest of the world.

To be covered in the rest of the world are areas where we have a whole proliferation of base rights. For example, the Portuguese Azores is an absolutely essential American commitment. We have $60 million. It would endanger that.

Morocco, where we have access to base rights. That is a very key part of the world.

Tunisia, on the border with Libya, with Colonel Qadhafi, we have $50 million.

The Sudan, which is also on the border with Qadhafi, where you have an impoverished country subject to coups frequently, $60 million.

Honduras, where we have all the American troops, we have $40 million.

That is not the whole list, Mr. President, but if you just add up those I have just mentioned—I did not add it up, but I can tell you it is more than $189 million.

Senator INOUYE is not known as a spendthrift in this area. I think we all have confidence in him. I hope we have confidence in the Foreign Operations Subcommittee. I think he and Senator KASTEN have done an excellent job. I urge my colleagues on behalf of Senator INOUYE, on behalf of myself, on behalf of our subcommittee, to reject this amendment.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. JOHNSTON. Yes, I yield.

Mr. STENNIS. Would the Senator explain in some more detail, if he will, just what this money goes for, what is done with it? I do not believe that is known outside of the committee.

Mr. JOHNSTON. This is cash grants for military equipment, for military goods.

Mr. STENNIS. Spent right there, where we inhabit and use it—they give us certain rights.

Mr. JOHNSTON. Yes, for training and that whole range of military uses.

Mr. LEAHY. Mr. President, will the Senator yield on that?

Mr. JOHNSTON. Yes, I yield.

Mr. LEAHY. Do we not have a separate program for training, which is not touched at all by this amendment, I ask the Senator from Louisiana?

Mr. JOHNSTON. There is a separate program for training; the Senator is correct.

Mr. LEAHY. I advise the Senator from Louisiana that this amendment, the Mathias-Leahy-et al. amendment, does not go to that training.

If I could just finish that point, Mr. President, I advise the Senator from Louisiana that this is not a cut; it is a 10-percent increase, the same numbers, incidentally, that Representative KEMP had recommended in the House of Representatives.

Mr. JOHNSTON. The Senator would agree with me, would he not, Mr. President, that it would surely be a cut—if you took the highest 429 number, took off the 230 already earmarked for Turkey, it would indeed be a cut and a drastic one from the numbers I just read off. In other words, you could not have $60 million for Portuguese Azores, $30 million for Morocco, $50 million for Tunisia, $60 million for the Sudan, $40 million for Honduras, and so on.

Mr. LEAHY. I also say to my friend from Louisiana that we could also not have $20 billion for these countries if we wanted. You could take any pie-in-the-sky number you wanted and say, with these numbers, you could not have $50 billion for Tunisia, you could not have $60 billion for Azores, you could not have $40 billion for Honduras, $20 billion for El Salvador.

Look at Zaire, for example. You ask where these funds go. The Chief of State of Zaire recently spent $2.5 million to go on a trip to Disney World. Is that where our money is going to go?

Is that what our money is going to do? Is that what we are spending money on?

Mr. JOHNSTON. That is a better place to spend it than a lot of others I can think of.

Mr. LEAHY. I would like to have him spend his money. Where do we send him next? Do we give him $5 million because he might want to go to Disneyland on the west coast?

I have always supported money for Turkey, but I wonder if we should go an enormous increase when they would not even allow our planes landing rights during the crisis in Beirut when we had hundreds of Americans dying.

Mr. JOHNSTON. It was not Turkey's fault. By the way, we have already earmarked the money for Turkey.

Mr. LEAHY. But if these are our great friends we are giving this money to, I say to my good friend from Louisiana, I wonder just how much extra flying we did trying to get our wounded out of there as a result of it.

We are not cutting. We are adding 10 percent on this. We are adding more in this foreign giveaway than we are giving in our own defense budget for our U.S. forces.

Mr. JOHNSTON. I say to the Senator that Senator INOUYE and Senator KASTEN very carefully worked this out, and if you cut as deeply as this amendment would, I think it very, very seriously hurts our whole program.

Zaire, by the way, is the largest country in Africa. It is on the border of Angola. It has tremendously important strategic materials. All of those MAP funds are spent in the United States.

Mr. LEAHY. At Disney World.

Mr. JOHNSTON. Well, a small part on Disney World.

Mr. LEAHY. Only $2.5 million at Disney World, I will grant.

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

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I know we are talking about Disney World and making jokes, but I want the Members of the Senate to understand, even at this late hour, that this is probably the most dangerous amendment that we have seen put forth tonight. We are talking about programs which have been established by our Government over a period of more than one administration with the people who are our best friends in the world. We are talking about Turkey, we are talking about Greece, although they are not directly affected. Without doubt, because of the 7 to 10 ratio that we have achieved between Turkey and Greece, the result of this amendment would make it necessary to reduce funds to Greece as well because we maintain that rough 7 to 10 ratio. We are talking about Portugal. We are talking about Morocco. We are talking about Somalia. We are talking about Sudan. We are talking about our friends in the world.

This is the guts of our overall foreign assistance program, which allows us to allow other countries to work with us. The first and major example is Turkey, which while earmarked in the bill, obviously that earmark would have to be waived. It would leave, as the Senator from Louisiana pointed out, $100 million left for all of the rest of the world if this amendment were to pass.

As I said before, it would then directly affect upon Greece, because of the relationship between the Greeks and Turks with the 7 to 10 ratio.

Mr. LEAHY. Will the Senator yield for a question?

Mr. SARBANES. Will the Senator yield for a question?

Mr. KASTEN. Let me finish my remarks, and I will yield for a question on that point.

MR. LEAHY. I wonder if the Senator would yield on just Turkey alone.

Mr. KASTEN. This amendment would cause us not to be able to meet up to our commitments in Portugal. It is not the fault of the Congress that those base agreements have been upped. In fact, they have been increased. We have to keep with the integrity of the agreements that we have made with Portugal. They are a friend,

We have just recently signed those base rights agreements, and I think everyone knows that the Portuguese Azores play a key role, an important role in nearly every single military contingency plan that we have. In other words, that particular change for Portugal would jeopardize North Africa and the Middle East. We cannot jeopardize that access.

The program for Morocco, once more a friend—we are trying to develop an effort there—would have to be reduced without doubt, a country that not only has been very helpful to the United States in African matters, once more the beginning of our base in Africa, but also in the Mediterranean and the Middle East. We recently signed a new access and transit agreement with Morocco and that country requesting the MAP program is part of this agreement and would be violated if this amendment were to succeed.

Somalia is one of the poorest countries in the world located in a strategic location, the entrance to the Red Sea adjacent to the Arabian Peninsula. Soviet and Libyan-backed Ethiopia has occupied Somalia territory, a sizable military superiority. Somalia, by providing us with use of a port and airfield facilities directly, supports the United States and the free world in our security assistance in that area but more importantly southeastern Asia.

The Sudan, everyone is aware of what is happening there, defense is critically important to Egypt and continues to face a direct threat from Libya. Sudan permitted the United States developments in response to Libya's invasion of Chad. It strongly supports the Camp David Agreements. It strongly worked for moderation in Africa. Sudan is also an impoverished country which needs this kind of help and assistance.

Kenya would be affected by this amendment, a country which continues to provide access to our Navy in that part of the world. It is another country which provides moderate leadership in Africa, the kind of leadership that we are trying to develop.

Now, these are not Third World countries that have no concern. These are our allies. They are where our Navy, our bases, our agreements are.

I point out to the Senator from Maryland and the Senator from Vermont the administration request is more, not less, than what we brought forward. Senator INOUYE and I pared $50 million off the administration request. There is a possibility because of an amendment of the Senator from Nebraska that another $20 million may be cut. We need this money to live up to the agreements that this administration and the previous administration have been working for. It would be a terrible mistake if we were to adopt this amendment which would cut basically the teeth out of the program that we have, which is trying to assist people help defend themselves in the free world.

I would be pleased now to yield to the Senator from Maryland for a question.

Mr. SARBANES. Mr. President, I simply want to make the observation that what is at issue is whether we should make grants, not loans. What is happening is with these requests, there is a marked shift toward an increase in grants and away from the use of loans. What the Members have to ask themselves is whether, in the range of priorities that we have been experiencing, that makes sense. Most of the commitments that are being talked about can be met on a military loan basis rather than a grant basis. What this amendment is seeking to do is to get the grant part of the military aid program back into a reasonable perspective. It will not alter the ratios that were talked about because those can be met through the use of loans or a combination of loans and grants. So what is at issue is simply whether you want to markedly increase grants instead of, as we have been doing in the past, relying on loans.

Now, I know the argument will be made with respect to some of these countries that they face difficult economic circumstances. That is quite true. But a lot of people at home face difficult economic circumstances.

Mr. KASTEN. Let me respond to the Senator's question. He is correct, but as he pointed out in his concluding sentence or two, what kind of a favor are we doing by loading up Turkey, Morocco, Sudan, Somalia with even more loans? They cannot turn over and pay the loans that they have right now. So the question is: Can we reach the level of aid that they need to defend their interests and defend our interests and the free world's interests with more loans and do we have to match it off with grants? The answer is we have cut the administration requests, and that is the direction that we are going in, but we cannot cut a third out of this program.

I yield to the Senator from Vermont for a question.

Mr. LEAHY. Will the Senator yield for a question?

How much total aid have we given Sudan in the past 5 years?

Mr. KASTEN. I cannot answer that question.

Mr. LEAHY. Has it not been one of the largest amounts of aid given any country in the world?

Mr. KASTEN. I think it has been a significant amount, but it certainly has not been one of the largest amounts given to any country in the world. I do not think that is relative. I think we have to look instead at what is going on in Sudan right now.

Mr. LEAHY. Would the Senator say it is in the top five for foreign aid?

Mr. KASTEN. What is the Senator's question?

Mr. LEAHY. I am asking. I do not know.

Mr. KASTEN. I do not know the answer to the Senator's question, but I do not think the answer to his question is significant in terms of the amendment.

Mr. LEAHY. I think it is significant for this reason: In fiscal year 1982, in this program, the budget was $178 million. It jumped considerably in 1983, between the continuing resolution and the supplemental, and in today's bill it is $697 million. In 2 years it has gone from $178 million to $697 million.

Nobody is asking that these people be cut out. But when we are holding everywhere else to a 10-percent increase, it seems to me more than fair.

Yemen—how is their money going to be spent?

Mr. KASTEN. Let me respond to the Senator's question briefly, because I know others want to speak.

Let us take the example of the Sudan. Four or five years ago, we did not see an armed Libya. Four or five years ago, we did not see the threat to Egypt. Four or five years ago, we did not see the threat to the Sudan.

In response to the threat, in response to the Qadhafi's of this world, in response to the problems, we have two choices. Do we act ourselves or do we act with security assistance money so they can help themselves? We should act.

In the Sudan, we saw French fighters. The fact is that there is a problem there. It was not there 4 or 5 years ago. They need the additional money.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

Mr. KASTEN. I yield.

Mr. MATHIAS. The Senator has stated his case in a very able way, but he has neglected several items here, one of which is the item for Costa Rica. What are we thrusting that military aid program on Costa Rica for, when it is well known that they do not have an army? They take some pride in not having an army.

Mr. WILSON. Mr. President——

Mr. BOSCHWITZ. Mr. President——

Mr. MATHIAS. I wonder if the distinguished chairman of the subcommittee can respond.

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

Mr. WILSON. I will be happy to respond.

To my good friend from Maryland I say that if he would visit Costa Rica and speak to members of the government and speak to members of the opposition and speak to those in the private sector, they will give him assurance that they are terrified by the fact that there is a fifth column operating in Costa Rica.

It is quite true that they have no Army, they have no Navy, and they have no Air Force. They do have need of internal security against foreign subversion. Foreign subversion is coming from the Sandinista regime. They are threatened, and that is the need.

Mr. MATHIAS. I thank the Senator. As he suggests, I have spoken to officials of Costa Rica. I spoke recently with the President of Costa Rica, and I am aware of the internal problems they have. I think we should do something to assist them, but I question whether the military assistance program is the avenue to assist them.

This is a program to help countries that have Armed Forces and need some technical assistance. It is upgrading their Armed Forces. With a country that has no Army, it seems to me there is some question as to whether it is an appropriate recipient.

Let us look at the figures: Between 1970 and 1980, the total value of arms imported by developing countries grew 500 percent, from $3.9 billion to $19.5 billion.

During the same period, the populations of these countries grew by 25 percent.

So if you really want to ask what is causing the insecurity in the world, look at that statistic: 25 percent growth in population at a time when arms importation is growing by 500 percent.

What is our response to that? Let us look it in the face.

The Senator from Wisconsin has suggested that we would be dismantling a program that has developed over three administrations. Oh, come on! Let us look at the record. Dismantling a program: Since 1980, we have increased the military arms program by 100 percent. That is hardly my definition of dismantling a program.

Whatever is done on aid to developing nations, whatever is done in the area of humanitarian aid which addresses the problem of enormous growth, that population is a strain on resources, which is causing the real insecurity and the real instability.

At a time when we have increased the military assistance program by 100 percent, we have increased humanitarian development aid by 10 percent.

If you want to look at the root of instability and insecurity, there it is.

It seems to me that we can address this problem by some restraint in the military program.

We are going along with the administration, with the need for an increase.

I agree with the Senator from Wisconsin that our friends in Portugal deserve assistance, and I think we should give it, and the room is here to give it. But there are some items here that can be trimmed or eliminated, and I have great confidence that the Senator from Wisconsin, as a conferee, will be able to do justice and equity.

Mr. KASTEN. Mr. President, I believe I have the floor.

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

Mr. KASTEN. I yielded to the Senator from Maryland for a question, and I now am in a position to answer the question specifically.

The funds for Costa Rica are going to be used this year to continue furnishing border patrol groups with uniforms, border patrol groups with certain technical communication and personal field equipment, to buy a small number of tactical vehicles, and to purchase up to three fixed-wing observation aircraft. That is where the money is going.

As the Senator from California pointed out, I think that is important, and I think that is worthwhile.

Mr. MATHIAS. It may be important, but is it proper to be included in a military assistance program?

Mr. KASTEN. I hope it is.

Mr. BOSCHWITZ. Mr. President, looking at the list of nations we are seeking to help in this appropriation bill, and that the Senator from Maryland would cut so decisively, makes me think of where this Nation's real military aid is going. It is not in this budget. It is not in the foreign aid budget. Rather, it is in the Defense budget.

The distinguished Senator from Maryland may recall that Under Secretary of State Eagleburger came before our Committee on Foreign Relations and talked about the amount of aid we give—not to Costa Rica or Botswana or Kenya or Liberia. That is peanuts. The real money is going to Europe, in conformance with our NATO obligations, where Under Secretary Eagleburger pointed out we are not spending $2 million or $4 million but $4.6 billion.

If the Senator wants to save some money—and I say this to my good friend from Vermont—if he wants to talk to the Rotary about saving money, why do we not cut some of the aid we give to countries that can really afford to pay for it—Germany, Italy, England, France?

Germany spends 3.1 percent of its gross national product on defense. We spend 6.7 or 6.8 percent.

Then, we can go to the other end of the world, where we are also spending a great deal of money, and that is Japan. No wonder they are such active traders. It is no wonder they are able to come into our economy with such force. They spend less than 1 percent of their gross national product on defense. There is no reason why they should spend more.

We are over there with 80,000 troops, and many more in Korea and the Philippines. We are spending real money. If we spent 1 percent of our gross national product on defense, as Japan does, we would have a balanced budget. We are subsidizing their economy with our defense expenditures.

But the Senator from Vermont and the Senator from Maryland want to take a couple million dollars away from Costa Rica. Why do we not take the $22 billion the Senator is talking about and take it from Japan?

Or we should ask them to help pay for some of the defensive forces that we maintain in their area. They spend so very little on defense.

I submit that these figures, the money proposed in this bill, should go forward for countries of the world that either are able to repay us, as the Senator from Wisconsin has said, or are countries of the world where small amounts of money make a meaningful difference in their relationship with us and their ability to maintain their free institutions, and maintain their reliance and alliances with us.

If we really want to save some money, get the Germans to pay out of their economy.

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

Mr. BOSCHWITZ. No, I will not yield.

Let them pay from their economy for the defenses that we help provide them. There we are spending real money, $40 billion or more in Europe.

Let the Japanese pay. They are invading our marketplace, and subsidizing their economy through our defense expenditures that are billions of dollars compared with the $230 million in the case of Turkey, which borders the Soviet Union and faces substantial potential jeopardy. It has a small economy by comparison with the economies of which I speak.

So I share Senator MATHIAS' desire and the desire of the Senator from Vermont not only to save money but to perhaps reduce arms traffic around the world. No one has a stronger feeling about that than I.

But if we want to get at the real root of foreign aid or at the real expenditures of foreign aid, do not look in the Subcommittee on Foreign Operations of the Appropriations Committee.

Look instead in the Department of Defense authorization and appropriations bills. That is where the money is spent.

There really is no good purpose in reducing these small amounts to these countries that really need the money. We should get at some real money and get at people who can afford to pay it.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. I thank the Chair.

Mr. President, there is a certain irony at play in this Chamber and it is surely the 11th hour and figuratively the 11th hour.

The Senator from Louisiana and the Senator from Wisconsin, I think, have quite eloquently indicated that what is before us is a well-intended but misguided effort to undo the very careful craftsmanship of Senator INOUYE and Senator KASTEN. The cuts proposed by this amendment are too broad and too deep.

Mr. President, the irony of which I speak is this: My good friend from Vermont suggested that some have favored countries. I assume that I am not alone in this Chamber in saying that my favorite country is the United States. Because of that, the irony that occurs to me is that many who appear to favor this have I suspect been among those who in recent days have said that the United States cannot be policemen to the world. That is quite true.

But the interesting thing is that this program which is under attack is one that allows those who wish to defend themselves when their freedom is threatened without U.S. forces and in virtually every instance what we are talking about is providing to a nation whose freedom is threatened the opportunity to exercise a restraint upon those who would threaten it.

Nowhere, Mr. President, is that of more immediate impact to the United States perhaps than in our own hemisphere where our lifelines, our shipping lines are threatened and where in recent weeks even the most casual reader of newspapers could not help but find abundant evidence to certify that there is a regime in Nicaragua which is seeking by subversion and occasionally by overt violence to undermine the governments of its neighboring states. These neighboring states are quite disposed, quite highly motivated to defend themselves to resist the efforts to bring down their governments.

But, Mr. President, for them to succeed in this effort when they are not asking for American troops but simply for American military assistance, it is necessary that they receive it.

Four or five years ago no one perceived this threat. Indeed, they thought with high hopes that the Sandinista revolution would be true to its stated ideals.

Not only has that proved a false hope, but in fact that regime is seeking to export its revolution by violence beyond its borders.

If we were to approve the amendment proposed by the Senator from Maryland, we would be sending exactly the wrong signal not only to those who are eager to defend themselves but to those who are eager to export that violent revolution from Nicaragua to Honduras, to El Salvador, to Guatemala, and to Costa Rica.

Mr. President, it would be the most tragic mistake that we could make if in fact we wish to allow those with the motive to defend their own freedom the means to do so, and this 40 percent proposed cut would be a tragic error.

So, Mr. President, I urge those Senators who share a concern for the freedom and for the safety of those in Central America, as I am sure all do, to not prevent those who are neighbors to the Sandinista regime to lose heart, to in fact confirm a suspicion which many of us who have visited that area have found, a suspicion that the United States is not a reliable ally, that we are not even a reliable supplier of military assistance.

We are not policemen to the world but whether we like it or not we are cast in the position of being the leader of the free world and of certainly being the major supplier to those who would defend their freedom who lack the economic means to do so.

To my friend from Maryland I would say I take his point about the need for economic progress in those nations. But I will say this, Mr. President, there will be no safety for economic progress, no safety for humanitarian reforms if within the next 6 months those nations which are threatened with armed force or armed subversion within their borders find themselves unable to resist it. Then, all the good intentions in the world, all the economic aid, all the encouragement to humanitarian reforms will come too late.

That, Mr. President, is the reason that this amendment should be defeated.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, have the yeas and nays been requested on this amendment?

The PRESIDING OFFICER. No, they have not been.

Mr. LEAHY. 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. LEAHY. Mr. President, I will not go anywhere near at great length as the Senator from Minnesota and the Senator from California have, but I will ask that they take a chance to read the amendment prior to voting on it because they seem to be suffering under a misconception of the amendment. They have both referred to it as a cut. There may be an amendment coming down here with a cut in this area. I am not aware of one. I am not a cosponsor of one. I am a cosponsor of Senator MATHIAS' amendment for a 10-percent increase.

The Senator from California and the Senator from Minnesota kept talking about cuts, cuts, cuts. It is not so at all.

I, too, am a member of the Subcommittee on Foreign Operations of the Appropriations Committee and I know that this adds 10 percent. It does not cut 10 percent. What it does is say we should not have an 81-percent increase.

I have asked, incidentally, CRS to give me a list of every domestic program that had an 81-percent increase in it like this has. I have left the telephone number here, and I have been waiting for calls. We are getting kind of late now waiting for several days for them to call. But apparently they have not found one.

So this is not a cut, I tell my good friend from Minnesota. The dairy program was a cut. That was a 51-percent cut. This is not a cut. This is a 10-percent increase. Ten percent should be enough. It will give enough money, I should say to my good friend from California, who is concerned with Central America. It leaves enough money in there to continue to pay for those bodyguards that we need to protect Salvadoran citizens who are working with our Embassies, bodyguards that we pay to protect them from some of the same element within the Government that we are now supporting in El Salvador. We will still have the money to protect people from being killed by some of the same people in the Government that we support. So that money will still be there and in fact we will have 10-percent more if they want to use it in this area or transfer the funds in this area. They can even hire 10-percent more bodyguards and considering the number of deaths from the various death squads down there that might not be a bad idea.

Mr. STENNIS. Mr. President, I will be quite brief. This has been thoroughly and ably argued. A few years ago, 10 or 12 years ago, we got crossed up and misunderstood Greece and Turkey, and had serious trouble with them. We cut off all of this aid. That is really what started the trouble. It took us 3, 4, 5 years, or maybe more, and many, many more millions of dollars to ever get that area straightened out and restore those relations.

I consider this, in my opinion, some of the most valuable things that we do

in foreign countries, particularly the so-called smaller ones. In spending this money, the return is real and immediate. So that is the reason it so thoroughly convinces me that we should not disturb this now. I, therefore, cannot support the amendment.

Mr. MATHIAS. Mr. President, I think everyone has got a firm grasp now of what we are talking about here.

I want to thank the Senate for the careful consideration that has been given to this amendment. I want to thank in particular the Senator from Wisconsin and the Senator from California for the careful analysis that they have given. But what we come down to in the final analysis is a question of judgment.

I will say that the considerations that were laid before us by the Senator from Wisconsin and the Senator from California were before the Committee on Foreign Relations on the very same questions. And the judgment of the Committee on Foreign Relations was that the amount that should be invested in military assistance programs was $387 million.

The House Appropriations Committee reviewed the same considerations and their judgment was that the investment should be $421 million, the figure which the amendment lays before you. So you have careful consideration, and you have different judgments. I would urge that an 81-percent increase is unjustified, that a 10-percent increase contemplated by the amendment is in fact a reasonable increase at this time.

Mr. BAKER. Mr. President, I see no other Senator now seeking recognition. I agree with the Senator from Maryland, it has been an exhaustive debate.

I now move to table the amendment and ask for the yeas and nays.

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

The yeas and nays were ordered.

The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER) to table the amendment of the Senator from Maryland (Mr. MATHIAS). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

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

The result was announced—yeas 46, nays 37, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—46

Abdnor	Hatch	Packwood
Armstrong	Hawkins	Percy
Baker	Hecht	Quayle
Boschwitz	Heinz	Roth
Chafee	Helms	Rudman
Chiles	Huddleston	Specter
Cochran	Jepsen	Stennis
Cohen	Johnston	Stevens
D'Amato	Kassebaum	Symms
Danforth	Kasten	Thurmond
DeConcini	Long	Trible
Denton	Lugar	Wallop
Dole	Matsunaga	Warner
East	Mattingly	Wilson
Garn	Nickles	
Gorton	Nunn	

NAYS—37

Andrews	Ford	Pell
Baucus	Grassley	Pressler
Bentsen	Hatfield	Proxmire
Biden	Heflin	Randolph
Bingaman	Humphrey	Riegle
Boren	Kennedy	Sarbanes
Bradley	Lautenberg	Sasser
Bumpers	Leahy	Stafford
Burdick	Levin	Tsongas
Byrd	Mathias	Weicker
Dixon	Melcher	Zorinsky
Eagleton	Metzenbaum	
Exon	Mitchell	

NOT VOTING—17

Cranston	Goldwater	Moynihan
Dodd	Hart	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	Tower
Glenn	McClure	

So the motion to lay on the table amendment No. 2581 was agreed to.

Mr. KASTEN. I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

[The following proceedings occurred after midnight:]

AMENDMENT NO. 2582

(Purpose: To provide funding for the Emergency Veterans' Job Training Act of 1983)

Mr. GARN. Mr. President, I have an amendment at the desk, one of two. Both of them have been cleared and will be accepted. The first amendment on behalf of myself and Senators HUDDLESTON, SIMPSON, CRANSTON, DOMENICI, DECONCINI, THURMOND, MITCHELL, and PRESSLER, is at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN), for himself and Mr. HUDDLESTON, Mr. SIMPSON, Mr. CRANSTON, Mr. DOMENICI, Mr. DECONCINI, Mr. THURMOND, Mr. MITCHELL, Mr. PRESSLER, and Mr. LEVIN proposes an amendment numbered 258.

For payments to defray the costs of training and provision of incentives to employers to hire and train certain wartime veterans who have been unemployed for long periods of time as authorized by law (the Emergency Veterans' Job Training Act of 1983, Public Law 98-77), $150,000,000, to remain available until September 30, 1986: *Provided,* That not more than $25,000,000 of the amount appropriated shall be available for transfer to the "Readjustment benefits" appropriation for educational assistance payments under the provisions of section 18 of Public Law 98-77. Any unused portion of the amount so transferred may be returned to this appropriation at any time, but not later than December 31, 1984.

Mr. GARN. Mr. President, this amendment provides $150 million to fund an on-the-job training program for unemployed veterans. This program has recently been authorized and the administration has submitted a request for the $150 million proposed in the amendment. I am offering this amendment in order to fufill a prior commitment to my colleagues and to insure the timely implementation of the program.

I am not aware of any objection to this amendment and I move its adoption.

VETERANS' JOBS ACT APPROPRIATIONS

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs and as an original cosponsor of the pending amendment, I am pleased to rise in support of this amendment offered by the distinguished chairman of the Appropriations Subcommittee on HUD-Independent Agencies (Mr. GARN) on behalf of himself and my colleague from the Veterans' Affairs Committee, who serves on the Committee on Appropriations as well (Mr. DECONCINI), the very able chairman of the Veterans' Affairs Committee (Mr. SIMPSON), and myself.

This amendment would add to the second continuing resolution for fiscal year 1984 $150 million for full funding of the Emergency Veterans' Jobs Training Act of 1983, Public Law 98-77. The veterans' jobs training measure authorizes the appropriation of $150 million in each of fiscal years 1984 and 1985 for an emergency program of job training assistance for unemployed Korean conflict and Vietnam-era veterans.

Mr. President, I am concerned that we have still not reached the final hour in terms of getting this emergency jobs training program started during this calendar year. Efforts to secure funding under this new public law, which was enacted on August 15, 1983, began nearly 5 months ago.

On August 20, the distinguished Senator from Arizona (Mr. DECONCINI) offered a motion in committee to add the $150 million to the HUD-Independent Agencies Appropriations Act, 1984. That amendment was approved by a vote of 14 to 7. The Senate subsequently concurred on June 21 when it passed that appropriations measure. Unfortunately, at the request of Office of Management and Budget Director Stockman, the $150 million was deleted in conference and thus was not included in the regular appropriations measure as it was signed into law as Public Law 98-45.

However, during the Senate's consideration of the conference report on that measure on June 29, assurances were given to Senator SIMPSON and me by Senators HATFIELD and GARN that funding would be considered in the context of the first available appropriations measure after final enactment of the authorizing legislation—CONGRESSIONAL RECORD pages 9433-34.

In the Senate, that first available measure was the first continuing resolution for 1984. That measure came before this body on September 29. At that time, in response to the express and strong desires of those who wished to keep that measure clean and to prevent it from being Christmas-treed, I and others refrained from offering an amendment to add the $150 million. However, in lieu of our pursuing an amendment to the first continuing resolution, certain commitments were made in a colloquy on the Senate floor on September 29 regarding funding for the veterans' job program—CONGRESSIONAL RECORD pages 26307-08.

First, the Senator from Utah (Mr. GARN) assured me that he would support the funding of the program in the supplemental appropriations measure that was then under consideration by the House of Representatives, H.R. 3959.

Second, I raised with Senator GARN and the very able chairman of the Appropriations Committee, the Senator from Oregon (Mr. HATFIELD), my concerns that the supplemental would not be approved or would have been vetoed by the time that the second continuing resolution would come before the Senate and that any delay beyond that point would be intolerable. They each responded with the assurance that they would support the inclusion of funding for the program in the supplemental measure or, if that legislation is not enacted by the time we take up the next continuing resolution for fiscal year 1984, in that second continuing resolution.

Mr. President, the first commitment has been kept. The $150 million—which was officially requested by the administration in a budget amendment transmitted on October 3—was approved by both the House and the Senate in the context of the supplemental appropriations measure, H.R. 3959. However, that measure has been stalled in the legislative process.

Thus, we have reached the point of making good on the second assurance, and that is what the pending amendment would do. Any further delay in enacting this appropriation will be intolerable. If this funding is not included in this pending measure, funding could possibly not be made available until well into the next calendar year. In that event, we would not see a single penny of assistance being made available for the benefit of veterans under the new authority for job training until at least February of next year. At the very best, if the supplemental bill, H.R. 3959, clears the Congress this month, the normal process of engrossment, transmission to the White House, preparation of executive branch analysis, and Presidential consideration would delay enactment for a number of weeks. In contrast, this process is telescoped to a number of hours rather than weeks in the case of a continuing resolution.

That, Mr. President, would be most unfortunate. It would be totally unacceptable to me and, I know, to many others. In that regard, Mr. President, I ask unanimous consent that a letter to me from the American Legion strongly supporting this amendment, be printed in the RECORD at the end of my remarks.

I want to stress, Mr. President, that the funds we are proposing to add to the pending measure are not in dispute. They have been approved twice by the Senate and once by the House and have been requested by the administration. I know of no person or agency opposing the appropriation of these funds on the merits. The only thing that stands in our way is a desire to enact a clean resolution into law, and I do not believe my colleagues will allow any such abstraction to delay further the implementation of this vitally important effort to enable long-term unemployed veterans who need and want jobs to reenter the work force.

The day after tomorrow is Veterans' Day. How can we expect to celebrate that solemn occasion if we have failed to approve the funding needed for this new program? How can we honor our Nation's veterans when we have denied them the funding needed to put back to work so many of them who are out of work?

Let us not delay any further. Let us put this program into operation now and put thousands of veterans on their feet. Let us make sure that those who have defended this Nation and kept it free and strong have every opportunity we can provide to participate productively in the bounty of our Nation that they fought so courageously to preserve.

That is how we can best honor the service and sacrifices of those who have given so much to our Nation.

Mr. President, I urge all of my colleagues to support the pending amendment.

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

THE AMERICAN LEGION,
Washington, D.C., November 9, 1983.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: The American Legion strongly supports the immediate appropriation of sufficient funds in fiscal year 1984 to carry out the Emergency Veterans Jobs Training Act. Implementation of the program cannot be delayed any longer. We, therefore, urge the Senate to include this funding in the continuing appropriations resolution now under consideration.

The training initiatives authorized under this act have been in effect since October 1 and there are thousands of veterans from across the country who have expressed their desire to take advantage of the program. Unfortunately, they must wait for Congressional approval of appropriations to put the program in motion. Likewise, the administering agencies—Department of Labor and Veterans Administration—are posed to move forward, waiting only for implementation funding.

We understood the requirement to move quickly on the continuing appropriations resolution and we appreciate the Senate's concern over any controversial amendment that would encumber the consideration process. However, the Retraining Act is not a controversial matter. It enjoys the Administration's support and its approval in the Senate on June 15 was by voice vote, following House approval one week earlier by a vote of 407-10.

When considering the very real need to immediately implement the Act and when further considering its popularity in Congress, we see no reason why necessary funding should not be included in the continuing appropriations resolution. In our opinion the integrity of the resolution will not be violated by including a Training Act amendment. We, therefore, support Senate adoption of such an amendment.

Sincerely,

E. PHILIP RIGGIN,
Director, National Legislative Commission.

Mr. THURMOND. Mr. President, I am in strong support of this amendment which would include in the continuing resolution $150 million for the Emergency Veterans' Job Training Act of 1983.

Mr. President, the appropriation that is proposed by this amendment has been previously approved by the Senate and by the House as part of the supplemental appropriations bill. It is offered out of the concern that the supplemental appropriation bill will not receive final passage until January. I believe that it is important that the funds be appropriated for this important program prior to the upcoming recess.

In passing the Emergency Veterans' Job Training Act, Congress recognized that unemployment and underemployment problems among veterans need to be addressed quickly. We now must back up our commitment by making these funds available at the earliest possible time.

I, therefore, strongly support this amendment and urge the support of my colleagues.

STATEMENTS RELATING TO GARN AMENDMENT NO. 2582

Mr. DECONCINI. Mr. President, I am pleased to be a cosponsor of Senator GARN's amendment to include $150 million in the continuing resolution for fiscal year 1984 to fund the Emertency Veterans' Jobs Training Act, Public Law 98-77.

Let me take a moment to review the strong bipartisan support which exists for an emergency veterans' jobs training program. In its recommendations to the Budget Committee, the Senate Veterans' Affairs Committee unanimously voted to include $150 for a jobs program. The first concurrent budget resolution for fiscal year 1984. House Concurrent Resolution 91, as passed by the Senate, made provision for $150 million for a jobs training program specifically targeted on veterans. The conference report, as adopted by both Houses of Congress held $150 million in reserve for this program, pending enactment of authorizing legislation. On June 7, the House overwhelmingly passed the Emergency Vietnam Veterans' Jobs Training Act by a vote of 407 to 10, and the Senate passed a companion measure by voice vote on June 15. Finally, the President signed the legislation at the Veterans' of Foreign Wars Convention on August 15.

I first attempted to include funding for the jobs training measure in the HUD-independent agencies appropriations bill, H.R. 3133, during the Senate Appropriations Committee markup of that legislation on June 14. My amendment was adopted by a vote of 15 to 7. Unfortunately, the amendment was dropped during conference since the Senate had not, as yet, completed action on the authorizing legislation. As noted above, the authorizing legislation passed the Senate the following day.

While funding for the Emergency Veterans' Jobs Training Act was included in the supplemental appropriations bill, H.R. 3959, which passed the Senate on October 27, it now appears that final action on that measure may not be completed prior to the adjournment of Congress sine die. Since our veterans anticipated that this program would be available to them on October 1, 1984—the beginning of the fiscal year—I believe it is imperative that funding for the program be included in the pending measure. Veterans unemployment remains a serious national problem. Funding for a training program is needed, and it is needed now.

The Emergency Veterans' Jobs Training Act represents a positive first step toward putting our veterans back to work. It is a carefully crafted measure and targets benefits on the long-term unemployed. It provides training for veterans who have been unemployed for 15 out the last 20 weeks. It provides training in growth industries in an effort to insure that the veteran will have the best possible chance to find permanent employment. It represents a partnership between Government and the private sector and includes important safeguards by prohibiting employers participating in the program from laying off or firing current employees.

I commend Senator GARN for taking the initiative to include funding for this program in the pending measure and urge my colleagues to support it.

Mr. SIMPSON. Mr. President, I am pleased to lend my strong support to the amendment offered by the distinguished chairman of the Subcommittee on HUD and Independent Agencies, to provide full fiscal year 1984 funding for the Veterans' Emergency Jobs Training Act of 1983, Public Law 98-77.

This bill was signed into law by President Reagan on August 15 of this year. Since that time, it has generated a tremendous amount of interest within the veterans' community and a great many veterans of the Vietnam era and the Korean war have made their applications or taken other appropriate steps to participate in the program. In addition, it now seems that both the Veterans' Administration and the Department of Labor, which are responsible for the administration of the program, have completed most of the necessary training and paperwork, and that all that is lacking now to get this program off the ground is the adequate funding.

Mr. President, I do not feel that it is necessary at this point to engage in a repetitive discussion of the merits of the program. Both the President—in submitting a formal request that the program be fully funded for fiscal year 1984—and both Houses of Congress—in approving such a provision in the context of the fiscal year 19845 supplemental appropriations bill, H.R. 3959—appear to have warmly embraced the program on its merits, so that the issue before us today is not so much whether the money should be appropriated, but only when.

On this point, Mr. President, I would stress the emergency nature of the jobs training program authorized in Public Law 98-77. I am most reluctant to take the chance that this funding provision, if left in the supplemental might not clear the conference process, be passed by both Houses, and be signed by the President, in time for enactment to occur anytime before January 1984.

To those of my colleagues who are concerned, as indeed I am, that this continuing resolution should not become another Christmas tree meassure, I would simply emphasize that this provision which we are today proposing to move from the supplemental to the continuing resolution has already been approved by both Houses of Congress, and thus need not serve as a precedent for the attachment of the usual bevy of nongermane, never-before-considered amendments.

Mr. President, I urge my colleagues to join me in supporting this important amendment.

Mr. HUDDLESTON. Mr. President, as the ranking member of the HUD-Independent Agencies Appropriations Subcommittee, which has jurisdiction over funding for the Veterans' Administration, I am pleased to cosponsor the amendment offered by the distinguished chairman of the subcommittee (Mr. GARN).

The amendment would provide $150 million to fund the Emergency Veterans' Jobs Training Act of 1983, Public Law 98-77. This program had not been authorized when we passed the regular fiscal 1984 HUD-independent agencies appropriation bill in July; consequently, funding was deferred without prejudice. The program has now been authorized and there is a budget request for funding. I believe we should provide the necessary funding promptly.

The program will provide on-the-job training for Korean and Vietnam era veterans who have been unemployed for 15 of the previous 20 weeks. Under the program, an employer could receive up to 50 percent of a veteran's starting salary for up to 9 months of training.

A large number of Korean and Vietnam era veterans remain unemployed. There is a particularly severe problem in the 25 to 29 year age group. Some are still suffering from readjustment problems, in some cases resulting from unemployment and underemployment.

Surely we need to assist these Americans who have done so much and surely the time has come to do so.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BYRD. Mr. President, I ask for regular order. The manager of the bill on the majority side is not present.

Mr. DENTON. Mr. President, will the Senator yield for 30 seconds?

Mr. GARN. I shall be happy to yield in just a moment. If we could get the managers of the bill, this amendment was talked about in committee. It has broad support on both sides, many cosponsors. It was requested by the administration. If we could have a little

understanding that that has been agreed to, we could move on rather rapidly.

Mr. HATFIELD. Mr. President, we are willing to accept it.

Mr. President, if the Senator will yield——

Mr. GARN. I am happy to yield to the distinguished chairman of the Committee on Appropriations.

Mr. HATFIELD. Mr. President, as the Senator from Utah has said, both sides of the aisle have studied this amendment and find it acceptable.

Mr. STENNIS. Mr. President, we approve of the amendment.

Mr. FORD. Mr. President, will the Senator add me as a cosponsor?

Mr. GARN. I ask unanimous consent that that be done.

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

The question is on agreeing to the amendment.

The amendment (No. 2582) was agreed to.

AMENDMENT NO. 2583

(Purpose: To continue funding of households under the Experimental Housing Program and further extend the deferral of reserve funds until March 31, 1984)

Mr. GARN. Mr. President, I have an amendment at the desk which has been cleared. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment numbered 2583.

The heading "Annual contributions for assisted housing" in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1984 (Public Law 98-45) is amended by inserting before the period at the end thereof (97 Stat. 219, 220) the following: *": Provided further,* That $6,000,000 of contract authority and $30,000,000 of budget authority provided in or subject to the fourth proviso under this heading in the Department of Housing and Urban Development—Independent Agencies Apropriation Act, 1984 (Public Law 98-45, 97 Stat. 219) are approved for use to extend annual contributions contracts in accordance with section 504 of the Housing and Urban Development Act of 1970, as amended by section 6 of Public Law 98-35 (97 Stat. 197, 198-199): *Provided further,* That the $1,500,000,000 of budget authority otherwise deferred until January 1, 1984 in the second proviso under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1984 (Public Law 98-45, 97 Stat. 219) shall not become available until March 31, 1984, and at such time shall be added to and merged with budget authority which is subject to the fourth proviso under such heading".

Mr. GARN. Mr. President, simply stated, the amendment accomplishes two purposes. First, it continues the housing assistance to an estimated 9,400 families participating in HUD's experimental housing demonstration program, thus avoiding the need to dislocate these people from their homes during fiscal year 1984. The second part of the amendment extends the legislative deferral established in Public Law 98-45 of $1.5 billion in housing funds.

This extension will give the Appropriations Committees the time necessary to review any newly authorized programs before the funds are released.

Mr. President, Representative ST GERMAIN, the distinguished chairman of the House Banking Committee, and I have been in negotiation on the housing bill. We do expect to have a housing authorization bill to present to the Senate next week.

I ask unanimous consent that a table updating the table contained in the fiscal year 1984 HUD conference report (House Report No. 98-264) be printed, at this point in the RECORD, with an accompanying explanation.

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

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1984—GROSS RESERVATIONS

[Use of carryover]

	Units	Cost	Contract authority	Term	Budget authority
Carryover	NA	NA	$56,989,998	NA	$1,464,822,394
Recaptures	NA	NA	102,393,000	NA	2,500,000,000
Permanent authority	NA	NA	19,397,609	NA	19,397,609
New authority	NA	NA	636,336,000	NA	9,912,928,000
Total available	NA		815,116,607		13,897,148,003
Public housing:					
Public housing	5,000	$6,000	30,000,000	30	900,000,000
Indian housing	2,500	5,565	13,912,000	28	389,550,000
Amendments	NA	NA	6,666,000	NA	200,000,000
Sec. 23 (EHAP owners)	(4,200)	NA	6,000,000	5	30,000,000
Lease adjustments	NA	NA	22,300,000	1	22,300,000
Interest rate adjustments	NA	NA	6,666,000	NA	200,000,000
Modernization	NA	NA	77,500,000	20	1,550,000,000
Subtotal, public housing	7,500		163,044,000		3,291,850,000
Section 8: Section 202	14,000	6,880	96,320,000	20	1,926,400,000
Existing housing:					
From carryover	7,179	4,548	32,650,092	15	489,751,380
Other	27,821	4,548	126,529,908	15	1,897,948,620
Subtotal, existing	35,000		159,180,000		2,387,700,000
Moderate rehabilitation	5,000	4,800	24,000,000	15	360,000,000
Loan management	5,000	3,600	18,000,000	5	90,000,000
Property disposition	10,000	4,900	49,000,000	15	735,000,000
Conversions:					
Section 23:					
EHAP	5,200	4,212	22,000,000	5	110,000,000
Regular	3,000	2,850	8,550,000	15	128,250,000
Rent supplement/RAP	40,000	3,225	129,010,000	15	1,935,153,000
Subtotal, conversions	48,200		159,560,000		2,173,403,000
Deferred authority	NA	NA	100,000,000	15	1,500,000,000
Amendments:					
New/rehabilitated:					
Preconstruction	NA	NA	10,000,000	23	230,000,000
Project reserves	NA	NA	15,000,000	5	75,000,000
Existing housing:					
Regular	NA	NA	14,012,607	3	42,037,821
Loan management	NA	NA	5,000,000	10	50,000,000
Moderate rehabilitation	NA	NA	2,000,000	10	20,000,000
Subtotal, amendments	NA		46,012,607		417,037,821

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING, FISCAL YEAR 1984—GROSS RESERVATIONS—Continued

[Use of carryover]

	Units	Cost	Contract authority	Term	Budget authority
Subtotal, section 8	117,200		652,072,607		9,589,540,821
Total, public housing and section 8	124,700		815,116,607		12,881,390,821
Unutilized			0		1,015,757,182

The accompanying table differs from the program appearing in the Conference Report No. 98-264 to the HUD-Independent Agencies Appropriation Act, 1984 (Public Law 98-45) in the following respects:

(1) The current table amends the Conference Report table to incorporate actual carryover of unutilized authority from 1983 and actual permanent authority becoming available for use in 1984.

(2) $6,000,000 of contract authority and $30,000,000 of budget authority has been added to reflect amendments extending the assistance provided to 4,200 homeowners under the Section 23 Experimental Housing Allowance Program (EHAP).

(3) Per unit cost changes based on latest Department estimates are as follows:

(a) Section 8 Existing—from $4,000 to $4,548.

(b) Section 8 Moderate Rehabilitation—per unit cost is increased from $4,381 to $4,800.

(c) Section 8 Loan Management—increased from $3,000 to $3,600.

(d) Section 8 Property Disposition—increased from $4,700 to $4,900.

(4) Conversions under the Section 23 program have been changed to reflect the conversion of renters currently participating in the Section 23 EHAP program to the Section 8 program.

(5) Section 8 amendment requirements have been increased by $2,000,000 of contract authority and $20,000,000 of budget authority to reflect amendments in the Section 8 Moderate Rehabilitation program.

(6) Section 8 Existing amendment requirements have been increased by $2,012,607 of contract authority and $6,037,821 of budget authority.

In addition, the $100,000,000 of contract authority and $1,500,000,000 of budget authority deferred by Public Law 98-45 remains deferred and undesignated and Bill language is recommended to extend the deferral of this authority to March 31, 1984.

Mr. GARN. Mr. President, I know of no objection to this amendment and ask that it be adopted.

Mr. HATFIELD. Mr. President, there is no objection on this side.

Mr. STENNIS. There is no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2583) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2584

(Purpose: To permit the acquisition of no more than four foreign-built vessels for operation under U.S. flag)

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

The PRESIDING OFFICER. There is a pending amendment which must be laid aside.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Metzenbaum amendment be set aside for the consideration of another amendment.

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

The clerk will state the amendment of the Senator from Louisiana.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. LONG, proposes an amendment numbered 2584.

Mr. JOHNSTON. I ask unanimous consent that further reading be dispensed with.

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

At the end of the joint resolution, insert:

Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code.

Mr. JOHNSTON. Mr. President, this amendment has been cleared with Senator PACKWOOD, the chairman of the Commerce Committee, Senator LAXALT, the Appropriations Subcommittee chairman, and I believe I can say over the last 2 days with everybody at interest. This amendment, Mr. President, costs the Federal Treasury nothing. As a matter of fact, it would make the Treasury money. What it would do is allow the Lykes Steamship Co., to purchase four used ships outside of the United States and bring them into this country. The reason Lykes is in a special circumstance is because the window of 1 year in length expired on September 30, 1982, whereby domestic steamship companies could purchase ships or build ships, construct ships outside of the country. However, at that time, Lykes was a subsidiary of LTV, and LTV's banking arrangements did not permit the incurring of any debt outside the country.

Lykes is now, even though they are the largest domestic steamship company in the country, on the edge of bankruptcy, having lost $21 million last year. If they are able to exercise the option, which expires on November 16 of this year, to pick up these four ships and refurbish them outside the country, it will allow them to get their foot in the door to keep themselves in the container trade.

What this amendment does is to permit Lykes to do that. It does not grant section 607 subsidies to them. It simply allows them to purchase these ships which are already under contract and bring them into the country.

Mr. NICKLES. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. NICKLES. Will the Senator inform the Senate, if they are to build these four ships and they build them overseas, would they still be receiving the construction subsidies from the U.S. taxpayers? Would they be able to take that subsidy and spend those dollars overseas to have some foreign shipyard do the work on these ships?

Mr. JOHNSTON. No, they would not, and that is a good question. They would not be able to do so.

Mr. NICKLES. So they would not receive construction subsidies. Would they still receive operating subsidies from the U.S. taxpayers for those ships that were built overseas?

Mr. JOHNSTON. The answer is no.

Mr. NICKLES. The answer is no. So for those four ships——

Mr. JOHNSTON. Actually the four ships are not being constructed. They have already been built. They would simply be purchased and brought in here. All it would do is permit them to utilize those ships on coastwise trade. That is what it permits.

Mr. NICKLES. Would they receive Federal Government operating subsidies for those ships on their operations?

Mr. JOHNSTON. I am advised that they could get operating subsidies, but they would be less than if they would use U.S.-built ships—actually, $10 million less I am advised than if they used U.S.-built ships.

Mr. NICKLES. Will the Senator tell us how much of an operating subsidy we are going to be giving this one company? I guess that the Senator's amendment would only benefit one

company. Could he tell us how much of an operating subsidy they would be receiving?

Mr. JOHNSTON. I do not know. The purpose of this is not to get the operating subsidy but to allow them to bring in the ships, because otherwise they are bankrupt, and, frankly, we lose 1,200 jobs in Louisiana. It is just as simple as that.

Mr. NICKLES. Could the Senator give us how much of an operating subsidy they are receiving today so we have an idea how big a stake the taxpayers have involved in this?

Mr. JOHNSTON. The taxpayers would save $10 million by this amendment as compared to having American ships—$10 million less subsidy. I am sorry, I do not know the amount of the subsidy. As a matter of fact, I did not, frankly, realize there was any subsidy at all. It is a small subsidy for foreign ships, but I cannot tell the Senator the amount. I am sorry.

Mr. NICKLES. If the Senator will yield, if you have one company and this amendment is going to mean that the subsidy will be $10 million less, you are talking about pretty substantial subsidies in this Senator's opinion. I would be interested in knowing how much of a subsidy they would be receiving. I have a little problem, in having ships built or repaired overseas, in them continuing to receive operating subsidies. That concerns me to some degree.

Mr. JOHNSTON. Actually, all it does for this company is allow them to take advantage of the same window everybody else could take advantage of earlier, but the reason that they could not was because they were controlled by a parent company, LTV, that had banking arrangements that did not permit them to do so.

Mr. TRIBLE. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes, I yield.

Mr. TRIBLE. As my distinguished friend from Louisiana knows, I have serious reservations about this amendment. In fact, I am constrained to oppose the amendment at the appropriate time. But my question is this: Why this extraordinary procedure at this extraordinary hour? We have a formal hearing process. If this is a matter of such great urgency, why was it not presented to the Congress before this late hour? Why were hearings not held? What evidence is there that this steamship company is in serious financial straits?

Mr. JOHNSTON. I am glad the Senator asked that question. First of all, hearings were held on the House side. The administration does support this proposition. The reason for the urgency is that Lykes has an option to purchase four ships which expires November 16. They are four small used ships that would be refurbished and brought into the coastwise trade.

Mr. TRIBLE. Will the Senator yield for one further question? Is it not a fact that this is the first time this matter has been debated and discussed in the Senate; that although it may have been addressed by the other body, this question has not been brought to the attention of the appropriate committees of the Senate and to date no inquiry has been made.

Mr. JOHNSTON. The Senator may be correct on that. I can tell him that the administration does support the proposition.

I plead with my colleagues. We have 1,200 jobs—actually, 3,000 jobs for Lykes, 1,200 of them in Louisiana. It is the largest steamship company in the country. They lost $21 million last year. They simply go under if they do not get this. I wish I could tell the Senate chapter and verse about every jot and tiddle of the regulations. I know that they go under. I know we lose 1,200 jobs. If you turn this down, you may say, "Well, the process is not served because the Senate has not had any hearings," but when 1,200 Louisianans and 3,000 Americans lose their jobs, and they say, "What was the Senate thinking of," we say, "Well, sorry, old fellow, you lost your job. We did not have hearings in the Senate. I can tell you it is not my fault. I would have had them if they left it up to me."

I plead with my colleagues, it is a lot of jobs.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. President, may I say to the Senator that there was a time, and I can recall the time very well because I was the chairman of the Merchant Marine Subcommittee at that time on the Commerce Committee, and it was my privilege to help pass the bill—that the Senate passed this ship construction fund money. At that time, you could build the ships domestically because it only cost about twice as much to build them here as it did elsewhere. Now it is four times as much. It is just impossible to do it. So now it is not a matter of building them in some other shipyard. They are not in position to do that. They cannot pay the difference, nor can anybody else. So that it is not a matter of losing any jobs. It is a matter of saving jobs for Americans, because if this company goes out of business, those jobs, I would ask my friend, is it not true, will not go to American seamen; they will go to seamen somewhere else?

Mr. JOHNSTON. That is exactly right. The competition is foreign, principally, and we just lose the jobs to, I do not know, Japan or wherever.

Mr. LONG. It would not be as though those jobs went to Virginia or North Carolina somewhere; they are just lost to Americans?

Mr. JOHNSTON. That is exactly right.

Mr. President, I plead with my colleagues to think about jobs.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent that the proceedings we are about to have may appear at the conclusion of the amendment and not at the point where I have interrupted.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, the reason for this unusual procedure is that we have an unusual opportunity.

We have been working with the Civil Rights Commission reauthorization bill for days—indeed, for weeks—and I am happy to report to the Senate that I believe we have a compromise that has been reached by the principals involved in the Senate which appears to be agreeable to major civil rights groups who have been actively involved in the negotiations and with the White House. Frankly, I should like to do that agreement before it slips away from us. So let me now propound a unanimous-consent request.

Mr. President, I ask unanimous consent that the Senate now temporarily lay aside the continuing resolution and proceed to the consideration of the Civil Rights Commission reauthorization bill for 10 minutes—the matter to be considered for just 10 minutes—and that during that 10 minutes, only one amendment will be in order. That will be an amendment to be offered by the Senator from Pennsylvania (Mr. SPECTER), for himself, Mr. THURMOND, Mr. BIDEN, Mr. DOMENICI, and others; and the amendment, if adopted, will be considered as original text for the purpose of further amendment.

Mr. President, before the Chair puts the request, may I explain that there is another amendment that will be offered, I am told, by the Senator from Iowa (Mr. JEPSEN). It will not be offered tonight. It will be offered when we resume consideration of the Civil Rights Commission reauthorization bill, which I assume will be on Monday, after we have finished action on the continuing resolution. That is the reason for the request.

I further ask unanimous consent that the control of those 10 minutes be in the usual form.

Mr. BYRD. Mr. President, reserving the right to object, may I approach the bench?

I have no objection.

Mr. JOHNSTON. Mr. President, reserving the right to object, I do not know whether I can read the body correctly or not, but I was hoping that we had the debate on our amendment

about wound down and that in view of the support of the various subcommittee chairmen, we might have been able to adopt our amendment.

I wonder if the majority leader would let us complete action, if it would not take too long.

I ask the Senator from Virginia if he would be ready to let us have a vote on it.

Mr. BAKER. Mr. President, it will not take long. I amend the request so that it is 5 minutes, equally divided.

Mr. JOHNSTON. The majority leader said something about an amendment.

Mr. BAKER. That is on Monday.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Mr. President, reserving the right to object, I wish to understand what the unanimous-consent request is.

Mr. BAKER. I will state the unanimous-consent request for the Senator from North Carolina and other Senators.

Mr. President, I ask unanimous consent that the Senate temporarily lay aside the continuing resolution and proceed instead to the consideration of the Civil Rights Commission reauthorization bill, for a period of not to exceed 10 minutes, to be equally divided, and the control of that time to be in the usual form.

I further ask unanimous consent that during that time, only one amendment be in order, and that will be the amendment to be offered by the Senator from Pennsylvania (Mr. SPECTER), which is the so-called compromise amendment arrived at over a period of time. But if the Specter amendment is adopted, it will be considered as original text for the purpose of further amendments when we resume consideration of the Civil Rights Commission reauthorization bill—which, I say parenthetically, will not be tonight nor tomorrow. I expect that it will be on Monday.

Mr. EAST. As I understand the majority leader's request, we are going to spend——

The PRESIDING OFFICER. Will the Senator from North Carolina please use the microphone?

Mr. EAST. Mr. President, as I understand the majority leader's request, then, we are simply laying aside the continuing resolution to take up the reauthorization for 10 minutes and the sole purpose of that 10 minutes is to consider the Specter amendment.

Mr. BAKER. That is correct.

Mr. EAST. And the time is evenly divided.

Mr. BAKER. That is correct.

Mr. EAST. I will not object because the majority leader simply is saying we shall then continue the matter again on Monday, although I do think as regards the Specter amendment I will not object to what the majority leader is requesting for purposes of expediting the matter, but I would like myself to be able to speak on this matter, and it occurs to me for such an important matter at a very late hour that 10 minutes on a Specter amendment, which is a very important amendment as regards the Civil Rights Commission, very critical and fundamental, is an unusually short period of time.

Mr. BAKER. Mr. President, may I say that the Specter amendment may not be the same amendment now that the Senator from North Carolina has in mind.

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

Mr. BAKER. It may not be the original Specter amendment that the Senator has in mind. This is an amendment that has been worked out with great care as a compromise between the original Specter-Biden amendment, the original reauthorization proposal, the White House and a number of other groups.

I invite the Senator from Kansas who has been so instrumental in negotiating this compromise to converse further with the Senator from North Carolina if he wishes to explain it but, Mr. President, may I say that when we resume consideration of this bill the Specter-Biden-Thurmond-Domenici amendment will be subject to further amendment on Monday and further debate at that time.

So I hope the Senator will let us go ahead with what I believe is an agreement that has been arrived at in a painstaking and careful way and which can be modified further when the Senate resumes consideration of this bill on Monday.

Mr. EAST. Mr. President, could I ask for a very brief description? I understood what the earlier Specter amendment is. What is the current Specter amendment as agreed to?

Mr. BAKER. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, as the Senator from Pennsylvania will explain, this amendment would establish an eight-member Commission, with four members appointed by the President, two Democrats and two Republicans, and four members appointed by Congress, two Democrats and two Republicans. Specifically, the President pro tempore of the Senate and the Speaker of the House would each appoint two members, upon the recommendations of the congressional leadership of both parties. It is a 6-year authorization, with fixed 6-year staggered terms for commissioners, and removal of commissioners only for cause. The President appoints the staff director, chairman and vice-chairman, with the concurrence of the Commission. The personnel who are there now, stay there and keep all of their current rights and benefits.

It is sort of a hybrid Commission. It is one that has been, I might say to the Senator from North Carolina, cleared with the President's representative as recently as 30 or 40 minutes ago in Tokyo and discussed with the President's Counsel, Mr. Fielding, and that is in essence the compromise.

Mr. EAST. Mr. President, I wish to speak in opposition to the amendment, and I will accede to the majority leader's request in order to expedite matters this evening. I do think the Specter amendment represents a very fundamental change in the Civil Rights Commission and for a 10-minute debate on it is a very limited time for a very fundamental change in this very controversial Commission. But I am willing to accede to that and I wish to be able to——

Mr. STEVENS. It will be subject to amendment.

Mr. EAST. I understand that, but I understand also by making it an integral part of the change that will be difficult to make, and I think to make that change by this body which generally prides itself upon some degree of deliberation, to make that change in a period of 10 minutes is a pretty fundamental change at the hour of 12:30 in the morning.

But I am willing to proceed without objection and wish to be able to hear the description of the amendment which would seem to me then will take only 5 minutes to describe it, which leaves us 5 minutes to oppose it. That is really in effect what we are saying.

Mr. BAKER. Yes, Mr. President.

Mr. THURMOND. Mr. President, we are not going to vote on it tonight.

Mr. EAST. No, but we are voting on a very fundamental amendment which would make a very substantive change in the Civil Rights Commission. And as a member of the Judiciary Committee seeing this thing thrashed around for weeks on end, I am a little bit troubled about doing it over a period of 10 minutes at 12:30 in the morning because it is going to shift again very fundamentally the form, the nature, the character of this Commission from what it is now to a new form. It means then on Monday granted we can amend it, but it means we start then with a very fundamentally different kind of Commission if this amendment is passed than we currently have.

I regret that it has to be taken up at such a late hour. But I will accede to the majority leader's request and wish the opportunity to repair to my own desk up there and be part of the 5-minute opposition for what it may be worth.

All right.

Mr. BAKER. Mr. President, first I amend my request so that at the conclusion of the 10 minutes the Senator from Virginia will be once more recognized to continue his debate.

Next, Mr. President, I say to the distinguished Senator from North Carolina, and he is a most distinguished and contributing Member not only to the Judiciary Committee but the Senate, I am certain that the managers will give him whatever time he reasonably requires to discuss the matter, and I am personally sorry that he was not involved more fully in the deliberations over the last several weeks.

But it is not a question really of doing it in the next 10 minutes. This has been, to my certain knowledge, in negotiation for days, and it is in the nature of things, I suppose, that when you get involved in negotiations that a great number of people are involved you forget other people who should be involved, and I apologize for that. But that is, I suppose, the way we have to conduct ourselves.

So, Mr. President, I hope the request will be acceded to.

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

Mr. BAKER. Mr. President, I yield the control of the time. First I yield to the distinguished chairman of the Judiciary Committee.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

CIVIL RIGHTS COMMISSION ACT OF 1983

The Senate resumed consideration of the bill, H.R. 2230.

Mr. THURMOND. Mr. President, this has been a very arduous and long drawn out matter.

Under present law the President appoints the members of the Civil Rights Commission but some Members of the Senate and of the House of Representatives, also, felt that Congress should have a more active part in selecting these Commissioners, and that has been the bone of contention. It is whether the President should be allowed to keep that power entirely or share it with Congress.

This has been a stalemate in the Judiciary Committee for weeks and weeks, as the able Senator from North Carolina said. Finally there has been a compromise worked out. It is not the compromise that I prefer, because I think under our tripartite system of government that Congress makes the law, the executive branch administers in the law, and the Supreme Court interprets the law. However, I cannot have my way about everything and I feel that the time has come when we have to compromise and get the——

The PRESIDING OFFICER. If the Senator from North Carolina will withhold, how much time has the Senator yielded for himself? He is on the time now that was allotted to this measure.

Mr. STEVENS. It has not been granted yet.

Mr. THURMOND. He yielded to me for a few minutes to explain the matter.

The PRESIDING OFFICER. The time is now running.

Mr. BAKER. Mr. President, I am afraid so.

Mr. President, I am afraid that in order to accommodate this we are going to need a little extra time also so the Senator from North Carolina can be heard.

Mr. BIDEN. Mr. President, I will be happy to yield to him all the time.

Mr. BAKER. All right.

I withhold any further request.

The PRESIDING OFFICER. All right.

The Senator from South Carolina is recognized.

Mr. THURMOND. So, Mr. President, in order to bring this thing to a head, because it seemed to be irreconcilable, but finally we have gotten all sides to reach an agreement. Both sides have had to give and take, and after all I guess that is what legislation is about. Most legislation is a compromise.

At this time I wish to pay tribute to the ranking minority member of the Judiciary Committee, who has cooperated so well in this matter, Mr. JOE BIDEN; to Senator ARLEN SPECTER, of Pennsylvania, who had the amendment here to provide for the members of the Civil Rights Commission to come from Congress; to Mr. BOB DOLE, who has worked untiringly on this matter for a number of days; to Mr. OREN HATCH, who has done likewise; to Senator BAKER, who has been in touch with the White House in Tokyo and has rendered a magnificent service in bringing about this compromise; to Senator PETE DOMENICI and Senator TED KENNEDY and Senator MAC MATHIAS, all who have contributed to this matter; also to Mr. Ed Meese, who has worked on this for the President, and the President himself has approved it; Mr. Fred Fielding, in the White House, who has worked on it; Mr. Ken Duberstein, the chief liaison from the White House; Miss Pam Turner, who is the liaison to the Senate from the White House; and Miss Debbie Owen, the acting chief counsel of the Judiciary Committee here, who has worked on it hard and so has Miss Sheila Bair and Mr. Mark Gitenstein and other staff members.

We feel that, to overcome this stalemate and bring an end to this matter, this is the only logical way it can now be handled.

As I said, it is not my preference, but, on the other hand, I feel it is the way to solve it and I think we better go forward with it. Therefore, I favor it.

Mr. President, I now yield to the distinguished Senator from Pennsylvania who will briefly explain the amendment.

Mr. BAKER. Mr. President, I yield control of the balance of the time to the Senator from Pennsylvania, who will offer an amendment.

Mr. SPECTER. I thank the distinguished majority leader, and I thank the distinguished chairman of the Judiciary Committee.

Mr. President, I ask the distinguished Senator from Delaware, Mr. BIDEN, if he will modify his amendment and accept my amendment.

Mr. BIDEN. I have no objection; yes.

AMENDMENT NO. 2586

(Purpose: To establish a Commission on Civil Rights)

Mr. SPECTER. Mr. President, on behalf of Senators BIDEN, DOLE, THURMOND, DOMENICI, MATHIAS, KENNEDY, METZENBAUM, CHAFEE, GORTON, and myself, I send to the desk an amendment and ask for its immediate consideration.

I further ask unanimous consent that, in light of the fact that there are 50-odd more additional Senators, who sponsored Senate Concurrent Resolution 78, and have not had a chance to know the contents of this amendment, but who would likely wish to be cosponsors, that they may have an opportunity to add their names as cosponsors at the desk.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

(The names of Mr. PERCY, Mr. RANDOLPH, Mr. CRANSTON and Mr. MELCHER were added as cosponsors.)

The PRESIDING OFFICER. Does the Senator withdraw his original amendment?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER), for himself, Mr. BIDEN, Mr. DOLE, Mr. THURMOND, Mr. DOMENICI, Mr. KENNEDY, Mr. MATHIAS, Mr. METZENBAUM, Mr. CHAFEE, and Mr. GORTON, proposes an amendment numbered 2586.

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

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendment is as follows:

Strike out all after line 2 on page 1 and insert in lieu thereof the following:

That this Act may be cited as the "United States Commission on Civil Rights Act of 1983".

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established a Commission on Civil Rights (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be composed of eight members. Not more than four of the members shall at any one time be of the same political party. Members of the Commission shall be appointed as follows:

(A) four members of the Commission shall be appointed by the President;

(B) two members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party; and

(c) two members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the Majority Leader and the Minority Leader, and of the members appointed not more than one shall be appointed from the same political party.

(2) The term of office of each member of the Commission shall be six years; except that (A) members first taking office shall serve as designated by the President, subject to the provisions of paragraph (3), for terms of three years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(3) The President shall designate terms of members first appointed under paragraph (2) so that two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of three years and two members appointed under clauses (B) and (C) of paragraph (1) and two members appointed under clause (A) of paragraph (1) are designated for terms of six years. No more than two persons of the same political party shall be designated for three year terms.

(c) The President shall designate a Chairman and a Vice Chairman from among the Commission's members with the concurrence of a majority of the Commission's members. The Vice Chairman shall act in the place and stead of the Chairman in the absence of the Chairman.

(d) The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

(e) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliation as the original appointment was made.

(f) Five members of the Commission shall constitute a quorum.

RULES OF PROCEDURE OF THE COMMISSION HEARINGS

SEC. 3. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the Federal Register notice of the date on which such hearing is to commence, the place at which it is to be held and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission's rules at the time of service of the subpena.

* * * * *

file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously or unnecessarily.

(f) Except as provided in this section and section 6(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000 or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(l) The Commission shall separately state and currently publish in the Federal Register (1) descriptions of its central and field organizations including the established places at which, and methods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined, and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.

(m) The provisions of subchapter II of chapter 5 of title 5 of the United States Code, relating to administrative procedure and freedom of information, shall, to the extent not inconsistent with this section, apply to the Commission established under this Act.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 4. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, United States Code, prorated on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of title 5 of the United States Code.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with subchapter I of chapter 57 of title 5 of the United States Code.

DUTIES OF THE COMMISSION

SEC. 5. (a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or the administration of justice;

(4) serve as national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice; and

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of the Presidential electors, Members of the United States Senate, or the House of Representatives, as a result of any patterns or practice of fraud or discrimination in the conduct of such election.

(b) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization.

(c) The Commission shall submit reports to the Congress and the President at such

times as the Commission, the Congress or the President shall deem desirable.

(d) As used in this section, the term "handicap" means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 7 (6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6)).

(e) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.

(f) The Commission shall appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such reports shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.

POWERS OF THE COMMISSION

SEC. 6. (a)(1) There shall be a full-time staff director for the Commission who shall be appointed by the President with the concurrence of a majority of the Commission.

(2)(A) Effective November 29, 1983, or on the date of enactment of this Act, whichever occurs first, all employees (other than the staff director and the members of the Commission) of the Commission on Civil Rights are transferred to the Commission established by section 2(a) of this Act.

(B) Upon application of any individual (other than the staff director or a member of the Commission) who was a employee of the Commission on Civil Rights established by the Civil Rights Act of 1957 on September 30, 1983, the Commission shall appoint such individual to a position the duties and responsibilities of which and the rate of pay for which, are the same as the duties, responsibilities and rate of pay of the position held by such employee on September 30, 1983.

(c)(i) Notwithstanding any other provision of law, employees transferred to the Commission under subparagraph (A) shall retain all rights and benefits to which they were entitled or for which they were eligible immediately prior to their transfer to the Commission.

(ii) Notwithstanding any other provision of law, the Commission shall be bound by those provisions of title 5, United States Code, to which the Commission on Civil Rights established by the Civil Rights Act of 1957 was bound.

(3) Within the limitation of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GA-15 of the General Schedule under section 5332 of title 5, United States Code.

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in subsection (g) of section 3 hereof shall be construed to mean a person whose services are compensated by the United States.

(c) The Commission may constitute such advisory committees within States as it deems advisable, but the Commission shall constitute at least one advisory committee within each State composed of citizens of that State. The Commission may consult with governors, attorneys general, and other representatives of State and local governments and private organizations, as it deems advisable.

(d) Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of section 203, 205, 207, 208, and 209 of title 18 of the United States Code.

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) The Commission, or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this resolution, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 3 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of five members is present.

(g) In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce pertinent, relevant and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(h) Without limiting the application of any other provision of this Act, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

(i)(1) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purposes of this Act.

(2) To the extent not inconsistent with the provisions of this Act, the Commission established by section 2(a) of this Act shall be bound by all rules issued by the Civil Rights Commission established by the Civil Rights Act of 1957 which were in effect on September 30, 1983, until modified by the Commission in accordance with applicable law.

(3) The Commission shall make arrangements for the transfer of all files, records, and balances of appropriations of the Commission on Civil Rights as established by the Civil Rights Act of 1957 to the Commission established by this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated $12,180,000 for the fiscal year 1984, and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1989.

TERMINATION

SEC. 8. The provisions of this Act shall terminate 6 years after its date of enactment.

Mr. SPECTER. Mr. President, I shall be brief. As outlined by the distinguished majority leader, the distinguished Senator from Kansas, and the distinguished chairman of the Judiciary Committee, this is a compromise that has been worked out after very substantial negotiations. It combines in equal measure two proposals: The first, a Civil Rights Commission appointed by the Congress and the second, a Civil Rights Commission appointed by the President. It is done in order to accommodate a variety of interests and to permit a Commission which may retain those who have served on the Commission.

The PRESIDING OFFICER. All of the time of the Senator from Pennsylvania has expired.

Mr. SPECTER. Mr. President, I ask unanimous consent that the time be extended for a period not to exceed 10 additional minutes.

The PRESIDING OFFICER. Is there objection? Is this time equally divided?

Mr. LONG. I object.

Mr. JOHNSTON. Reserving the right to object, what was the request?

Mr. SPECTER. The request is for unanimous consent for 10 additional minutes.

Mr. LONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, has the time expired?

The PRESIDING OFFICER. The time has expired; 5 minutes has expired.

Mr. BAKER. Mr. President, I wonder if the Senator from Delaware would yield some time?

Mr. BIDEN. I want to make sure that the Senator from North Carolina gets some time. I am impressed with the explanation so far. I think it has been fully explained. I would like to hear the opposition and move on is what I would like to do.

I yield all my time to the Senator from North Carolina because he is such a good fellow.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I appreciate the kind remarks of the Senator from Delaware.

How much time do we now have?

The PRESIDING OFFICER. The Senator has 4 minutes and 53 seconds.

Mr. EAST. Time moves on quickly and the hour is late. I shall state my objections to this as quickly as I possibly can.

First, I would simply point out to my colleagues that this is a very fundamental change in the structure and organization of the Civil Rights Commission. There is no question about it.

First of all, the question of staggered terms and removal only for cause, that has not been made clear at all what removal for cause would be. So what you are going to be doing is creating really here a perpetual Commission for purposes, apparently, I guess, of advising both the Senate and the White House on civil rights matters. It appears to me that with the removal for cause, which has not been explained as to what that would be, that in effect these persons would be locked in for a period of at least, I do not know what the term is as I understand it.

I question the whole concept of the need to do this. I think the Civil Rights Commission—and many things are done in the name of civil rights that do not necessarily serve the cause of civil rights, just like many things are done in the name of national defense which do not necessarily serve the end of national defense. I am not opposed to a sound, progressive civil rights policy in this country. Clearly, good comes from it, from the Civil Rights Commission, generally.

I think what we are doing here in the few minutes that I have to speak to it is making a fundamental alteration in the construction of the Commission which will further politicize it between the President and Congress. I think to create a bureaucracy for 6 years, that we will be funding, the Federal Government will funding, really is unnecessary, to begin with. It is unnecessary. Certainly, the President has plenty of advisers on the matters that he can utilize. Lord knows, we have plenty of staff that we can utilize. As you remember, this Commission now is purely advisory in character, purely advisory.

And the fundamental cause of this whole dispute is that the current membership of that Commission does not want to be dismissed for cause or for any other reason. They want to hold these jobs permanently, well nigh indefinitely, I gather for life, somewhat like Supreme Court appointees, and like any organizational change, the fundamental problem at heart here is this question of busing, forced busing, and quotas.

Now, the President has made a recommendation for three outstanding nominees to serve on this Commission. That started the rub. In order to head that off, we have seen a lot of backroom backing and filling, trying to restructure, reorganize this Commission so the President cannot do that.

Now if he has consented to do it, it is probably simply because he has been advised that he does not any longer have the votes and the support in the Senate or the House. And that may be correct. But I do not think on the merit and the principle of the thing it is a sound move and in the proper direction.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. EAST. I intend to indicate that I should be voting——

The PRESIDING OFFICER. Will the Senator withhold? Will the Chamber please be in silence so the Senator's remarks can be heard?

The Senator from North Carolina.

Mr. EAST. Well, the majority leader is requesting that we not have a record vote on it. He taxes the great patience of the Senator from North Carolina beyond that to which he normally likes to be taxed. I presume it will go through, then, without a record vote, which I would like to have, perhaps it will, and we should start from scratch then next Monday.

I will consent to the majority leader's request because of the late hour, but I would like to indicate that in this voice vote I would like to be recorded as in opposition to this amendment, and of course when the issue arises again on Monday, we can pursue the matter in other forms of amendment.

Mr. DOLE. Mr. President, as the Members of the Senate are aware, the Senate Judiciary Committee spent several weeks seeking to develop a consensus proposal on the reauthorization of the Civil Rights Commission. It was apparent that there was widespread agreement on the committee that the life of the Commission should be extended. Unfortunately, the controversy surrounding the President's efforts to replace three of the sitting Commissioners with his own appointees created considerable disagreement with regard to the form the reauthorization legislation should take.

During committee negotiations, we explored every conceivable alternative in an effort to break the impasse. We discussed seven-member Commissions, eight-member Commissions, nine-member Commissions. We discussed giving the President two of his nominees, all three of this nominees, or two now, and one next year. None of the alternatives could attract consensus support.

The President tried to break the impasse by firing the three Commissioners. Yet this body remained deeply divided. The nominees proponents then wanted to pass the House-passed bill, as is, which would permit the President to fill the three vacancies resulting from the firings. The nominees opponents, in response to the firings, wanted to remove the Commission entirely from the executive branch and make it a Congressional Advisory Committee, permitting congressional leaders to decide who shall sit on the Commission.

Earlier this week, it seemed highly unlikely that the Senate would be unable to break the impasse and reauthorizing legislation, with the result that both sides would lose. The Commission's voice would be silenced and none of the President's nominees would be given the opportunity to serve.

But we stuck with the negotiations, and finally came up with a proposal which has garnered consensus support. Under the proposal, the President would appoint four members: The Commission would consist of eight members. The President pro tempore of the Senate and the Speaker of the House, upon the recommendations of the congressional leadership of both parties, would each appoint two members. Commissioners would be given fixed staggered 6-year terms, and could be removed only for neglect of duty or malfeasance in office. The Commission would be authorized for a 6-year time period.

Mr. President, this is a meticulously crafted compromise, the culmination of literally hundreds of hours of effort by many Members on both sides of the aisle. It has been cosponsored by Senators DOMENICI, BAKER, and THURMOND, whose efforts during the negotiation process were particularly instrumental in the development of the proposal. It has been agreed to by Senators BIDEN and SPECTER, the principal sponsors of the legislative Commission proposal, who have devoted much time and effort to this issue.

Moreover, I have recently spoken to the President's representatives on this matter and they have indicated that the compromise is acceptable to the White House. And it is my understanding that the compromise has virtually unanimous support in the Civil Rights Community also.

So it seems that at last we have broken the impasse which has threatened the continued life of an agency which has secured for 25 years as the Nation's civil rights conscience. I urge all of my colleagues to support the compromise.

Mr. President, one final note. In developing this compromise proposal, some questions were raised concerning whether permitting Congress to appoint half of the Commission's members was consitutional. On the basis of a legal memorandum prepared by the Senate office of legal counsel, the sponsors concluded that the appointment process provided for in the compromise does not violate the powers of the President under article II of the

Constitution, as construed by the Supreme Court in Buckley against Valeo.

Buckley involved a challenge to the 1974 legislation creating the FEC. As originally constituted, of the six voting members on the FEC, two were appointed by the President, two by the President pro tempore, and two by the Speaker of the House.

The Buckley court held that most of the powers conferred on the Commission could be exercised only by officers of the United States who were appointed in accordance with article II.

However, the Court explicitly refused to invalidate those powers which were essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees, there can be no question that the Commission as presently constituted may exercise them.

This ruling applies directly to the Civil Rights Commission. As the Supreme Court recognized in Hannah against Larche, the Commission's functions are purely investigative and fact-finding. The only purpose of its existence is to find facts which may subsequently be used as a basis for legislative or executive action.

In addition, the Commission's subpena powers do not undermine the constitutionality of the appointment process. It is true that the Court in Buckley struck down the FEC's authority to bring civil actions to enjoin acts or practices which violated the campaign law. However, the Court specifically noted that the Commission's authority to bring such civil action does not require the concurrence of participation of the Attorney General. In contrast, the Commission can enforce its subpenas only through application to the Attorney General. It has no powers of its own to bring a civil action for enforcement.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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.

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

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

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

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 79, nays 5, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—79

Abdnor	Gorton	Nunn
Andrews	Grassley	Packwood
Armstrong	Hatch	Pell
Baker	Hatfield	Percy
Baucus	Hawkins	Pressler
Bentsen	Hecht	Proxmire
Biden	Heflin	Quayle
Bingaman	Heinz	Randolph
Boren	Huddleston	Riegle
Boschwitz	Jepsen	Roth
Bradley	Johnston	Rudman
Bumpers	Kassebaum	Sarbanes
Burdick	Kasten	Sasser
Byrd	Kennedy	Specter
Chafee	Lautenberg	Stafford
Chiles	Leahy	Stennis
Cochran	Levin	Stevens
Cohen	Long	Thurmond
D'Amato	Lugar	Trible
Danforth	Mathias	Tsongas
DeConcini	Matsunaga	Wallop
Denton	Mattingly	Warner
Dixon	Melcher	Weicker
Dole	Metzenbaum	Wilson
Eagleton	Mitchell	Zorinsky
Exon	Moynihan	
Ford	Nickles	

NAYS—5

East	Helms	Symms
Garn	Humphrey	

NOT VOTING—16

Cranston	Goldwater	Murkowski
Dodd	Hart	Pryor
Domenici	Hollings	Simpson
Durenberger	Inouye	Tower
Evans	Laxalt	
Glenn	McClure	

So the amendment (No. 2586) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I rise to support the compromise agreement just reached on the legislation to reauthorize the Civil Rights Commission. The entire Senate owes a tremendous debt of gratitude to Senators DOLE, SPECTER, BIDEN, BAKER, and the others involved in reaching this agreement. Negotiations took place all day today in order to put together a package which was acceptable to the coalition of civil rights organizations who cared so deeply about this matter, the White House, and the various concerns of those here in the Senate.

The Civil Rights Commission is an invaluable institution in this country. It serves to remind us constantly of the progress which still needed to be achieved in our Nation in the area of discrimination and civil rights. We have come a long way in a short period of time, but until all vestiges of racial discrimination are eliminated we cannot rest. We learned last year during the reauthorization of the Voting Rights Act that there were still areas in the United States where people—citizens—are discouraged and indeed, prevented from exercising that most fundamental of American rights—the right to vote.

The Civil Rights Commission constantly served to remind our collective conscience that this discrimination still exisited despite our best efforts to outlaw it. The Civil Rights Commission has had a regional office in Chicago. I know those people to be dedicated public servants.

They have performed their duties and responsibilities in a manner which brings great credit to the Commission. I am obviously pleased to see these good people retained in their jobs.

Frankly, Mr. President, I deeply regret that there was ever a question about the future of the Civil Rights Commission. The divisiveness and politicalization which developed over this issue was, I believe, avoidable. The fact that we have been able to come back from all that and still craft a measure acceptable to all of those who had an interest is, as I said previously, a great tribute to the people most actively involved. I was a sponsor of the Specter bill and was prepared to support an independent congressional commission. However, I always felt that that was the least desirable alternative.

I urge all my colleagues to support this legislation.

● Mr. DOMENICI. Mr. President, I am pleased to be a principle coauthor of the compromise offered tonight by the Senator from Kansas, Senator DOLE, Senator BIDEN, and others.

This delicate compromise was forged after many hours of consultation with members of the civil rights community, the White House, and Members of Congress. I believe it is a good compromise, one that offers full hope that the great work of the Civil Rights Commission can continue uninterrupted.

The compromise offered tonight establishes an eight-member Commission, with four members to be appointed by the President and four members by the Congress. Both the President and Congress can appoint no more

than two members of the Commission from the same political party. In addition, in the Congress, equal input will come from the majority and minority leaders in the Senate and the House, as well as the Speaker of the House and the President pro tempore of the Senate.

The measure provides a 6-year authorization and staggered terms for Commissioners, with removal only for cause. This should establish clear ground rules for the Commission in the future.

In addition, the President will appoint the Staff Director, Chairman, and Vice Chairman of the Commission, with majority concurrence of the Commission membership. Finally, the compromise provides protection for current Commission personnel and their benefits.

I congratulate all who were party to this compromise. It took literally hundreds of hours of negotiation. In the final analysis, I believe that this compromise will serve the cause of civil rights to which all of us are committed.●

Mr. KENNEDY. Mr. President, for months, the Senate has struggled to save the Civil Rights Commission from a President who has seemed determined to destroy it. Time and again the President has blocked efforts to achieve a reasonable compromise that would assure an independent, functioning, and effective Commission. Finally, the President attempted to fire three Commissioners, a slap in the face of all those in Congress who have labored to find an acceptable approach to continuing the Commission as well as the 25-year history of independence under Presidents of both parties.

Tonight, at last we have reached agreement on a proposal that will preserve the integrity and independence of the Commission. I applaud the effort of the many Senators who worked to make this possible.

An independent Commission is a vital component of our national civil rights effort—undertaking factfinding and oversight of Federal agencies and the President, and making forwarding thinking recommendations that will help shape and advance civil rights in the years to come.

I am pleased that, with the adoption of this amendment, the Commission's essential work can continue to go forward.

Mr. BIDEN. Mr. President, for more than 5 months, Members of this body, expecially those of us on the Judiciary Committee, have been at work attempting to forge a bipartisan consensus on the best and most widely acceptable way to extend the life and independence of the Civil Rights Commission. Although there have been times during the last few months when we all were discouraged, throughout, I felt that such a consensus would be essential to preserve an independent Commission and that that consensus would eventually emerge. I am gratified that it has come to pass this evening.

The consensus we have reached will create a Commission that will be constituted as follows:

Eight Commissioners, four from the Congress and four by the President equally divided by party.

The four appointed by Congress will be equally divided by party with two appointed by the Speaker upon the recommendation of the majority and minority leaders of the House and two appointed by the President pro tempore of the Senate, upon the recommendation of the majority and minority leaders of the Senate.

The Commission will have a 6-year authorization and Commissioners will serve in staggered terms, eventually for 6-year terms.

The President may only remove Commissioners for cause and the President will appoint the Staff Director, Chairman and Vice Chairman subject to the concurrence of the majority of the Commissioners.

The Commission will retain all of the powers and duties of the current Commission which is now in its 60-day wind-down period and which will expire on November 29.

Throughout the past 5 months, those of us who have been attempting to reach an accommodation have been searching for the correct balance between the need for independence on the one hand and the President's desire to create greater balance. Unfortunately that process was set back several weeks by the firings, but I believe that the amendment we will vote on this evening strikes the correct balance and in essence re-creates a commission with both independence and balance which is every bit as good as the proposal the Judiciary Committee was about to adopt on the morning of the firings.

In the end none of this would have been possible without the help of many of my colleagues both on and off the committee. First, the Senator from Pennsylvania has been tireless in his labors to keep this effort alive throughout the past few months. The Senator from Maryland has provided me with wise counsel. The chairman of the committee has patiently worked with us to keep the possibility of compromise alive in the committee. The majority leader did the same for us here on the floor of the Senate. The Senator from Kansas was critical to our finally forging an arrangement acceptable to the White House.

On the Democratic side none of this would have been possible without the support of the Senator from Massachusetts, the Senator from Ohio and the Senator from Texas.

FURTHER CONTINUING APPROPRIATIONS, 1984

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 2585

Mr. WILSON. Mr. President, I send an amendment to the desk amending the amendment of the Senator from Louisiana and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. WILSON) proposes an amendment numbered 2585.

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

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

In lieu of the language proposed, insert:

"Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag. Upon application by a subsidized U.S.-flag liner company which has taken delivery from U.S. shipyards of new U.S.-built liner vessels that were introduced into subsidized service within the two years preceding the date of enactment of this Act, the Secretary of Transportation shall permit the acquisition of no more than two foreign-built vessels for operation under U.S. flag. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code. Section 607 of the Merchant Marine Act, 1936, as amended, shall not apply to the vessels acquired or converted under this Act."

Mr. WILSON. Mr. President, what I am seeking to do is bring about a certain amount of equity. I rise not to oppose the amendment offered by the Senator from Louisiana.

I understand the problem that is faced by his constituent industry in Louisiana. In California, the American President Line is in a similar position as that of the Lykes Co. in connection with the window of opportunity, and in the same fashion as others.

What we are asking now is that two foreign-built vessels be permitted to be purchased by the American President Line; that they be subject to whatever restrictions the Senator from Virginia and others may offer who are concerned with the well-being of U.S. shipyards.

The simple equity I am seeking here has to do with the fact that by acquisition of foreign vessels, other similar carriers in competition with Lykes and

with the American President Line gain a competitive advantage. It necessarily affects their rates. I am suggesting that there should be simple equity and that in accordance with the opportunity being sought by the Senator from Louisiana for the Lykes Co., we are seeking a similar opportunity for the American President Line.

Mr. TRIBLE. Mr. President, I am not unsympathetic to the concerns of the Senator from Louisiana about the employment of his constituents. But this is not the hour to discuss this amendment, and this is not the proper vehicle for such a discussion.

Once you make that exception for one company then you open the door for everyone to run through. Quite properly, the Senator from California rises in support of his own constituents interests and proposes an amendment to the amendment.

Let me take just a moment to put this matter in perspective. The cornerstone of American maritime policy has been that shipping companies that receive operating subsidies must build ships in the United States. There was an exception made to this longstanding policy during fiscal year 1982 and companies receiving operational subsidies from the Federal Government were permitted to go outside the United States and build or buy ships. That window of opportunity has now passed.

Regrettably, the shipping interests represented by these amendments did not take full advantage of that window of opportunity, and we are now being asked to give them special treatment. This is private legislation and ought to be rejected.

Mr. President, companies such as Lykes, which have ODS contracts with the Government, have agreed to build new vessels in American shipyards. No one forced them to make that agreement, but they have done so, in return for the taxpayers' dollars that have flowed into their corporate coffers for many years. Now we are being asked to make an exception for them.

Mr. President, I am advised that the majority leader would like to have the floor, and I yield to him for that purpose.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. The Chair states that if we can keep the sound down, it will be a blessing, so that we can hear.

Mr. BAKER. Not always a blessing.

The PRESIDING OFFICER. Almost always.

(At this point proceedings relating to the Civil Rights Commission Act occurred, which we printed earlier in today's RECORD.)

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

Mr. TRIBLE. I thank the Chair.

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

Mr. TRIBLE. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I believe the Senator from Virginia and I have worked out our differences with respect to the underlying amendment. I ask unanimous consent that I be permitted at the end of the phrase "United States flag", which is in the sixth line, to strike the period and add the following: "and may require the conversion of two vessels in a U.S. shipyard".

The rest of it remains the same.

The PRESIDING OFFICER. The Senator has the right to modify his amendment, if he will send the modification to the desk.

Mr. TRIBLE. I say to the Senator that I am troubled with the word "may." It has to be stronger than that.

Mr. JOHNSTON. I am troubled by the two ships as well. I think we have to compromise.

The PRESIDING OFFICER. Will the Senator from Louisiana please send the modification to the desk?

Mr. JOHNSTON. Yes, Mr. President.

The PRESIDING OFFICER. The amendment is so modified.

Mr. TRIBLE. Mr. President, I yield to my distinguished colleague from Virginia.

Mr. WARNER. Mr. President, when I had the opportunity to discuss this possible compromise with our two distinguished colleagues from Louisiana, it was my impression that it would be a requirement on behalf of the Secretary and the word "shall," was my understanding and the one that I communicated to my colleague from Virginia. If that is not the case, then I was mistaken in transmitting to him the possibility of a compromise.

Mr. JOHNSTON. Mr. President, when I spoke to the distinguished Senator, he first said, "We ought to work this out. Gives us anything, give us one ship."

I said, "OK, I do not think we ought to, because my people are out there. They cannot afford it. They lost $21 million last year."

He said "OK, one ship." Came back and said, "No, we need two ships." I wrote down the word, "may." This gives authority to the Secretary of Transportation.

The Secretary of Transportation can require it if they can afford it, and I think that is sufficient. I hope the Senators will take that.

Mr. TRIBLE. Mr. President, reclaiming my time, I must oppose the amendment in its present form. I apologize to my colleagues for the extended debate on this particular issue, but let me reframe this issue because of the interruption of the floor.

Mr. JOHNSTON. Mr. President, if the Senator will yield, if the Senator insists on "shall," I will make it "shall." I hope he will not insist.

Mr. TRIBLE. I insist, and the Senator is a gentleman to agree to the word "shall."

Mr. JOHNSTON. Mr. President, I ask that the amendment be changed to "shall."

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the joint resolution, insert:

SEC. . Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag and shall require the conversion of two vessels in a U.S. shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act and Chapter 37 of Title 46, United States Code.

Mr. TRIBLE. Now, Mr. President, there is one other unfinished piece of business, and I would yield to the Senator from California.

Mr. WILSON. I thank my friend from Virginia.

Mr. President, the amendment that I have at the desk is one which I now modify, having not yet asked for the yeas and nays.

The effect of the amendment would be to add to my perfecting amendment the same language to which the Senator from Louisiana has just agreed as an addition to his. It is the phrase "and shall require the conversion of such ships in a U.S. shipyard."

The PRESIDING OFFICER. The amendment is so modified.

Mr. WILSON. Let me add one other thing. In order to accord with the underlying amendment offered by the Senator from Louisiana, the amendment at the desk contains one sentence which has been stricken from his, that is, the last sentence beginning with "Section 607 of the Merchant Marine Act" and ending with "concerted under this act." That final sentence should be stricken.

The PRESIDING OFFICER. Would the Senator please send the modification to the desk?

The amendment, as modified, is as follows:

In lieu of the language proposed, insert:

Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than 4 foreign-built vessels for operation under U.S. flag. Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company which has taken delivery from U.S. shipyards of new U.S.-built liner vessels that were introduced into subsidized service within the two years preceding the date of enactment of this Act, the Secretary of Transportation

shall permit the acquisition of no more than two foreign-built vessels for operation under U.S.-flag, and *shall* require the conversion of such ships in a U.S. shipyard. Upon acquisition and/or construction and documentation under the laws of the United States, those vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code.

Mr. TRIBLE. Mr. President, I am pleased that my colleagues have shown a willingness to meet the concerns that I have expressed about this amendment. I am troubled about any exception to the law of the land that requires shipping companies operating ships and receiving subsidies to build their ships in American shipyards. However, given the special circumstances outlined here, it seems appropriate to grant an exception where that exception is conditioned on the requirement that ships be refitted in American shipyards. That requirement has now been agreed to by the Senators from Louisiana and California. We have struck an agreement that is fair to the taxpayers, the shipping companies, and, most importantly, to America's struggling shipbuilding industry.

So, Mr. President, I am no longer opposed to this amendment.

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

So Mr. WILSON's amendment (No. 2585), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Louisiana, as amended.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, as chairman of the Merchant Marine Subcommittee, I kept out of the recent dialog. I just want to point out to the Members that this is not a very good way to write merchant marine legislation, and I do not consider what has just happened as a precedent in any way. The Defense bill we have just passed has poured billions and billions of dollars of taxpayers' money into the shipyards. I think it was not proper to require the foreign-built ships that have to be purchased in an emergency to be repaired in this country in order to have the quid pro quo to save a dying steamship line. I want to serve notice that as far as I am concerned it is not going to happen in connection with other matters, and I am going to remember that in terms of the allocation of funds recommended by the Defense Subcommittee in terms of succeeding years.

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

Mr. JOHNSTON. Mr. President, the Senator is for the amendment, though?

Mr. STEVENS. Yes.

So Mr. JOHNSTON's amendment (No. 2584), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2569

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Ohio.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, this amendment of the Senator from Ohio has been before us for some time. I think it was around 8 o'clock that it was presented.

After consultation with the chairman of the Appropriations Committee and others on both sides of the aisle, I believe it is time to clear the air on just where this amendment is going to end up.

The timber contract termination involved in this amendment is an extremely complicated arrangement. There is no simple way to describe this amendment except that the termination of percentages of contract by various companies in various positions throughout the United States is not one that can be quickly understood and comprehended on this Senate floor. We are at a great disadvantage. The amendment has not had hearings before any committee in the Senate. The amendment deals with timber contracts for an ailing industry that varies from one region to the other across a whole spectrum of sizes of companies involved.

Now, I did not believe the amendment would be offered this evening. In fact, I scoffed at the idea that a complicated timber contract termination would be thrown out on the floor on a bill that must be passed tonight or this morning. I advised the timber industry in the State of Montana when they voiced opposition to it that I could not see any possibility of such a bill.

The PRESIDING OFFICER. Will the Senator withhold?

Will Senators please cease their conversations? It is difficult to hear the Senator from Montana.

Mr. MELCHER. I advised the timber industry in the State of Montana, when they sent word to me that they would oppose such an amendment if it were offered, that I could not see it being added to a continuing resolution, a bill that would have to be passed in a matter of hours, resolved in conference quickly, and hopefully the President would sign it.

Well, here it is before us, and it has been here before us since 8 o'clock. There has been precious little debate on it and, frankly, I do not recommend debate on this floor on such a complicated matter unless we have the opinion of a committee and figures before us from both the administration and the Congressional Budget Office that have been thoroughly worked out and thoroughly understood. It is fair to say the administration does not like the bill at all. They do say it is rather complicated. They are not too sure of what it would do. They think it would cost $130 million for the first year and some additional moneys thereafter.

Now, I do not want to apply such a procedure on some form of dealing with these high-priced timber contracts that the forest products companies cannot afford to harvest the timber on.

I wish it were packaged in a way that I could thoroughly understand it and that I would have the judgment of not just the administration but the candid and personal examination and opinion of the U.S. Forest Service. We do not have that in this instance. We do not have any of it.

I want to remind all Senators that a complicated method of terminating these contracts as is proposed in this amendment would be chaotic for the Forest Service, and I have a great deal of sympathy for them.

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

Mr. MELCHER. I yield.

Mr. SYMMS. I ask the Senator if he does not think and agree—and I know that the administration thinks this—that this particular amendment is going to be very complicated to administer.

For one example, who is going to determine what the net worth of a company is?

I think the Senator is right. If we are trying to solve that question here, late at night, I think it would be much more appropriate to go ahead with what the administration has done with respect to the 5-year delay on this question.

There is no question that those timber sales contracts that were bid on are not worth today what they were worth the day they were bid on. The Senator from Ohio agrees that there is a problem there, and I think it would be unfortunate to try to solve this complicated problem here tonight. I hope this amendment will be tabled.

Mr. MELCHER. Mr. President, what the Senator from Idaho has said is true regarding how complicated it is.

I repeat that I am not adverse to consideration and passage of a solution for the forest products industry, which is saddled with these high priced contracts. But I do not believe that I could possibly accept this proposal tonight.

I said that I thought it was time to clear the air and that I had consulted with the people on both sides of the aisle, and I want to serve notice that I do intend to offer an amendment to table, to see if we can resolve this and put it aside and go on with rest of the continuing resolution. I should like to see that happen. I do not want to foreclose anybody from mentioning whatever they want to say on this issue.

I yield the floor at this time.

Mr. METZENBAUM. Mr. President, I appreciate the courtesy of the Senator from Montana, who could have made a motion to table and foreclosed debate.

I will not speak extensively, but I think we should get the picture as I see it.

There was legislation last year which was not enacted. That legislation came about by reason of the fact that there were a number of timber companies which were having difficulty in meeting their responsibilities, and it was claimed that some of them would go bankrupt.

As a consequence of that and that legislation, which I felt went too far—it was not passed—therefore, an effort was made to solve the problem by negotiation. When that did not occur, the White House agreed to delay these contracts for a priod of 5 years, with no interest.

We are talking about contracts that are worth $5 billion. You do not have to be a great mathematician to know that $5 billion at about 10 percent interest in $500 million a year. The contracts were to be delayed for 5 years.

In all fairness, there was some pushing to get 20 percent taken each year, so there may have been less than the $500 million a year.

The Senator from Ohio has taken the position that for those timber companies that need some relief, I have no objection to giving them relief. But the administration's program of delaying the contracts does not help the small contractors. It does help the big timber companies.

I attempted to offer an amendment to foreclose the administration's program from being implemented on the supplemental appropriations bill, and I was asked to back off that, to see if we could work out something. I then offered it on the continuing resolution, and I was asked to back off that. The administration agreed that it would not implement its regulations, as a consequence, until we had an opportunity to deal with this matter.

The Senator from Montana is not wrong in saying that it is difficult to comprehend why it is on this bill. It is on this bill because there is a time element. If some action is not taken, the administration's program will go into effect. It would already be in effect if we had an agreement, which we do not have, and it would have meant that the Government would have been carrying $5 billion for the timber industry, with no interest, for 5 years.

What we are saying here is that we will give some relief to those companies that need it. There is a formula provided for in the legislation, and we will charge interest—not full interest, but a half-year's interest at the inception, and then there will be interest in the fourth and fifth years, none in the second and third years. That provides a pressure mechanism to get timber companies to take the timber and cut it. That is in the Government's interest.

As to the question of whether or not this is or is not acceptable to the timber industry, let me point out that the Western Wood Products Association, which operates in Oregon and Washington, has indicated its overwhelming support for this amendment; and the Intermountain Timber Council, which operates in Montana, Idaho, and Wyoming, has indicated its support for this legislation.

So I believe that there will be some giveaway by permitting termination of contracts, but it is permitted only to those companies that are in financial distress.

The PRESIDING OFFICER. Will the Senator withhold? It is difficult for Members to hear what the Senator is saying, there is so much noise in the Chamber. Will those Members who are conducting discussions please take their discussions into the cloakroom? The Senator from Ohio is entitled to be heard. Will the staff please remain quiet at the rear of the Chamber.

The Senator from Ohio may proceed.

Mr. METZENBAUM. I thank the Chair.

Mr. President, there are concerns about the regional aspects. There is a specific paragraph in this measure providing that the Forest Service, in connection with the matter of terminated contracts, is to give concern to the very issue of the regional impact, of what will occur by reason of this amendment.

I believe that Senator HATFIELD and I were in total disagreement before this matter came to the negotiating table.

I am not going to tell you that I got everything I think I should have gotten in order to protect the Government's interests. I do not think that Senator HATFIELD would say that he got everything he felt he would like to have in order to protect the timber interests of his area. It is a compromise. It may not be the greatest compromise that was ever fashioned, but the timber industry feels that they can live with it.

I have not heard that the administration is opposed to it; and, in all fairness, I do not speak for the administration.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. METZENBAUM. I yield.

Mr. SYMMS. Did the Senator say it would cost $500 million to the taxpayers in the administration's program?

Mr. METZENBAUM. Yes.

Mr. SYMMS. The U.S. Forest Service study in May said $195 million.

Mr. METZENBAUM. I have seen those figures, and I must confess that I do not understand how they arrive at those figures, because I point out that if there is $5 billion in contacts out there and you have a 1-year delay, the value of that money for 1 year at 10 percent, in simple mathematics, is $100 million.

Mr. SYMMS. The question is whether people default and then go through a legal process, and they will not get their money.

Mr. METZENBAUM. The Senator from Idaho may have a point there. I do not want them to default. I do not want companies to go bankrupt. I want the industry to be viable. I want to keep as many companies in business as is possible.

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

Mr. METZENBAUM. I only yield for that question.

Mr. SYMMS. It is past midnight. I admit there is a great deal of difference. But the people in my State do not want this.

Mr. METZENBAUM. I yielded to the Senator for one question. I wish to give back the floor. The hour is late.

I see the Senator from North Dakota in the Chamber and I ask unanimous consent that I be permitted to yield to the Senator from North Dakota.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ANDREWS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. ANDREWS. Mr. President, the hour is late and we are talking about a continuing resolution on an appropriation bill where we have heard a lot of mention bandied about about various figures, I wish to ask the chairman of our committee, the chairman of the Appropriations Committee, how much money he feels this amendment now pending, the Hatfield-Metzenbaum amendment, will save the Treasury of the United States. Does this save money to the Treasury, or is this a spending measure?

I think that obviously our chairman has done a great deal of work with his staff and can shed some light on it.

Mr. HATFIELD. Mr. President, I would say in answer to the Senator from North Dakota that we have about 5 billion dollars' worth of contracts that were made in time when they averaged 44 percent higher in appraised value than what they would average today in the same timber sale appraisal. That means that out of that $5 billion of contracts, considering the fact that a major portion of them are owned by small- and medium-sized timber operators who have a total dependence on Federal timber, it would be an estimate of about 20 percent that would face contract default. That would mean about $800 million to $1 billion that otherwise be available if they are in a position to perform on the contracts which means money to local governments who gain percentage of those Federal timber and receipts to the Federal Treasury also.

Consequently, contract termination is not going to take one dollar or one dime out of the Federal Treasury, but rather it means putting money into the Federal Treasury and into local governments who share in those Federal timber receipts.

I only wish to say, Mr. President, as the Senator from Ohio said, this amendment is certainly not what I would like to have it as a final product. No compromise ever is. I do support it and I feel that it will help. It is not a bailout; not one dime of Federal money is going to be taken out of the Treasury and given to any timber purchaser. But it does provide opportunity to create revenue for the Federal Government.

Mr. NICKLES. Mr. President, I rise in opposition. I know the Senator from Montana has been leading the opposition to this amendment and I would not preempt him. But this certainly is legislation on an appropriations bill without any doubt. The hour is late.

I am on the Energy and Natural Resources Committee, along with Senator MCCLURE. We did have hearings on this problem. We did not have hearings on the particular proposal that is before us.

I can tell the Senate that the proposal that is before us, and I compliment the managers for their efforts in trying to come up with a program, though, is opposed by a lot of people, including the administration.

Mr. President, I ask unanimous consent that a letter from the administration to Chairman MCCLURE be printed in the RECORD at this point.

Mr. HATFIELD. Mr. President, I do not wish to pursue that but point out that it has already been printed in the RECORD.

Mr. NICKLES. I withdraw that request.

Mr. President, just for a real quick comment for a few of our colleagues, I do not wish to take up any more time than is necessary, but the administration is opposed to this proposal.

It is extremely complicated. It varies the amount of contract abrogation, and that is basically what we are doing. We are abrogating some contracts here that were entered into that quite frankly now the prices that were entered into are higher than the market is now and there are a lot of companies no doubt that are having some financial problems, so it is a degree of what type of abrogation and the schedule that is in the proposal of the Senator from Ohio, which is extremely complicated. Actually, the greater the problem that one has the more abrogation is allowed and the less net worth that you have the greater the abrogation.

Mr. HATFIELD. Mr. President, will the Senator yield for a question at this point?

Mr. NICKLES. I am happy to yield.

Mr. HATFIELD. Does the Senator support the abrogation of natural gas contracts?

Mr. NICKLES. The Senator is probably aware that I do not support the abrogation of contracts and I actually plan on having an amendment along with Senator WEICKER and some others that would eliminate that abrogation of contracts in natural gas, and I am trying to be consistent. I do not agree with abrogating timber contracts.

I might just read a couple of statements from the Assistant Secretary for Natural Resources and Environment, Mr. Crowell, in their opposition to this amendment. It says:

1. It would tend to give the most relief to those companies that bid most imprudently, i.e., those that have the greatest potential losses to offset against their net worth. It would be inappropriate to provide the greatest benefits to those firms who acted least responsibly.

It says further:

. . . This provision in itself would result in a potential loss in Federal receipts of $130 million. Losses resulting from the "buy out" provision would also be large.

It also says:

It would be very difficult to administer the eligibility formula in this amendment based on net worth adjudications in a fair and even-handed manner.

Additionally, there are many ambiguities in the current language of the proposed amendment which would leave doubt about intent and which would make implementation very complicated and costly.

Mr. President, again I do not think we need to debate this at length. It is legislation on an appropriations bill, and I will leave it up to the Senator from Montana who had led the opposition whether he wants to make that motion or a motion to table. But it is extremely complicated. I would hope we would not try to legislate this late in the evening on this program.

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

Mr. NICKLES. I yield.

Mr. SYMMS. I thank the Senator for yielding. And I thank him for the points he brought out in answer to the question our distinguished friend from North Dakota brought out about the Forest Service's own estimate. This amendment would cost an additional $230 million. The administration's proposal that is now under way is $195 million cost to the Treasury. So there is a cost involved with this, and I think we should understand that.

I think the Senator from Oklahoma made the case very well.

Mr. ANDREWS. Mr. President, the point is there is a lot of money here involved. What happened is the White House itself abrogated these timber contracts.

If I am on the farm and I buy 10,000 bushels of corn to feed my cattle and the price goes down a buck no one bails me out for bidding the wrong price in the first place.

Senator METZENBAUM pointed out that it cost the Federal Government, cost the taxpayers $500 million a year out of the till of the Department of Agriculture, $500 million a year that could be used for the nutrition of schoolchildren in this country, and I think these figures are significant.

Mr. MELCHER. Mr. President, will the Senator yield on that?

Mr. ANDREWS. The Senator should look at the figures on the basis of justice and contract equity. The package the Senator from Oregon has put together makes a good deal of sense and should be voted on on that basis or if the sanctity of the committee process wishes to be protected, perhaps the Senator from Idaho and the Senator from Montana would go along with the suggestion that we hold in abeyance the White House action until committee action has been taken.

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

Mr. ANDREWS. I am glad to yield on that.

Mr. SYMMS. Mr. President, I thank the Senator for yielding.

I am sure the Senator does not want to leave the impression here that the White House abrogated those contracts, because that is not true.

Mr. ANDREWS. I do not want to leave that impression. That is exactly what happened.

Mr. SYMMS. That is not what happened.

Mr. ANDREWS. I am amazed the press has not shed more light on it.

Mr. SYMMS. That is not what happened. Those contracts have been extended and there is a great deal of difference in that so that these companies if we continue to have a recovery

can blend in some of that timber and manage to sell it.

I point out they cannot default on them. There is a way to do that and then there is no return to the Treasury. There is no return. These companies have to go ahead and take that timber. The Senator knows that will be tied up for years in court, and I think there is a process under way and there may be a way out of it.

I compliment the Senator from Oregon and the Senator from Ohio for their efforts.

But I think it would be inappropriate to try to solve this here tonight.

Mr. MELCHER. Mr. President, first of all, I do not want anybody to keep in their mind the $500 million figure per year, a half a billion dollars per year. That is not what the Senator from Oregon said at all. That is not what the facts are. Timber sales, timber contracts are not all upfront money the first year. It is based on where the timber is cut, and it is spread over a number of years. So you cannot multiply $500 million times the rate of interest and get an annual figure because that is not where the money would come in anyway.

I think what the Senate sees here is a complication of the problem that has not been thoroughly thrashed out in the committee, and you have all these reports in front of you. I think we are at a disadvantage in trying to move this amendment at this time tonight.

There is one point about why some of our people dislike this very much, probably most of them do, and it is shared around the country because there is an element of competitive advantage in termination of contracts. It has to be carefully weighted and carefully meted out. And you cannot do that, I am sorry to say, this evening with this particular amendment.

I think I would like to have all the western timber folks together and the western Senators representing timber folks together. We are not that way tonight. I am sorry we are not.

Mr. STEVENS. Mr. President, small timber companies in Alaska bid for short-term timber sale contracts which have no timber rate redetermination. Consequently, in a soft market, these companies have contracts which are not close to the market clearing price.

Unfortunately, the long-term contract in Alaska, which can last for 30 years sometimes, does have a rate redetermination clause, which allows the timber price to adjust to a soft market. For purchasers of timber in the national forests in Alaska, long-term contract rates are redetermined, but the short-term contract—which faces the same market price changes—are not redetermined. The inequity of this will force the shorter term timber purchaser out of the market.

The purpose of this amendment is to allow the shorter term timber contract rate to be redetermined in order to reach parity with the long-term contract. This will enable the small independent timber companies of Alaska to compete also.

Mr. HELMS. Mr. President, during the past 3 years the forest products industry has drastically changed—primarily because of a dramatic drop in home construction brought about by high mortgage interest rates.

In almost every area of the country, except for Oregon, timber companies have gone out of business in response to the reduced demand for lumber. According to Dunn & Bradstreet, in 1980, 98 firms went out of business nationwide; 172 firms followed in 1981. And for the first 7 months of 1982, 301 mills went belly up. Over this 2½-year period, a total of 571 timber mills in the United States closed their doors.

But, Mr. President, the numbers for Oregon are vastly different. Over roughly the same period, October 1981 through October 1983, according to Forest Service records, only four firms went bankrupt in the Pacific Northwest. Now I do not want to see even one firm go out of business, not in North Carolina, not in Oregon. But I do suggest that these statistics should be instructive to Members of the Senate as to why their constituents may not like the idea of the termination, or buy out, of Federal timber contracts. The plain fact is that most of the country has already made the painful adjustment to a lower demand for timber. Firms in Oregon, which purchase timber almost exclusively from the Federal Government, have not had to make the hard business decisions that the timber industry in the rest of the country has already made.

Mr. President, firms in Oregon have largely been protected because the majority of their timber contracts—which are Federal timber contracts—were extended for 5 years. In August of this year, the President proposed to allow an additional 5-year extension on these contracts. However, recognizing that there are costs to the Federal Government in allowing these contracts to be held for this additional period—and recognizing that good forest management requires that these timber sales be operated within the next 5 years—the administration required that these companies begin to make payments to the Federal Government for this timber, some of which was purchased almost 10 years ago and is still standing.

Some companies object to this procedure because they might have to operate some of these sales at a loss. Although no one enjoys this prospect, the fact is that the rest of the country has already suffered through it. These folks are not vindictive, they cannot afford to allow their friends, who are also their competitors, in the Northwest to gain a competitive advantage through a bailout from their Federal contracts. Federal timber, under contracts that are terminated or bought out, would come back on the market at a reduced price. This would, of course, help some companies, but inasmuch as timber from the Northwest is sold across the country, basic economic analysis suggests that some of this lower priced timber from the Northwest, will displace timber from other areas in markets across the United States.

Mr. President, although it appears from the earlier vote that Senators favoring this amendment may carry the day, I feel obliged to oppose this amendment and to point out that this proposal is not just a bailout for a few companies in Oregon and, therefore, isolated in its effects, but that such legislation will have detrimental effects on the economies of many communities throughout this country.

Mr. MELCHER. I do not think we should belabor this any longer. I hope we can move on promptly. For that reason, Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. MELCHER. Mr. President, I ask for yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana (Mr. MELCHER) to table the amendment of the Senator from Ohio (Mr. METZENBAUM). The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. McCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado, (Mr. HART), the Senator from South Carolina, (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from Arkansas, (Mr. PRYOR) are necessarily absent.

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

The result was announced—yeas 31, nays 50, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—32

Armstrong	Hatch	Melcher
Baucus	Hawkins	Nickles
Bentsen	Hecht	Nunn
Boren	Heflin	Roth
Byrd	Helms	Sasser
Cochran	Huddleston	Symms
DeConcini	Jepsen	Thurmond
Denton	Johnston	Trible
East	Kasten	Warner
Garn	Lugar	Wilson
Grassley	Mattingly	

NAYS—50

Abdnor	Ford	Percy
Andrews	Gorton	Pressler
Baker	Hatfield	Proxmire
Biden	Heinz	Quayle
Bingaman	Humphrey	Randolph
Boschwitz	Kassebaum	Riegle
Bradley	Kennedy	Rudman
Bumpers	Lautenberg	Sarbanes
Burdick	Leahy	Specter
Chafee	Levin	Stafford
Chiles	Mathias	Stennis
Cohen	Matsunaga	Stevens
D'Amato	Metzenbaum	Tsongas
Danforth	Mitchell	Wallop
Dixon	Moynihan	Weicker
Eagleton	Packwood	Zorinsky
Exon	Pell	

NOT VOTING—18

Cranston	Glenn	Long
Dodd	Goldwater	McClure
Dole	Hart	Murkowski
Domenici	Hollings	Pryor
Durenberger	Inouye	Simpson
Evans	Laxalt	Tower

So the motion to lay on the table amendment No. 2569 was rejected.

The PRESIDING OFFICER. The question recurs on the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDENT NO. 2587 TO AMENDMENT NO. 2569

Mr. STEVENS. Mr. President, I have discussed this amendment with the two sponsors.

Mr. MELCHER. Will the Senator yield? Is the Senator amending the amendment before us?

Mr. STEVENS. Yes.

I have discussed the amendment with the two sponsors and I have an amendment which I understand will be adopted and the pending amendment modified. The small timber companies in Alaska did not have the same kind of timber redetermination.

We have long-term contracts in Alaska which would not be affected by this amendment that I am offering. Only the short-term contracts which are for the small timber purchasers, the small operations, the small independent operations in Alaska, would be affected by it.

Mr. President, I send an amendment to the desk and ask the sponsors of the amendment if they will modify their amendment to accept my amendment.

Mr. HATFIELD. The Senator is correct.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 2587.

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

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

The amendment is as follows:

On page 6 of amendment No. 2569, following line 3, add the following:

(k)(1) Emergency stumpage rate redetermination shall be made upon the written application of the purchaser of National Forest timber in Alaska, and rates established as a result thereof shall be effective for timber scaled during a period between January 1, 1981 and five years from the effective date of this legislation.

(2) In making the emergency rate redeterminations the Secretary may modify existing contract terms, including the amount of bid premium, in order to provide rates which will permit the holders of short-term contracts to be competitive with other purchasers of National Forest timber.

(3) The Secretary, when considering a purchaser's application for emergency rate redetermination as provided under sub-section (a), shall base the decision to grant such a rate redetermination upon the determination that current stumpage rate no longer reflect the market and other economic conditions in Alaska, and that the revision is needed in order for the holders of these contracts to remain competitive with other purchasers of National Forest Timber in Alaska.

Mr. STEVENS. I ask the two sponsors of the amendment if they will modify their amendment to accommodate this amendment.

Mr. METZENBAUM. If the Senator from Oregon is agreeable, I am certainly agreeable, because there is no point in pitting the two regions against one another.

Mr. HATFIELD. Mr. President, I agree with accepting the amendment.

The PRESIDING OFFICER. The amendment is so modified.

ORDER OF BUSINESS

Mr. HATFIELD. Mr. President, I wonder if we could have a reading of what amendments are still to be offered. Could we have a show of hands as to how many more amendments?

About eight—I think we have a few more, so there are probably around 12 or 15.

As you know, Mr. President, the House has gone out. They will be coming in at 9:30 in the morning, appointing conferees at that time, according to Mr. WRIGHT, the majority whip. We have scheduled the conference at 10 o'clock in the morning with the House of Representatives. That means that we have no choice but to continue until we complete the continuing resolution, whatever hour that may be.

We do need a few hours to put the documents in order so the conference may have the proper documents to confer upon at 10 a.m.

I urge the Senators at this time, if possible, to restrict their explanations as far as long comments are concerned and make them as brief as possible. We shall be as reasonable as we can be in accepting them, hopefully thereby avoiding rollcalls.

This particular amendment, of course, is the unfinished business. I understand from the Senator from Montana that he expects to continue some debate on this amendment if it is not tabled.

Does the Senator from Montana have any idea how long he may wish to take on this amendment?

Mr. MELCHER. Mr. President, if the chairman will yield.

Mr. HATFIELD. Yes, Mr. President, I am happy to yield.

Mr. MELCHER. I can say I do not want to take any time. But it is in the bill. If we have a voice vote or a record vote, apparently, we cannot afford that. So I guess there will be some time needed to work out something else than this amendment.

I thank the chairman for yielding.

Mr. HATFIELD. I ask the Chair to put the question.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, this is an unfortunate thing. To get into what we ought to do in our forest management practices, we often have difficulty getting together and getting an understanding by the Senators from other parts of the country in order to pass legislation. We have before us an amendment that was not tabled a few moments ago. Looking at the raw numbers in the vote, I assume the amendment will probably stay in the continuing resolution.

This is an amendment that those of us in the inner mountain region who have to deal with forest products and the jobs that are involved have to resist. There is a competitive angle that cannot be ignored. Many of the timber contracts are in very productive areas of the West, particularly on the west slope, the Pacific slope, and those are bid rather high, because there is good timber there. The problem is that the companies that operate there are companies that have more timber available and they can afford to bid higher on the timber sales. Naturally, they are the ones where, when lumber prices drop, the timber contracts are the highest.

In that part of the country, a tree grows rather fast. In our part of the country, in the inner mountain areas, it grows rather slowly. So in trying to work out accommodation over the course of the past several years to

hope the forest products industry, we tried to keep a balance between those interests—those in the Pacific slope where the growth is very good and those, like my own, in our State of Montana, the inner mountain area, where it takes twice as many years to grow trees the same size. This disadvantage that is found if this amendment becomes law would be a question of how competitive our forest products industry in the inner mountain area would be compared to those on the western slope. We would be disadvantaged. This is why most of our people are very much against this amendment.

There have always been ways of attempting to work out accommodations for all the States that are involved in national forest lands and national forest legislation, but it has never come easily. The Timber Management Act of 1976, the Forest Products Management Act of 1976 for national forests, and the comprehensive revision of all the forest planning and forest practices took a good deal of time before they were finally hammered out by the House and the Senate and signed into law.

We had a bill before us where the lead author was Senator HATFIELD, that attempted to deal in an even-handed way with forest timber sale redeterminations to make some attempt to compromise among all the various groups that have interests in those timber contracts. Most of us from the West joined in sponsorship of that bill and we reported it out of the committee in the last Congress, but were not successful in getting it out of the Senate.

In this Congress, the chairman of the Appropriations Committee, Senator HATFIELD, introduced a similar bill again——

Mr. SYMMS. Will the Senator from Montana yield?

Mr. MELCHER. I would be delighted to yield.

Mr. SYMMS. I thank the Senator for yielding. I would just like very briefly to say to my colleagues and the Senator from Montana, who yielded to me for the purposes of making a point of order that this is legislation on an appropriations bill, there is a problem. I think the Senator from Ohio and the Senator from Oregon have spoken to this. We who come from the western timber-producing States know that there is a problem with timber contracts purchased that are now not worth what the people bid for them 4 or 5 years ago. The administration extended those contracts for 5 years so we could work them out.

This amendment that we are working on tonight makes a further grant to those companies who somehow can demonstrate that they had a low net worth, meaning that they bid for more contracts, being the big speculators, and lets them off the hook.

Would the Senator from Montana agree with what I have said so far?

Mr. MELCHER. That is true. The more they bid on it, the higher the contract, the more they reaped from the relief.

Mr. SYMMS. Those companies that bid the highest on the timber and got in the most trouble, the amendment pending before the Senate will let those people off the hook.

Mr. MELCHER. That is correct.

Mr. SYMMS. But will do nothing for the companies who were more frugal and more careful. Under the plan that is underway, there is a 5-year extension that covers all people. This amendment speaks specifically to people that qualify.

So if the Senator from Montana has no objection, Mr. President, I make a point of order that this is clearly legislation on an appropriations bill.

The PRESIDING OFFICER. Does the Senator from Montana yield for that purpose?

Mr. MELCHER. Yes; I yield for that purpose.

The PRESIDING OFFICER. The amendment places new duties on the Secretary of Agriculture and the Secretary of the Interior and is, therefore, legislation on an appropriations bill.

Mr. STEVENS. Mr. President, I appeal the ruling of the Chair.

Mr. HATFIELD. 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.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate? The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. PRYOR), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

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

The result was announced—yeas 43, nays 37, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—43

Armstrong	Hatch	Nunn
Baker	Hawkins	Percy
Baucus	Hecht	Quayle
Bingaman	Heflin	Roth
Boren	Heinz	Rudman
Bumpers	Helms	Stafford
Byrd	Huddleston	Symms
Chafee	Humphrey	Thurmond
Cochran	Jepsen	Trible
Danforth	Johnston	Wallop
DeConcini	Kasten	Warner
Denton	Lugar	Weicker
East	Mattingly	Wilson
Garn	Melcher	
Grassley	Nickles	

NAYS—37

Abdnor	Ford	Pell
Andrews	Gorton	Pressler
Bentsen	Hatfield	Proxmire
Biden	Kennedy	Randolph
Boschwitz	Lautenberg	Riegle
Bradley	Leahy	Sarbanes
Burdick	Levin	Sasser
Chiles	Mathias	Specter
Cohen	Matsunaga	Stevens
D'Amato	Metzenbaum	Tsongas
Dixon	Mitchell	Zorinsky
Eagleton	Moynihan	
Exon	Packwood	

NOT VOTING—20

Cranston	Goldwater	McClure
Dodd	Hart	Murkowski
Dole	Hollings	Pryor
Domenici	Inouye	Simpson
Durenberger	Kassebaum	Stennis
Evans	Laxalt	Tower
Glenn	Long	

So the ruling of the Chair was sustained as the judgment of the Senate.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABDNOR. Mr. President, I have three very short amendments. They all pertain to the bill and we can rapidly dispose of them.

AMENDMENT NO. 2588

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABDNOR) proposes amendment No. 2588.

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

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

The amendment is as follows:

At the appropriate place in the joint resolution insert the following new section:

SEC. . Notwithstanding any other provision of law, $1,000,000 of the unobligated funds as of September 30, 1983 from the appropriation for closeout activities of the Community Services Administration shall remain available through September 30, 1988.

Mr. ABDNOR. Mr. President, approximately $10 million of the appropriation for the Community Service Administration closeout activities lapsed on September 30, 1983 under section 139 of the first continuing resolution for fiscal year 1983, Public Law 97-276. This section extended the period of availability of the unobligated funds from the fiscal year 1982 appropriation through 1983. In order to provide funds to complete settlement of CSA complaints and related overhead costs, this language proposes to extend the availability of $1 million of the September 30, 1983 unobligated funds through September 30, 1988. In the event these cases are closed prior to this time the unobligated balance will be returned to the Treasury * * *

I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further discussion of the amendment?

The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2588) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2589

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABDNOR) proposes an amendment numbered 2589.

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

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

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution $2,650,000 is appropriated for the repair of the Pension Building in Washington, D.C.

Mr. ABDNOR. Mr. President, this amendment will add $2.65 million to the bill in the GSA repair and alterations account. As you are aware the pension building here in Washington, D.C. has been designated as the "National Buildings Museum." Neglect through the years has caused extensive damage to this stately building. Work will soon be finished on the roof. The next step is to repair the great hall, as directed by the Congress in 1980. Moneys would be included for this purpose in next year's budget, but I believe acting now will save money and will also insure the great hall's renovation will be complete by January 1985 to celebrate the President's Inaugural Ball, the centennial year of its first use for that purpose.

The PRESIDING OFFICER. Is there further discussion on the amendment?

The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2589) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2590

Mr. ABDNOR. Mr. President, I send a third amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABDNOR) for Mr. SPECTER proposes amendment No. 2590.

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

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

The amendment is as follows:

At the end of the joint resolution insert the following new section:

SEC. —. Notwithstanding any other provision of this joint resolution $14,000,000 is appropriated for purchase, design, repairs and alterations of purchased building in the Wilkes-Barre, Pennsylvania area.

Mr. ABDNOR. Mr. President, this amendment I am offering on behalf of Senator SPECTER.

The Senate Treasury bill has funding totaling $14,000,000 for repairs and alterations of a building in Wilkes-Barre, Pa. This amendment will allow use of some of this total for the purchase of the property. The amendment is intented to clarify any question which might arise.

● Mr. SPECTER. Mr. President, I thank the distinguished chairman of the Appropriations Subcommittee on the Treasury and Postal Service for offering the amendment on the Social Security Administration data processing center in Wilkes-Barre, Pa.

The chairman has been most helpful in trying to solve this problem, which has been going on for 6 years.

In the fiscal year 1984 bill reported out by the full committee, there is $14 million appropriated for "renovation of a purchased building." The intent was for GSA to use these funds to renovate an existing building which was to be purchased by GSA this past summer. Unfortunately, to date GSA has not proceeded with the purchase. To rectify this problem of overcrowded and insufficient space which is of national interest, since this Social Security Administration data processing center is one of only three facilities in the Nation which process the earnings information from 5 million employers and maintain files for the retirement and survivors' insurance, disability insurance, and supplemental security income programs, the distinguished chairman was going to offer an amendment to appropriate the $14 million for purchase, design, and renovation of a purchased building in the fiscal year 1984 bill (S. 1646) on the floor.

Now that the House version of the Treasury bill has become part of the continuing resolution. It is important that this amendment be added.

Again, I thank the distinguished chairman for his assistance in this matter.●

The PRESIDING OFFICER. If there be no further discussion, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2590) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. ABDNOR. Mr. President, although I can understand how sometimes it is difficult to keep track of all the directives, recommendations, and instructions contained in reports accompanying legislation, I believe that the agencies and departments have an obligation to follow the specific recommendations and directives contained in appropriations bill reports. Conscious disregard for congressional instructions regarding how appropriated funds are to be spent should not be tolerated.

Mr. DECONCINI. Mr. President, I agree completely with the distinguished chairman of the Treasury Appropriations Subcommittee. We spend a lot of time crafting these appropriation bills and writing the reports and if the committee directs the use of appropriated funds in a certain way, the agency involved should follow those instructions.

Mr. ABDNOR. I thank the Senator from Arizona. The Customs Service has apparently proceeded with some

end of year 1983 spending that has a direct effect on instructions we have made in the fiscal 1984 Treasury bill. Customs had requested funding for a low flyer detection net. Although we have reshaped the total air interdiction request within the President's budget, Customs has apparently ignored our instructions that up to $2 million be obligated for the purchase of specific digitizers at a price not to exceed $100,000 per unit, including support. Customs has apparently gone out and contracted on the last day of fiscal 1983, for digitizers costing $435,000 per unit. The contract would extend into fiscal 1984. In other words, Customs knew full well as early as July 1983 of the committee's directives yet in September 1983 they awarded an open-end contract at a unit cost four times the committee guidelines. I consider this to be an end run around the committee.

Mr. DECONCINI. Mr. President, I concur with my friend from South Dakota and join him in expressing my concern over this matter. I believe that the Customs Service owes the committee an explanation and that the Commissioner of Customs should send us a letter immediately, to reconcile this end-of-year action by Customs with the directives contained in our committee report, Senate Report 98-186 on page 24. Senator ABDNOR, does that seem like a reasonable request to be made to Customs?

Mr. ABDNOR. Yes; I believe that a written explanation from the Commissioner is appropriate and should be done. Furthermore, I would hope that his letter would also include his assurances that his agency will not, in the future, disregard committee instructions or recommendations in its reports and that they will follow our directives in fiscal 1984 and other fiscal years.

Mr. BOSCHWITZ. Mr. President, will the distinguished chairman of the Treasury, Postal Service and General Government Appropriations Subcommittee yield for a question?

Mr. ABDNOR. I yield to the Senator from Minnesota.

Mr. BOSCHWITZ. Is it correct that OMB has sought to review some marketing orders for fruits and vegetables, but that it has not sought review of milk marketing orders?

Mr. ABDNOR. The Senator is correct.

Mr. BOSCHWITZ. Is it true that the provision barring OMB review of marketing orders for 1 year will not restrict the normal review and oversight functions that USDA performs on the orders?

Mr. ABDNOR. This is correct.

Mr. BOSCHWITZ. I thank the distinguished floor manager. As he well knows, our home States of South Dakota and Minnesota are not affected by fruit and vegetable marketing orders. They are, however, influenced by milk marketing orders.

Mr. President, the milk marketing orders provide some very useful protection for dairy farmers, before they were instituted, unscrupulous milk processors were able to take unfair advantage of farmers. The marketing orders helped to establish equity in what had been a somewhat chaotic marketplace.

The milk-marketing orders are not above reproach, however. In some instances they have contributed to uneconomic developments within the industry. The arbitrary basing of the price for fluid milk in much of the country on the Minnesota-Wisconsin price series makes little sense in today's market. The fact that a higher price is paid for fluid milk as one moves farther from Eau Claire, Wis., has encouraged milk production in areas that do not have a comparative advantage. They are able to produce milk because they are paid a higher price under the orders. In many areas, they have expanded their production much more rapidly than has been the case in the upper Midwest.

I may yet be in favor of making changes in the milk-marketing orders which would lead to greater economic efficiency. During the recent debate on the dairy compromise many Senators from other regions of the country supported cutting the price supports to reduce production. I would argue that that end could be more fairly achieved by a change in the milk-marketing orders. However, because the provision in this bill does not prevent USDA from making changes through normal administrative process, I will support it. I hope, though, that USDA will take a careful look at the milk-marketing orders and affirmatively address the issues I have raised.

AMENDMENT NO. 2591

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) for himself, Mr. PELL and Mr. PERCY proposes an amendment numbered 2591.

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

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

The amendment is as follows:

At the end of the joint resolution insert: "Notwithstanding any other provision of this joint resolution, not more than $677,000,000 shall be used for the Military Assistance Program."

Mr. ZORINSKY. Mr. President, 2 years ago I introduced an amendment earmarking the administration's request for $20 million in aid to the private sector in Nicaragua. My purpose at that time was to avoid the creation of a foreign aid slush fund. At that time I was extremely skeptical that the administration would ever be able to spend that money given the internal situation in Nicaragua. Consequently, my amendment would have allowed the money only to be spent in Nicaragua or not spent at all. The distinguished chairman of the Senate Foreign Relations Committee, Senator PERCY, and officials from the Department of State prevailed upon me to consider the possibility of an emergency. I agreed with their concern and Senator PERCY, Senator PELL, and myself engaged in a colloquy here on the Senate floor, the purpose of which was to give the President authority to use this money for other purposes provided there was "an unforeseen emergency situation in which the vital national security interests of the United States were threatened." Senator PERCY, speaking for himself, and with the foreknowledge and agreement of the Department of State, made that commitment to Senator PELL and myself, and also promised to insure that I would be consulted in advance of any such request.

Last year my skepticism about the administration's ability to use this money for the private sector in Nicaragua proved well-founded when the administration sought to reprogram the funds for other purposes. At that time the administration was unable to demonstrate an unforeseen emergency or one affecting the vital national security interests of the United States. I suppose in retrospect that we should have fought this battle then, but in an effort to be cooperative and reasonable, we allowed the reprograming to go through and sent a letter to Secretary Haig noting our expectation that this situation would not be repeated in the future. I ask unanimous consent that a copy of that letter 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,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., May 26, 1982.

HON. ALEXANDER M. HAIG, JR.,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: We have recently received notification of the President's intent, under special authority of Section 614(a)(1) of the Foreign Assistance Act, to reprogram $14.9 million in earmarked Economic Support Funds from Nicaragua to Liberia for fiscal year 1982. Undoubtedly, consultations on this proposed reprogramming will follow shortly. However, both as background for those consultations and also as a guide for future reprogrammings, we would like to note the committee's particular concern with the authorization for this action.

The ESF earmark for Nicaragua has an extensive legislative history, particularly in

the Senate. During last year's debate on assistance for Nicaragua, Senator Zorinsky argued that funds requested and authorized for Nicaragua should "not be used as a slush fund." To that end, Senator Zorinsky proposed earmarking language which would have precluded even special Presidential waivers under the Foreign Assistance Act. After consultations with Senator Zorinsky and with the Administration, Senator Percy offered the following compromise from the Senate floor on the Nicaragua earmark: "I propose that the legislative history of the earmark, which would be maintained, would indicate that the earmark could not be waived by Section 614 of the FAA and the funds earmarked for the Nicaragua private sector could not be reprogrammed unless: First, there is an unforeseen emergency situation in which the vital national security interests of the United States are threatened; and second, Senator Zorinsky is consulted through a memorandum in advance of the official notice."

The Senate agreed to this proposal and earmarked $20 million in ESF funds for Nicaragua in fiscal year 1982, to be spent in support of the private sector. In conference on the International Security and Development Cooperation Act of 1981, spending restrictions for the Nicaraguan private sector were dropped. However, the $20 million ESF earmark for Nicaragua was retained and extended for an additional fiscal year.

This $20 million ESF earmark would now provide the source of funds for the Administration's reprogramming proposal. Before notifying Congress, Administration officials did meet with Senator Zorinsky to outline the proposal. However, despite the legislative history, no written memorandum was submitted to Senator Zorinsky or to the Committee prior to the official notification.

More serious questions surround the Administration's use of Section 614 authority in this reprogramming request. Liberia's importance to the security interests of the United States is not at issue here. However, the President's powers under Section 614 are intended to be reserved as "special" reprogramming authorities, and not as a means to circumvent the regular Congressional authorization process. In the case of the Nicaragua earmark, the "special" nature of Section 614 authorities is particularly clear, since the Senate legislative history stresses that these funds would not be reprogrammed unless "there is an unforeseen emergency situation in which the vital national security interests of the United States are threatened."

Whatever the merits of aid to Liberia, the need for that aid does not come as an emergency and is not unforeseen. Since early 1981, the U.S. has been assisting Liberia, through balance-of-payments support, in meeting that country's oil import bills and debt service obligations. The present reprogamming would extend budget support of this type. As early as last summer, Committee staff visiting Liberia were told that the Administration would require approximately $35 million in ESF funds for Liberia in FY 82. In fact, a 1981 IMF agreement with Liberia was negotiated on the assumption that the United States would make available this volume of assistance.

Substantial aid for Liberia has already been furnished in the past eighteen months through other reprogamming and defense stock draw-down requests. Thus, this latest reprogramming proposal represents a further, predictable increment in an expanding program that has never been presented in a way which allows full and prior Congressional review.

The proposed reprogramming raises significant questions about the integity of the authorization process and the scope of the President's Section 614 authorities. We hope that these questions will be addressed in upcoming consultations, and that future reprogrammings will reflect more carefully the intent of Congress.

With best wishes,

Ever sincerely,

CHARLES H. PERCY,
Chairman.
CLAIBORNE PELL,
Ranking Minority Member.
EDWARD ZORINSKY,
Ranking Minority Member, Subcommittee on Western Hemisphere Affairs.

Mr. ZORINSKY. Mr. President, despite the clear intent of my amendment and the colloquy with Senators PERCY and PELL concurred in by the administration, and despite our notice to the State Department last year, the administration this year informed the committee literally hours before the end of the fiscal year that once again it was seeking to reprogram the earmarked money. Not only was the consultation inadequate, but the reprogramming took place before it was completed, and the administration once again failed to demonstrate an unforeseen emergency in which the vital national security interests of the United States were threatened. Consequently, Senator PERCY, Senator PELL, and I wrote to Under Secretary of State Schneider objecting to the reprogramming. I ask unanimous consent that a copy of that letter 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,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., September 30, 1983.

Hon. WILLIAM SCHNEIDER,
Under Secretary of State for Coordinating Security Assistance Programs, Department of State, Washington, D.C.

DEAR MR. SECRETARY. Pursuant to your letters to Senator Zorinsky of September 29 and 30, we regret to inform you that on behalf of the Committee on Foreign Relations, we must object to any reprograming of Economic Support Funds from Nicaragua to Sudan and the Dominican Republic.

We want to emphasize that we make this objection despite our belief that both proposed recipients are worthy of additional economic aid on the basis of U.S. security interests and on the basis of need. Unfortunately, as the colloquy between Senators Pell, Zorinsky and Percy on October 20, 1981, indicated, the use of Section 614 waiver authority for the Nicaragua earmark would have to meet a higher standard than need for U.S. security interest. The justification, established in the colloquy, would have to be predicated on an "unforeseen emergency" in which "vital national security interests of the U.S. are threatened." This higher standard was agreed to in order to persuade Senator Zorinsky to delete the "notwithstanding" clause contained in his original earmark for Nicaragua—an earmark, we hasten to note, that was designed to prevent the use of this $20 million as a "slush fund."

Regrettably, this higher standard has not been met; nor has ample time been provided for a suitable consultation between your office and our Committee members, especially with Senator Zorinsky. Consequently we must register our objection to this proposed reprogramming, submitted to us, as it is, at the eleventh hour. In the future, we would expect the Department to provide us sufficent advance notice which would allow us to consider such requests in a timely fashion.

Sincerely,

CHARLES H. PERCY,
Chairman.
CLAIBORNE PELL,
Ranking Member.
EDWARD ZORINSKY,
U.S. Senator.

Mr. ZORINSKY. The Department of State ignored its commitment to the terms of the colloquy in making the reprogramming, and then proceeded to ignore for 1 month our letter objecting to this action. The response when it came was disheartening and disingenuous. For that reason: acting to preserve integrity to the process the chairman and ranking member of the Senate Foreign Relations Committee and I have no recourse but to move to delete $20 million in funding for security assistance for next year, and that is precisely the purpose of my amendment, cosponsored by Senators PERCY and PELL, now before the Senate.

Mr. President, it is hard for me to fathom how economic difficulties in the Dominican Republic and the Sudan constituted an unforseen emergency, and the fact is they did not.

This was simply the old bureaucratic game of "spend it before you lose it." We will never solve our deficit problems until Washington breaks such habits. It is time that Federal agencies learn to live by the same budget rules as the rest of us—and one of them is that you do not spend money simply because it is there, simply for the sake of spending it. The Treasury and the taxpayers deserved that $20 million since it was not spent on what it was appropriated for. My amendment today simply assures that the money will be returned to the Treasury.

Mr. KASTEN. Mr. President, as chairman of the Foreign Operations Subcommittee of the Appropriations Committee, I wish to say that the Senator from Nebraska has, I think, a rather legitimate concern. I have sometimes found myself in similar situations and too often we allow the executive branch to get out from under commitments it has made.

Therefore, I am going to recommend that we accept his amendment, which I hope will not only send a signal to the Department of State on his particular problem, but likewise it should be a warning to the executive branch that such conduct will not be tolerated in the future.

I am going to recommend that we accept his amendment.

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

The amendment (No. 2591) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2592

(Purpose: To prohibit the General Services Administration from using any appropriated funds for selling or otherwise transfering the Hickam Air Force Base Administrative Annex to anyone other than the State of Hawaii or its agencies for airport development purposes)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) for himself and Mr. INOUYE proposes amendment No. 2592.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

No funds made available by this or any other Act may be expended by the General Services Administration to sell, dispose, transfer, donate, or lease the real property and improvements known as the Hickam Air Force Base Administrative Annex (identified by the General Services Administration control number 9-D-HI-477-B) unless such sale, disposal, transfer, donation, or lease is to the State of Hawaii or any agency thereof for use for airport development purposes.

Mr. MATSUNAGA. Mr. President, this is an amendment I am offering in behalf of Senator INOUYE and myself. It has been cleared by Senator DECONCINI and Senator ABDNOR on both sides, the ranking minority member and the chairman of the subcommittee of jurisdiction, and it has also been accepted by the floor managers on both sides.

It is an amendment to prohibit the expenditure of funds for use by the GSA for the sale or disposition of the Hickam Air Force Base administrative annex unless such sale and transfer is made to the State of Hawaii for airport development purposes only.

This is in accordance with the master plan which was designed for the Honolulu International Airport and has been approved by the FAA.

Property owned by the Navy has already been transferred. This is the last piece of property, 3.4 acres, and which will complete the master plan for the development of the airport and Honolulu International Airport is one of only two airports which provides joint use for military and civilian purposes.

This is a good amendment. I urge its adoption.

Mr. President, I urge my colleagues to take favorable and expeditious action on this amendment which I have offered in behalf of Mr. INOUYE, and myself.

Our amendment would prohibit the expenditure of funds for use by the General Services Administration (GSA) for the sale or disposition of the Hickam Air Force Base Administrative Annex, unless such sale or transfer is made to the State of Hawaii for airport development purposes.

The State of Hawaii has, for some time, sought to gain title to this property for development of a new inter-island terminal complex at Honolulu International Airport. In 1968, the State completed a master plan for airport development at Honolulu International Airport. Since that time, the State has been able to secure the transfer of several parcels of land necessary for the planned development. The sole remaining parcel of land is the 3.41 acres, which is the subject of this amendment. This parcel is critical to the completion of the proposed inter-island airport expansion.

Accordingly, in 1981, the State submitted an application to the Federal Aviation Administration (FAA) for a cost-free transfer of the Hickam Annex. This application was made in compliance with the provisions of the Airport and Airway Development Act of 1970 which specifically mandates the transfer of unneeded Federal lands to appropriate public agencies for airport development. In this case, the FAA did, in fact, approve Hawaii's application and requested that the land be conveyed to the State at no cost.

In spite of FAA approval, the GSA, which now has control of the land, has persistently refused to give Hawaii title to the property. The GSA maintains that, by virtue of the 1949 Surplus Property Act which gives GSA discretion in determining the terms of conveyance of surplus Federal lands, it is not bound by the terms of the 1970 Airport and Airway Development Act.

Mr. President, the entire Hawaii congressional delegation has supported the State in its attempt to secure title to this property so as to complete the new airport terminal complex. The delegation is in agreement that the use of this property for the inter-island terminal complex is the best possible use of the property. Moreover, it is clearly congressional intent, as expressed in the Airport and Airway Development Act, that the cost-free or discounted transfer of excess Federal land for airport development is appropriate and desirable if there is an apparent need for such development.

Mr. President, the need clearly exists in Hawaii. I believe that GSA has not acted in a reasonable manner with respect to the Hickam property. In fact, the State has been forced to seek court action on this matter. Our amendment will give the State of Hawaii more time to seek an equitable resolution of this matter and I urge my colleagues to adopt the amendment.

Mr. INOUYE. Mr. President, I rise to speak in favor of an amendment I am offering with my colleague from Hawaii, Mr. MATSUNAGA, to the measure before us which would prohibit the General Services Administration (GSA) from selling or otherwise disposing of the Hickam Air Force Base administrative annex except to the State of Hawaii for airport development purposes.

The Hickman administrative annex is a 3.4-acre parcel of surplus Federal property which the State of Hawaii requires for the expansion of the Honolulu International Airport. The airport is one of two joint military-civilian use airports in the United States and since 1956 has been subject to an agreement between the military and the government of Hawaii providing for the cooperative exchange of land to facilitate the orderly growth of necessary air transportation facilities. Pursuant to this agreement and the Airport and Airways Development Act, which expressly embodies a legislative commitment to the utilization of excess Federal property for local and State airport development, the State has developed a federally approved airport master plan which anticipates the receipt of excess Federal lands and accommodates Federal needs and concerns.

Pursuant to this plan, in February of 1981, the State made application to the Federal Aviation Administration (FAA) for a cost-free transfer of the Hickman property pursuant to the Airport and Airways Development Act of 1970, which provides that Federal agencies are "authorized and directed" to transfer excess Federal lands reasonably necessary for airport development. In September of that year, the FAA approved Hawaii's application and requested that the U.S. Air Force, the agency then in control of the land, convey the title to the State "without consideration other than the benefits to accrue to the public and the United States by virtue of the use of the land for public airport purposes."

The Air Force, however, pursuant to the direction of the General Services Administration (GSA), transferred control of the parcel to the GSA. Significantly, the U.S. Navy, understand-

ing itself to be bound by the Airport Act, has, in the identical circumstances, transferred excess property to the State of Hawaii rather than the GSA.

Since its receipt of the Hickman property, the GSA has repeatedly refused requests by the State and the FAA that Hawaii be given title to the property. Instead, it asserts that it is not subject to the Airport and Airways Act and that the parcel is not an appropriate object of any discounted conveyance despite express Federal recognition of the State's need, the appropriateness of the proposed use, the Federal benefit, and the existing statutory mandate.

It is currently the posture of the GSA that the parcel is to be sold at public auction or for its fair market value through negotiation. Despite protests by Hawaii's congressional delegation, an initial attempt at a public sale was made and failed only for want of a satisfactory bid. The State of Hawaii has since filed a suit seeking to compel a cost-free or discounted transfer.

Regardless of the outcome of the court action, it is my conviction that the GSA, in its zeal to obtain maximum profit from the sale of surplus lands, has wrongfully ignored the express intent of Congress and violated the reasonable and honest expectations of the State of Hawaii. I do not believe that this should be permitted and, therefore, request the support and approval of this body for the proposed amendment.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2592) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2593

(Purpose: To prohibit the implementation of changes to the executive remuneration disclosure requirements which were in effect prior to September 23, 1983)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 2593.

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

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

The amendment is as follows:

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

SEC. . None of the funds appropriated by this joint resolution or any other Act shall be available to the Securities and Exchange Commission to implement the amendments adopted on September 23, 1983 (48 F.R. 44467), with respect to forms and regulations pertaining to the disclosure of executive remuneration, or to otherwise amend or revise the forms and regulations pertaining to the disclosure of executive remuneration which were in effect immediately prior to such amendments.

This provision shall remain in effect through September 30, 1984.

Mr. METZENBAUM. Mr. President, this is an amendment that has to do with some rules and regulations at the SEC that the SEC has indicated they intend to put out having to do with the question of providing lesser amount of information to stockholders in corporations.

I have discussed the subject with the Member of the Senate who has jurisdiction over this matter. To the best of my information and knowledge he has no objection to it.

I hope that the managers of the bill will see fit to accept it.

The PRESIDING OFFICER. If there be no further discussion of the amendment, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2593) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 2594

Mr. WILSON. Mr. President, thank you.

Mr. President, I hope to not detain the Senate but briefly.

I have two quick matters.

First, I ask unanimous consent to offer a technical amendment that will accommodate the concern of the Senator from Virginia that the language be clarified in the amendment that I offered earlier to the perfecting amendment of the Senator from Louisiana. The effect of this would be simply to make clear that what was intended was the acquisition by the American Presidents Line of existing foreign-built vessels and extends the time which applications might be made to June 1 rather than January 1, 1984.

This language has been agreed to by the Senator from Louisiana.

As I say, it is at the request of the Senator from Virginia. I know of no opposition.

I ask unanimous consent that the amendment may be offered.

The PRESIDING OFFICER. Is there objection to amending the agreed upon amendment?

Mr. DECONCINI. Mr. President, I am sorry. We have not been briefed on the amendment. May the Senator send it?

Mr. JOHNSTON. Mr. President, will the Senator from Arizona yield?

Mr. DECONCINI. I am glad to yield.

Mr. JOHNSTON. Mr. President, the amendment drawn at the request of the Senator from Virginia makes no substantive change. I believe it is a technical change to put in a date in the second paragraph where one did not previously exist. It puts the word existing in. I think it carries out the intent of the original amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California (Mr. WILSON) proposes an amendment numbered 2594 to the Johnston amendment numbered 2584, previously agreed to.

Mr. WILSON. 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:

Upon application, prior to January 1, 1984, by a subsidized U.S.-flag liner company holding a written option to purchase, executed prior to November 16, 1983, the Secretary of Transportation shall permit the acquisition of no more than four existing foreign-built vessels for operation under U.S. flag, and shall require conversion of two such vessels in a U.S. shipyard. Upon application prior to June 1, 1984, by a subsidized U.S.-flag liner company which has taken delivery from U.S. shipyards of new U.S.-built liner vessels that were introduced into subsidized service within 2 years preceding the date of enactment of this Act, the Secretary of Transportation shall permit the acquisition of no more than two existing foreign-built vessels for operation under U.S. flag, and shall require conversion of one such ship in a U.S. shipyard. Upon acquisition and documentation under the laws of the United States, these vessels shall be deemed to have been United States built for purposes of Title VI of the Merchant Marine Act, 1936, as amended, Section 901(b) of said Act, and Chapter 37 of Title 46, United States Code.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2594) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2595

Mr. WILSON. Mr. President, the second matter is one that I ask the Senate to support in the interest of

honoring a request from the city of San Francisco for emergency relief. The nature of the relief that they are seeking is this: Members will recall, I am sure, that last winter California was battered by rather cruel storms up and down the coast, including the bay area. The need for a breakwater——

Mr. HATFIELD. Will the Senator yield?

Mr. WILSON. Certainly.

Mr. HATFIELD. Mr. President, this amendment has been reviewed on both sides of the committee and we are willing to take it to conference.

The PRESIDING OFFICER. The amendment has not yet been reported. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mr. WILSON) proposes an amendment numbered 2595.

Mr. WILSON. 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:

In the appropriate place in the resolution add the following:

The project for navigation, San Francisco Harbor, California—Fisherman's Wharf Area: is hereby authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the report of the Chief of Engineers, dated February 3, 1978, as amended by the supplemental report of the Chief of Engineers dated June 7, 1979. Within available funds, the Corps of Engineers should proceed with the construction of the project.

The PRESIDING OFFICER. The question is on the amendment.

Mr. METZENBAUM. Mr. President, I do not have any objection to dispensing with the reading of the amendments, but we have had the first amendment and now the second amendment, and the Senator has not told us what is in the amendment. If he would just let us have some advice on it.

Mr. WILSON. Mr. President, I am happy to tell my friend from Ohio that the purpose is to allow what is contained in other legislation, notably the authorization bill by Senator ABDNOR, in which his committee could go forward at this time in order to achieve an advance in the date of construction of a breakwater for which the funding is contained in another appropriations measure. What we are trying to avoid is a situation which occurred last year when the storms in California brought great damage. This is to authorize a breakwater for which funding is contained in companion legislation.

Mr. METZENBAUM. I thank the Senator from California.

Mr. WILSON. I thank the Senator from Ohio.

The PRESIDING OFFICER. The question is on the amendment.

Mr. DECONCINI. Mr. President, I would like to address a question to the Senator from California. Is this the Fisherman's Wharf amendment?

Mr. WILSON. Yes.

Mr. DECONCINI. And it is a breakwater that has come under damage because of the recent storms there?

Mr. WILSON. It is a breakwater that has been required to prevent future damage.

Mr. DECONCINI. Is there a cost on this?

Mr. WILSON. Yes; $18 million. That is not contained in this legislation.

Mr. DECONCINI. How much is in this legislation?

Mr. WILSON. Not 1 penny.

Mr. DECONCINI. It is the authorization?

Mr. WILSON. It is the authorization.

Mr. JOHNSTON. Mr. President, we have reviewed this in the Energy and Water Subcommittee on the minority side. Even though it is an authorization, we think it is a worthy one and ought to be approved.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2595) was agreed to.

Mr. WILSON. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I have an amendment at the desk which has been sitting there since last evening that I now call up and ask for its immediate consideration.

Mr. HATFIELD. Mr. President, I wonder if the Senator would yield for two technical amendments?

Mr. HELMS. Yes; I would be happy to yield.

Mr. HATFIELD. I thank the Senator.

AMENDMENT NO. 2596

Mr. HATFIELD. Mr. President, I send to the desk the first of two technical amendments and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2596.

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

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

The amendment is as follows:

On page 1 after line 6 insert the following: "(f) Such amounts as may be necessary for continuing the activities, not otherwise specifically provided for in this joint resolution, which were provided for in H.R. 4139, the Treasury, Postal Service and General Government Appropriation Act, 1984, as passed the House of Representatives on October 27, 1983, to the extent and in the manner provided for in such Act, and at a rate for operations as was provided for in S. 1646, the Treasury Postal Service and General Government Appropriation Bill, 1984, as reported to the Senate (S. Rept. 98-186) on July 20, 1983."

Mr. HATFIELD. Mr. President, what this amendment does is simply to move the language around within the bill. There is no change in the bill whatsoever. Because we have adopted the House Treasury bill and the Senate Treasury bill as matters for conference, we have to move some language around within the bill in order to put it in the proper sequence.

Mr. SARBANES. Does this have to do with the figures?

Mr. HATFIELD. This is on the matter of rate of operations for the Treasury-Postal Service.

Mr. SARBANES. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2596) was agreed to.

AMENDMENT NO. 2597

Mr. HATFIELD. Mr. President, I send a second technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2597.

On page 1, strike out lines 3 through 6, inclusive.

Mr. HATFIELD. Mr. President, what this does is change the date for the continued resolution from the House date, which is in February, to the end of the fiscal year. This has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2597) was agreed to.

Mr. HATFIELD. I thank the Senator from North Carolina.

Mr. HELMS. The Senator is quite welcome.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 2598

(Purpose: To protect the liberty of citizens in maintaining religious and private schools against bureaucratic and judicial encroachments)

Mr. HELMS. Mr. President, the purpose of this amendment, the religious liberty amendment, is to respond to the continuing and unwarranted harassment of nondiscriminatory Christian schools.

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The PRESIDING OFFICER. The Senator will please withhold. The clerk has not reported the amendment.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself and Mr. DENTON, proposes an amendment numbered 2598.

Mr. HELMS. 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 an appropriate place in the joint resolution, add the following:

SEC. . None of the funds made available under this joint resolution may be used to carry out such provisions as are found in proposed revenue procedure 4830-01-M of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (44 F.R. 9451 through 9455, Februray 13, 1979, F.R. Document 79-4801), and proposed revenue procedure 4830-01 of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (43 F.R. 37296, through 37298, August 22, 1978, F.R. Document 78-23515), or parts thereof.

SEC. . None of the funds made available under this joint resolution may be used to carry out any regulation, requirement, policy, procedure, or court order that, on account of the date of a church's or school's establishment or expansion or of its geographical location, creates a legal inference or presumption of racial discrimination by any church or any religious, church-operated, or private school having a racially nondiscriminatory policy as to students, as defined in Revenue Ruling 71-447.

Mr. HELMS. Mr. President, let me stress at the outset that we are not talking about any school that has had the first vestige of a suggestion that it has been discriminatory in any way.

This amendment represents a new version of the Ashbrook-Dornan amendment of past years which became the law of the land. The pending version, however, contains significant changes to insure that the decision of the Supreme Court in the Bob Jones case will not—and I repeat for emphasis—will not be affected. Although I disagree with the Supreme Court's majority opinion in that case and share the dissenting opinion of Mr. Justice Rehnquist, I carefully designed the pending amendment to avoid any conflict with the holding of the Supreme Court's majority.

Now I am perhaps repeating this to the point of being boring, but I want to make clear the legislative history as to the intent of the pending amendment.

The religious liberty amendment would do two things. First, as in past versions of Ashbrook-Dornan, the amendment would prevent funding of the proposed revenue procedure 4830-01-M of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (44 F.R. 9451 through 9455, February 13, 1979, F.R. Document 79-4801), and proposed revenue procedure 4830-01 of the Internal Revenue Service entitled "Proposed Revenue Procedure on Private Tax-Exempt Schools" (43 F.R. 37296, through 37298, August 22, 1978, F.R. Document 78-23515), or parts thereof.

The proposed IRS procedures are clearly affirmative action regulations and effective quotas that place tax-exempt schools under a presumption of guilt, requiring them to prove their innocence. These regulations are so harsh and unfair that churches and schools could lose their tax exemption even though they may have never turned away even one minority student.

Second, the amendment would prevent the funding of any IRS activity to deny tax exemptions to schools merely because they were established or expanded at a certain time or in a certain locality. Such a blanket presumption of guilt is alien to American concepts of due process of law, yet we have seen resort to such draconian measures in the Green and Wright cases in recent years.

The decisions in those cases failed to recognize that the time when most school districts were being desegregated was also the time when the Supreme Court outlawed Bible reading, prayers, and religious practices in public schools. Sociological reports and university studies show that most of the church schools established in the past 20 years were founded in direct response to these decisions of the Supreme Court.

Those who automatically assume that these schools were founded for discriminatory purposes simply fail to take into account how disturbed many parents were when the Federal courts effectively secularized the public schools. Many of these parents strongly believe that education is, by its nature, inherently religious. In response to the court decisions they founded schools that reflect their views—schools that are primarily religious in nature—schools that are, more often than not, attended by pupils from the same church, and where the doctrines and belief systems of that particular church are inculcated.

To require religious academies of this type to engage in affirmative action would be like requiring Hebrew schools or Jewish yeshivas to recruit Baptist students in proportion to the local population. No matter how actively they might attempt to recruit such students and faculty, or how much money they might spend on recruitment campaigns, they would be unlikely to find enough prospective students or faculty members willing to submit to their religious beliefs. That being the case, the only way for such schools to comply with affirmative action guidelines would be to water down their religious requirements and lose their identities as religious schools.

Mr. President, my amendment assures that for schools with a nondiscriminatory policy as to the students, as defined in Revenue Ruling 71-447, the IRS will not be able to apply a blanket presumption of guilt as a convoluted excuse for denying a nondiscriminatory school a tax exemption.

Mr. President, the question is relevant as to which came first, the wholesale breakdown of moral values in our society or the collapse of these values in our schools? Millions of Americans pray every day for a rebirth of the spiritual values that made us a nation in the first place. If the spirit of God were to rouse 200 million Americans to action, there is no describing the greatness in store for this country, or the blessings forthcoming to nations now held captive—if and when, once again, our Nation is rededicated to the cause of freedom under God's law.

Mr. President, religious schools and church-operated schools across this land seek to foster in their young students the spiritual and moral values which made the United States a leader of nations. Sadly, Mr. President, our Nation's private, religious, and church-operated schools have come under constant attack from the Federal bureaucracy.

The Internal Revenue Service first launched its full-scale attack on our Nation's private schools and religious schools in 1978. In its proposed revenue procedure of August 22, 1978, the IRS placed thousands of innocent private and religious schools across the Nation under a presumption of guilt of racial discrimination. These schools were required to prove their innocence by implementing such as racial quotas and affirmative action programs.

After a nationwide protest erupted, the IRS responded in February 1979, with a proposal that was still more vague and arbitrary. It was hardly reassuring to the American public when the IRS announced that it alone would determine the guilt or innocence of schools based on all the facts and circumstances. The standards set forth were wholly subjective and capricious leaving private schools and religious schools to the whim of IRS bureaucrats.

Mr. President, the verdict was in before the investigations began. The IRS moved to establish Federal controls over private, religious schools, and churches. Who can say that the motives of those who conspired to implement this unconstitutional scheme were none other than to cynically vio-

late the civil rights of religious minorities, parents, churches, and schools.

With justification, the IRS bears its full share of the blame for the present crisis which it helped to create. Yet, the full story of this sordid matter is a darker and more complicated chapter on bureaucratic and judicial abuse of power than even the sharpest critics of the IRS have revealed. What unfolds is a story of collusive litigation, a sweetheart suit in which the IRS was the defendant. Instead of defending, the agency worked to support the interests of the plaintiffs who were suing the agency.

A review of the history of the well-known Green and Wright cases is instructive. The plaintiffs asked for court orders which would have required the IRS to implement quotas and affirmative action guidelines for tax-exempt schools that were established or expanded during periods of desegregation of nearby public schools. The IRS defended its position only during the early phases of this litigation, and by 1978, the agency was actively promoting the cause of its supposed adversaries, the Green and Wright plaintiffs.

This became sweetheart litigation at its worst. Those participating at one time included IRS officials, attorneys from the Tax Division of the Justice Department, the U.S. Commission on Civil Rights, the old Department of Health, Education, and Welfare, the Lawyers Committee for Civil Rights, and other attorneys who use the Federal judiciary as a tool for radical activism. To this must be added the names of judges from the U.S. district court and the U.S. Court of Appeals for the District of Columbia who have also participated in the sweetheart litigation.

Mr. President, I now want to go through briefly what is a long and complicated history of the Green and Wright litigation.

CHRONOLOGY OF GREEN AND WRIGHT CASES

What follows is the sequence of the most significant developments in the Green and Wright litigation:

In 1971—The U.S. Supreme Court upheld the U.S. district court ruling in Green against Connally that tax exemptions for private segregated schools in Mississippi violate Federal public policy. IRS had already made the provisions of this order apply to the entire Nation in Revenue Ruling 71-447.

July 23, 1976—The original Green plaintiffs reopened the case asking for a drastic, new order prohibiting tax exemptions to schools that were established or expanded during periods of desegregation in nearby public school districts.

July 30, 1976—The Wright plaintiffs from six States outside Mississippi filed an almost identical suit. The cases were later consolidated and caused the crisis which exists today.

May 10, 1977—The IRS strongly defended against the arguments of the Green and Wright plaintiffs. The IRS noted that there were many valid reasons that a school could be established or expanded other than an intent to discriminate.

June 28, 1978—The IRS reversed its position and began to advocate the same position as the Green and Wright plaintiffs, that is, that the IRS should adopt new regulations. The litigation became a sweetheart suit at this time. The IRS reached an agreement with the plaintiffs in unethical secret meetings in which the only third party intervenor in either case was neither notified of nor allowed to participate in the lengthy out-of-court settlement.

August 22, 1978—The IRS published proposed revenue procedure on tax-exempt schools in the Federal Register in an attempt to settle the sweetheart suit; 150,000 letters of protest were received by the IRS. The IRS held hastily called hearings, but totally disregarded arguments pointing out its total absence of statutory authority, constitutional problems, and unfair presumptions of guilt which require harsh quotas and affirmative action requirements in order for a school to prove its innocence.

February 13, 1979—The IRS published its revised proposed revenue procedure for tax-exempt schools in the Federal Register. It was generally considered to be worse than the original proposal because it was more subjective and vague, and it indicated a total disregard for the legal arguments that were presented against it.

September 29, 1979—The Treasury Appropriations Act containing the Ashbrook and Dornan amendments became law. The amendments prohibited funds for implementation of any parts of the proposed revenue procedures.

October 25, 1979—The IRS filed a memorandum aimed at getting the Wright case dismissed so that it could lose in Green. The IRS suggested that the court might either declare the Ashbrook and Dornan amendments to be unconstitutional or interpret them narrowly, to permit the implementation of new, more stringent rules. The IRS argued that the difficult issues should be more properly addressed in the Green litigation where the question of standing had been decided. Note: This was the key to the IRS scheme to get the court to order the agency to violate the amendments. The IRS wanted to have the Wright case dismissed because it has a troublesome intervenor, and it would excite too much public opposition if an order were immediately handed down which applied to the entire Nation. The Wright case was consolidated with the Green case at this time, and the IRS was especially desirous of having the Wright case dismissed in order to lose the Green case. The IRS plan was apparently to get precedent established in Mississippi in the Green case which would provoke less national opposition. After precedent could be established in Mississippi, the standards set for that State would be applied to the entire Nation as the IRS did following the 1971 Green against Connally decision.

November 26, 1979—Judge George Hart followed the IRS suggestion and dismissed the Wright case. The Wright plaintiffs appealed, but the IRS was not free to proceed to the Green case.

November 27, 1979—The IRS filed its legal memorandum in the Green case that clearly showed its desire to lose. This is the smoking gun of the sweetheart suit. The IRS defense argued that defendants strongly believe that additional guidelines in this area was needed. Furthermore, the IRS claimed that compliance with the restrictions may raise serious constitutional questions. Again the IRS argued that the amendments may be overcome by a court either declaring the riders unconstitutional, or interpreting the riders narrowly, to permit the implementation of new, more stringent rules. These incredible arguments were made so that the IRS would lose its case. The evidence is clear that the IRS actively promoted the interests of the Green plaintiffs at the expense of Government interests.

May 5, 1980—Judge George Hart ruled against IRS in the Green case. Yet, the IRS made no effort to appeal because it had wanted to lose.

June 12, 1980—Judge Hart clarified his order of May 5.

July 9, 1980—Judge Hart denied a motion to intervene by First Presbyterian Church of Jackson Miss. This was extremely unfair because neither the IRS nor the Green plaintiffs had anything to lose in the lawsuit, and the church could lose its tax exemption because of their sweetheart suit.

July 10, 1980—Assistant IRS Commissioner S. Allen Winbourne filed an affidavit in U.S. district court describing IRS enforcement of the Green order. All the activities that he described were prohibited by the Ashbrook and Dornan amendments, and they involved substantial illegal expenditure of funds.

May 14, 1981—After lenghty and inexcusable refusals to allow church schools to intervene in the Green case, Judge Hart finally allowed Clarksdale Baptist Church to intervene—another church remains unfairly excluded. Judge Hart is only allowing "discovery," however.

June 18, 1981—The U.S. Court of Appeals for the District of Columbia

ruled 2 to 1 that the Wright plaintiffs have standing to sue the IRS. This reversed Judge Hart's decision of November 1979, and it means that a court order for the entire Nation is now distinctly possible.

Currently—The Wright case is pending before the Supreme Court on the issue of the plaintiffs' standing.

The civil rights of parents, churches, and schools were clearly violated in the sweetheart suit by the IRS, Justice Department, the Green attorneys, and the Federal judges who sanctioned the staged litigation. It is beyond dispute that the Green case was collusive, not adversarial, litigation. Judge Hart himself acknowledged this in the almost identical case of Wright against Miller. Hart wrote on October 25, 1979 that the IRS and Wright plaintiffs seemed closely allied.

It is equally true that the IRS and the Green plaintiffs were closely allied. When the House Ways and Means Subcommittee on Oversight held hearings in February 1979, there was no difference on any major points in the testimony of the IRS Commissioner and the Lawyers Committee for Civil Rights who were suing the agency on behalf of the Green plaintiffs.

The ranking minority members of the House Ways and Means Subcommittee on Oversight with jurisdiction over the IRS gave five incontrovertible reasons why the Green case was a collusive sham. Congressman PHILIP CRANE noted:

It is beyond dispute that the litigation was collusive, not adversarial. The evidence is clear from court records and public statements by IRS officials.

First. The IRS publicly advocated the same position as the Green and Wright plaintiffs; namely, that the IRS should adopt the new regulations.

Second. The IRS agreed to implement the proposed revenue procedure in secret meetings with the Green and Wright plaintiffs. The only third party intervenor was unethically excluded, indeed, he was not even notified of these closed meetings to which the IRS admitted to having spent "many hundreds of hours." No disciplinary action has yet been taken against those attorneys who participated in this abuse of the intervenor's rights.

Third. The IRS lobbied against the Ashbrook and Dornan amendments.

Fourth. Instead of defending the amendments, the IRS suggested legal interpretations that would lead the Federal court to ignore the amendments, and cause the IRS to lose its case. The IRS lost.

Fifth. The IRS made no effort to appeal its loss in the Green case because it desired the results obtained by losing.

When like-minded plaintiffs and defendants use the Federal judiciary to obtain mutually desired results, it should attract the attention of Congress. Whenever such sham litigation is used to usurp the legislative authority of Congress, strong action is required.

After the IRS first published its proposed revenue procedure for tax-exempt schools on August 22, 1978, voices were raised appealing to Congress to halt this grab for power. Congress responded in 1979 with the passage of the Ashbrook and Dornan amendments which prohibited funds for implementation of the proposed regulations. This should have ended the problem.

In utter contempt of Congress, the IRS made sweetheart arguments in the D.C. District Court so that it could lose in the Green case and be ordered to violate both the Ashbrook and Dornan amendments.

A Federal court of appeals said that the Ashbrook amendment was not intended to restrict IRS authority to carry out court orders. *Wright* v. *Regan,* 656 F.2d 820 (1981). In this the appeals court was in error. Nonetheless, in order to make it clear that the Ashbrook amendment blocked IRS from carrying out such orders, an express prohibition to that effect was added in 1981 and again is included in my amendment today.

Article I, section 9, clause 7 of the Constitution vests the appropriation power of the Federal Government in the Congress, and in the Congress alone. The Constitution thus clearly denies to the courts the power to order the expenditure of Federal funds where Congress had forbidden that expenditure. Congress, by these amendments, is serving notice on the courts that it is exercising its constitutionally conferred appropriation power in order to deny the Internal Revenue Service the authority to impose unnecessarily burdensome requirements upon tax-exempt schools.

These amendments provoke no constitutional crisis between the branches of Government. To the contrary, the Constitution has already settled the matter most explicity: Congress is to have exclusive power over the purse. If the courts will but respect the Constitution, the crisis evaporates. As James Madison stated in the 58th Federalist:

The power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into-effect every just and salutary measure.

Mr. President, in passing my amendment, Congress will again be asserting its authority as the only branch of Government that has the power to legislate and appropriate funds. Passage of these amendments reaffirms the principle that Congress, not the Federal courts, has exclusive power of the purse.

Mr. President, Thomas A. Bovard, a fine young attorney who serves as counsel to the Judiciary Subcommittee on Separation of Powers, has written an informative article on the Christian schools movement. Mr. Bovard graduated from Yale University in 1975 and earned his law degree from the University of Virginia in 1978. He is a member of the Virginia Bar.

Mr. President, I ask unanimous consent that the Bovard article be printed in the RECORD.

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

THE CHRISTIAN SCHOOL MOVEMENT AND ITS CONFLICT WITH THE INTERNAL REVENUE SERVICE

(By Thomas A. Bovard)

Particularly since 1976, controversy has raged about tax exemptions for private religious schools. In 1976 the plaintiffs in *Green* v. *Connally* sought to broaden the scope of an earlier court decision by demanding that the IRS start denying tax exemptions to schools merely because they were established or expanded at the time nearby public school districts were desegregating.

Lengthy court battles followed that court decision, but in August 1978, the IRS proposed a set of regulations incorporating the demands of the plaintiffs for affirmative action guidelines and quotas. These regulations would have not only made it virtually impossible for affected schools to maintain their religious identities, but they were also so burdensome that implementing them would have been beyond the financial resources of most Christian schools. Schools would have been subject to these regulations even though there was no direct evidence of racial discrimination.

For a number of years, Congress prevented these 1978 regulations from being implemented, but Judge George L. Hart, Judge of the United States District Court for the District of Columbia, in a 1980 court ruling has attempted to put them in effect through the back door, as it were, ruling that Christian schools established during periods of desegregation have to submit to cumbersome affirmative action requirements or lose their exemptions. Under this ruling, the Clarksdale Baptist Church of Clarksdale, Mississippi, which operates a Christian school, and which by religious conviction does not practice racial discrimination, now faces loss of its tax-exempt status simply because it was founded at the wrong time. No one has attempted to show that the school actually discriminates.

In the past, a number of parties have suggested that the only religious schools threatened by the *Green* case and the IRS regulations were just "segregation academies" or "white-flight" schools that use religion as a cloak for racism. What they fail to recognize is that the time that most school districts were being desegregated was also the time when the Supreme Court outlawed Bible reading, prayers, and religious practices in public schools.

Thoughtful and informed discussion of this matter is critical because of its profound implications for all religious private schools. I hope, therefore, to set the record in this area straight and shed some light on the discussion by showing the real nature of the Christian School movement and its conflict with the IRS.

I. THE BIRTH OF THE MOVEMENT: A RESPONSE TO THE INCREASING SECULARIZATION OF THE PUBLIC SCHOOLS

The organizations that run religious schools adversely affected by the IRS regu-

lations are not the simple white-flight schools they are so often protrayed to be. Overbroad IRS regulation has in fact threatened a huge number of religious schools of every denomination and faith. In recent years, with the advent of what many view as conscious hostility toward religion and religious values in the public schools, parents, in increasing numbers, have been removing their children from public schools and placing them in newly created or expanded religious schools. Removal of the Bible and prayer from public schools was, for many religious groups, the final impetus for choosing an alternative system of education.

Several articles and studies undercut the popular equation of "Christian" schools with "white-flight" schools. In 1979 William Lloyd Turner published a doctoral dissertation on this issue at the University of Wisconsin at Madison entitled, "Reasons for Enrollment in Religious Schools: A Case Study of Three Recently Established Fundamental Schools in Kentucky and Wisconsin." Later, writing for the February 1980 issue of Phi Delta Kappa, with Virginia Davis Norden, professor of Law and Higher Education, Turner summarized the results of his study in an article entitled, "More than Segregation Academies: The Growing Protestant Fundamentalist Schools." He found that, while some of the Kentucky schools appeared to have profited by widespread opposition to racial integration, similar growth of fundamentalist schools in rural Wisconsin, where integration was not a factor, indicated that "Christian" education was a national, not a regional, phenomenon.

Turner noted that "Christian" schools in both states, unlike the "segregation academies" that sprang up in some areas of the South, appeared not to attract students from a cross section of the community. Instead parents who enrolled their children in these schools tended to come from churches of the sponsoring denomination or from churches holding similar doctrinal positions. Even more significantly the percentage of students in the two fundamentalist schools who were subject to busing during the current school term was smaller than the percentage of such students in the general population. Turner found that only one of the 68 families surveyed in the Louisville fundamentalist schools was using the non-public schools as a "haven" to avoid busing for one year.

The schools surveyed were geographically distant and had differing cultural backgrounds, two in Louisville, Kentucky and one in Madison, Wisconsin. In both cities, however, fundamentalist parents gave the same reasons for withdrawing their children from public schools:

"Most frequently they alleged poor academic quality of public education, a perceived lack of discipline in public schools, and the fact that public schools were believed to be promulgating a philosophy of secular humanism that these parents found inimical to their religious beliefs."

In both communities the respondents did oppose interracial marriage, but, Turner concluded, the real motivation for founding and maintaining the schools appeared to be the belief held by many evangelical Protestants that public schools now espouse a philosophy that is completely secular, perhaps even antireligious. Turner want on to elaborate on the philosophical differences between fundamentalist and public schools and to describe the practical consequences stemming from these philosophical differences:

"Fundamentalist educators perceive a basic philosophical difference between themselves and the leaders of public education. Like the seventeenth-century Puritans, they believe in the 'innate depravity of man.' Because they believe that the corrupt nature of humanity can be changed only through a supernatural infusion of Divine grace, religious 'conversion' becomes the basis of all education. Furthermore, since human nature is utterly depraved, children require strict supervision and authoritarian guidance if they are not to be overcome by Satin and the evil within their own nature.

"Fundamentalists see public education, by contrast, as proceeding on John Dewey's conviction that human nature is basically good, that students will naturally seek the highest and best if left to themselves, and the adversary is therefore not Satan or an evil nature but poverty, ignorance, and prejudice. Fundamentalists try to approach the educational task from a different philosophical perspective, using different methodology and pursuing different goals.

"Because they perceive that the Protestant ethnic has disappeared from public education philosophy, fundamentalists have voiced an increasing nostalgia and a desire to return to the practices of former days. One hears frequent references to the 'old-time religion,' 'old-fashioned' virtues, and the 'faith of our fathers.' This has produced schools that attempt to create the environment of past generations. 'Rock' music, movies, and most television programs are forbidden; hair and clothing styles resemble those of a bygone era; textbooks stress 'traditional' concept in math, while education gets 'back to the basics.' Sex roles are sharply defined, and school policies are enforced through the administration of corporal punishment by an authoritarian teacher or principal."—Phi Delta Kappa, supra at 392-93.

Peter Skerry, who for 17 days during February 1979, visited Christian schools scattered across the central Piedmont region of North Carolina made a similar analysis in an article in the fall 1980 issue of Public Interest entitled "Christian Schools Versus the IRS." His conclusion from his experience was that "skepticism toward the religious orientation of these schools is altogether unwarranted, and furthermore, that the effort is altogether unwarranted, and furthermore, that the effort to reduce their emergency to a matter of racism is a gross oversimplification." (Skerry, "Christian Schools versus the I.R.S.," Fall 1980, at 19).

In his article he described the religious orientation of those largely Independent Baptist schools and how they are run by the same officers as those of the sponsoring church. Generally too poor to hire sufficient outside help, they rely on parental initiative and sacrifice to keep both the church and its school ministry functioning. Parents not only pay what for them is a budget-straining tuition; they work in the schools often serving as teacher aides, secretaries, cafeteria workers, or bus drivers. Skerry then summarized the reasons why these parents reject the public school system:

"When asked specifically why they reject the public schools, parents make it clear they need the Christian schools as much as the schools need them. Most frequently cited is the Supreme Court's 1963 school-prayer ban. A few parents mention a recent controversy over the singing of Christmas carols in public school assemblies. Many complain of the virtual disappearance of the pledge of allegiance from the public schools. A few are troubled by sex education. Such changes are seen by fundamentalist parents as direct assaults on God and country, the pillars of their universe.

"On another level, parents are displeased with what they've seen or experienced as the declining academic standards of the public schools. They recite the familiar litany of open classrooms, curriculum fads, widespread social promotion, declining test scores, and illiterate high school graduates. Neither products of higher education themselves nor especially concerned that their children be, the salesmen, millworkers, and auto mechanics who send their children to Christian schools are particularly incensed that the public system does such a poor job of teaching the basics, and they point with pride to the impressive record of the Christian schools in teaching reading and math skills. In every school I visited, four-year-olds were prepared so that by the first grade most were reading above grade level."

Typical of the situation that brought most of the parents to enroll their children in Christian schools was the situation that faced one family:

". . . One young mother in Charlotte explained why, after two and a half years in the public schools, she had decided to change to a Christian school. She had been quite pleased with the desegregated public school her son had gone to for first and second grade, but the following year the family moved, and he had to attend a different school—which she felt was academically inferior and rife with petty thievery and vandalism. But the last straw, she told me, was when she discovered that each day the children were allowed to play records for an hour, and her 9-year-old son had become infatuated with a rock group specializing in ghoulish costumes, demonic lyrics, and vomiting blood on its fans. Over the Christmas holidays she and her husband placed the child in a Christian school."—Id. at 27.

According to Skerry none of the schools he visited displayed the least evidence that racist attitudes are taught. All had open admissions policies and in several schools black children were enrolled. He contrasted with the Christian schools the segregation academies that appeared in response to the first southern desegregation orders and that were supported by direct tuition grants, textbooks, and transportation supplied by the states. The Christian schools, by contrast, exist solely through the voluntary efforts of the congregation that supports them, and are part not of resistance to segregation but of a general resurgence of conservative and fundamentalist churches throughout the country.

II. THE CHRISTIAN SCHOOL MOVEMENT COMES INTO CONFLICT WITH THE INTERNAL REVENUE SERVICE

The unprecedented movement to found religious private schools in the past decades has been accompanied by a growing number of lawsuits testing the government's right to regulate or impose standards on religious schools in a multitude of areas including curriculum, labor relations, unemployment insurance and zoning. (See *State* v. *Wisner,* 351 N.E. 2d 750 (1976); *NLRB* v. *Catholic Bishop,* 440 U.S. 490 (1979); *Grace Brethren Church* v. *California,* No. 79-93 (C.D. Cal. Sept. 24, 1979); and *City of Concord* v. *New Testament Baptist Church,* 118 N.H. 56, 382 A. 2d 377 (1978)).

Perhaps no controversy has received so much attention, however, as that involving the proposed guidelines that were supposed to determine "whether certain private schools have racially discriminatory policies as to students and therefore are not qualified for tax exemption under the Internal Revenue Code." The guidelines stated:

"A prima facie case of racial discrimination by a school arises from evidence that the school (1) was formed or substantially expanded at or about the time of desegregation of the public schools, and (2) has an insignificant number of minority students. In such a case, the school has the burden of clearly and convincingly rebutting this prima facie case of racial discrimination by showing that it has undertaken affirmative steps to secure minority students. Mere denial of a discriminatory purpose is insufficient."

The IRS went on to define "an insignificant number of minority students" as "less than twenty percent of the percentage of the minority school age population in the community served by the school." Schools against which such a prima facie case had been established—the so-called "reviewable schools"—would lose not only their exemption from Federal taxes (including social security and unemployment contributions), but, of more critical importance, the right of individual donors to deduct charitable contributions to the schools from their federal income taxes. With these regulations the IRS proposed to remove tax exemption not after detailed inquiry and formal proceedings, but through summary administrative action triggered by an arbitrarily established quota.

Assuming in advance the guilt of reviewable schools, the agency placed the full burden on the schools to prove innocence of discrimination. Small and struggling institutions like those described by Peter Skerry, supra, would have been forced not only to undergo the expense of litigation, but to do so while deprived of the special tax status on which their existence substantially depends. In brief, these proposals posed a mortal threat to Christian schools (*Christian Schools* v. *The IRS,* supra, at 31-32) and proponents of Christian education did not stand by silently. The furor these guidelines raised compelled the IRS to hold hearings in Washington in December of 1978. The agency received over 120,000 letters of protest, as one agency official put it "more than we've ever received on any other proposal." (Id. at 19).

In response to this outcry, the IRS in February 1979 issued "revised proposed guidelines." These softened the more abrasive aspects of the original guidelines, but the fundamental thrust remained—the agency still assumed the guilt of schools not meeting its affirmative action quotas. The revised guidelines offered six examples of the kind of "affirmative steps" reviewable schools would need to take to regain their special tax status:

—Active and vigorous minority recruitment programs;

—Tuition waivers, scholarships, or other financial assistance to minority students;

—Recruitment and employment of minority teachers and other professional staff;

—Minority members on the board or other governing body of the school;

—Special minority-oriented curricula;

—Participation with integrated schools in sports, music, and other events and activities.

Even these revised guidelines created a program of government oversight that burdened many more institutions than those that were clearly guilty of racial discrimination. Perhaps the most egregious requirement was the requirement that schools give financial assistance to minority students. As Skerry pointed out in his article, the families who send their children to Christian schools are of modest means and the schools themselves live a hand-to-mouth existence relying on tuition payments to cover operating expenses. Requiring such schools to award such financial aid would be tantamount to requiring them to close down. How effective such an assistance program would be even if it were economically feasible, would, moreover, be open to question. The nations traditional preparatory schools which can afford to offer significant amounts of aid have been able to attract only enough black students to account for 4 percent of their total enrollment. (Id. at 32).

Also misguided is the requirement that Christian schools recruit minority teachers. Academic qualifications are of secondary importance to the schools. Their first concern is that the teachers believe in accordance with the congregation's doctrinal statement. (Id. at 25). Most of these schools furthermore, adopt a "principle of separation" that requires teachers to reject such worldly habits as tobacco, alcohol, drugs, card playing, gambling, dancing, coed swimming, listening to rock music, going to movies, and in some cases, watching television. (Id. at 23). Skerry observed that the typical salary in the schools he visited was around $6000 for the academic year, easily half of public school salaries. Not only that, the schools offer their faculty no benefits such as medical or life insurance or retirement plans. (Id. at 25). It seems highly doubtful that many educated minority teachers would consent to the strictures Christian schools place on their staff or would accept the low salaries these institutions offer.

Finally, the idea of requiring Christian schools to place minorities on their boards is wrongheaded. As a rule the boards of these schools consist of members of the congregation, usually the pastor and his deacons. (Id. at 33). To require minorities to be included would mean that individuals who have not participated in and contributed to the activities of the congregation must now be granted the status and prerogatives of its most respected members.

Congress responded to the controversy over the proposed revenue procedures by acting to prevent the IRS from enforcing its proposed regulations and from devising any additional procedures for enforcing its policy of denying tax-exempt status to religious or private schools. The Dornan Amendment, Section 615 of the 1980 Treasury Appropriations Act, Public Law No. 96-74, 93 Stat. 559, 577, provided that the funds made available by the Act could not be used to carry out the 1978 and 1979 proposed revenue procedures. The Ashbrook Amendment, Section 103 of the 1980 Treasury Appropriations Act, 93 Stat. at 562, specified that the funds appropriated could not be used "to formulate to carry out any . . . procedure, guideline . . . or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under Section 501(c)(3) of the Interal Revenue Code of 1954 unless in effect prior to August 22, 1978."

III. SUMMARY AND CONCLUSION

Sociological reports and studies have thus indicated that many of the church schools established in the last twenty years were founded directly in response to these decisions of the Supreme Court. Those who assume that these schools were founded for discriminatory reasons simply fail to take into account how disturbed many parents were when the federal courts effectively secularized the public schools. Many parents strongly believed that education is, by its nature, inherently religious, and, in response to the court decisions they founded schools that reflect their views—schools that are primarily religious in nature—schools that are, more often than not, attended by pupils from the same church and where the doctrines and belief systems of that particular church are inculcated. To require religious academies of this type to engage in affirmative action would be like requiring Hebrew schools or Jewish yeshivas to recruit black students in proportion to the surrounding population. No matter how actively they might attempt to recruit minority students and faculty, or how much money they might spend on recruitment campaigns, they would be unlikely to find enough prospective minority students or faculty members willing to submit to their religious strictures. That being the case, the only way for them to comply with affirmative action guidelines would be to water down their religious requirements and lose their identities as religious schools.

Mr. HELMS. Mr. President, I do hope that the manager of the bill will accept this amendment. If not, I will ask for the yeas and nays.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. As I understand the amendment, it is essentially similar to one he offered last year, in 1982. The Senate did agree to a tabling motion offered by Senator MOYNIHAN 61 to 29. This is yet another attempt to deny the Internal Revenue Service the right to enforce antidiscrimination provisions of the law. Senator MOYNIHAN is on the floor and I think it would be appropriate that we referenced that vote.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

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

Mr. THURMOND. Can the Senator withhold that for a few moments?

Mr. MOYNIHAN. Certainly. I ask that I be permitted to retain my right to the floor after the speakers have completed.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in strong support of the religious liberty amendment proposed by the distinguished Senator from North Carolina, Mr. HELMS. This amendment will prevent the IRS from using guidelines that are unreasonable and unduly burdensome in determining which private schools may be entitled to tax exempt status.

Mr. President, let me make my point perfectly clear so as to avoid any confusion about the intent of this amend-

ment. This amendment in no way restricts the IRS from denying or revoking a tax exemption for any school which is found to practice racial discrimination. I am opposed to racial discrimination. The issue here is not whether private schools with racially discriminatory policies should be entitled to tax exempt status. Under the law, as it has been decided by the U.S. Supreme Court, they are not entitled to such benefits, and this amendment has no bearing on that fundamental issue.

What is at issue here is a question of fairness and due process in administering the law. What is of concern here is the unjustified imposition of extremely onerous affirmative action regulations and racial quotas on private religious schools, based on an inference of guilt derived solely—and I repeat, derived solely—from the date a private school was established or expanded and its location.

Mr. President, such a presumption of guilt is contrary to the basic guarantees of due process and equal protection of the laws which underpin our society and our Government. Private and religious schools with explicit, nondiscriminatory policies should not be cloaked by the IRS or by the courts with a dark cloud of guilt, simply because the time and location of establishment or expansion appears to bear some relationship to public school desegregation. As the distinguished Senator from North Carolina has correctly pointed out, the period of active public school desegration was also the time period in which Supreme Court decisions banning prayer and Bible reading in public schools were handed down. These far-reaching decisions caused many parents who strongly desired that their children be educated in a religious environment to form or support private, Christian schools.

Mr. President, it is simply wrong and unjust to presume, without any evidence, that these schools engage in some form of illegal discrimination, despite their stated open enrollment and other nondiscriminatory policies. Similarly, it is wrong and unnecessarily punitive to require these schools to undertake elaborate affirmative action requirements, including the satisfaction of racial quotas, as a prerequisite to obtaining or keeping their tax exemption.

Mr. President, this is a good amendment, and a most reasonable proposal. It will not interfere in any way with the ability of the IRS to carry out its responsibilities under the law. It will, however, provide some measure of protection to innocent, nondiscriminatory private and religious schools from the heavy hands of the Federal bureaucracy.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I move to table the amendment and I ask for the yeas and nays.

Mr. DECONCINI. Will the Senator wait a moment while I ask a question of the sponsor?

Mr. MOYNIHAN. Yes.

Mr. DECONCINI. Will the Senator explain to me how the amendment differs, if at all, from the amendment offered last year? Are they the same? Is it the same as this amemdment? Was there something about a contribution?

Mr. HELMS. Let me be sure I answer correctly.

The first part is identical. The second part takes into consideration the Bob Jones decision by the Supreme Court and some other changes. I do not know how much detail the Senator wants. We can put in a quorum call and get a copy of each of them.

Mr. DECONCINI. I thought the amendment we had last time had something to do with contributions. Am I incorrect?

Mr. HELMS. We do not have a general purpose contributions provision in the amendment this time.

Mr. DECONCINI. I thank the Senator.

Mr. BRADLEY. I believe they are the same.

Mr. MOYNIHAN. That is the same.

Mr. LEVIN. Will the Senator from New York yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. LEVIN. Is it not correct, I ask my friend from North Carolina, that this amendment not only prohibits the implementation of the IRS regulation, but also prohibits the implementation of court orders of certain types?

Mr. HELMS. Only as to nondiscriminatory schools.

Mr. LEVIN. It goes beyond prohibiting the IRS from implementing the regulation by terms of its second paragraph; is it not true that it also prohibits the implementation of certain types of court orders?

Mr. HELMS addressed the Chair.

Mr. MOYNIHAN. Mr. President, I have the floor and the distinguished Senator asked me to yield for a question. If I may answer, yes, it does prohibit the implementation of court orders.

Mr. LEVIN. Mr. President, the amendment goes for beyond prohibiting implementation of an IRS regulation. It also prohibits implementation of court orders, it would thereby breed disobedience to the chair. I cannot support it although I believe that the IRS has in the past overreached it authority.

Mr. HATFIELD. I thank the Senator. I would like to make an observation if I could.

I have a great deal of sympathy for the problem I think the IRS, wittingly or otherwise, has raised in relation to private schools, religious private schools particularly. I think there is a question of possibility of having overreached their authority and trying to regulate in what I think is an attempt to thwart the right of people to associate themselves together in that kind of educational purpose. But I must say to the Senator from North Carolina that I have to carry this bill beyond the floor of the Senate to confernece in the morning. This is clearly a question of legislation, in my opinion. I am not going to raise that question for the Chair, but I think it is pretty well considered as such.

The House will not accept that in conference unless they take it back in technical disagreement.

It is more than a technical disagreement. It is really more just basic procedural disagreement. Consequently, I can just foresee now, as much as one can foretell the future, that this amendment, if adopted, would have a short life.

I would like to ask if the Senator from New York will yield to the leader to see if there is any possibility of getting a thorough airing on this subject on a proper vehicle that does not get us off into the thicket of procedural technicalities and so forth that we would be in on appropriations matters.

Mr. BAKER. Will the Senator from New York yield to me?

Mr. MOYNIHAN. I am happy to yield for that purpose while retaining my right to the floor.

Mr. BAKER. Mr. President, I thank the Senator from New York.

I, too, have a degree of sympathy for the Senator from North Carolina. I have seen at first-hand what I think is an excess of zeal, at least, and perhaps more than that, from the Internal Revenue Service in respect to private schools, church schools, and other schools, that I am convinced do not discriminate and have no intention of discriminating.

However, I agree with the chairman of the Appropriations Committee. I hope we do not have to deal with that issue on this bill.

Indeed, if the Senator from North Carolina will permit me, I am perfectly willing to join with others who, I believe, may have a similar view to see that we have a full and thorough examination of this issue and that, indeed, there is an opportunity for the Senate to speak on this issue on some other vehicle.

I am not trying to con the Senator, if he will permit me to use that phrase.

Mr. HELMS. I know that, Mr. President.

Mr. BAKER. I simply say I know what he is driving at. I also know how

complex and difficult it would be to deal with it on this bill.

I must say, Mr. President, I shall vote to table this amendment but I shall do so with reluctance, because I think there is much merit in what the Senator says and what the amendment proposes. I do hope we will not have to deal with it here.

I assure my friend from North Carolina that I shall do my part to see that the issue is addressed in a timely way and a way that I think will be agreeable.

Mr. MOYNIHAN. Mr. President, I believe I have the floor. I shall be happy to yield to the Senator from North Carolina for a question or with the understanding that I continue to have the floor after the Senator from North Carolina has finished.

Mr. HELMS. I thank the Senator.

Mr. President, I am very encouraged by and appreciative of the comments by my friend from Oregon and my friend from Tennessee. I wonder if the Senator will allow me to ask unanimous consent to lay this amendment aside temporarily and let the manager of the bill proceed with whatever other amendments they may have at this time.

Mr. MOYNIHAN. Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. EVANS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. PRYOR), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

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

The result was announced—yeas 51, nays 28, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—51

Andrews	Eagleton	Moynihan
Baker	Exon	Nunn
Baucus	Ford	Packwood
Bentsen	Gorton	Pell
Biden	Hatfield	Percy
Bingaman	Heinz	Pressler
Boschwitz	Huddleston	Proxmire
Bradley	Johnston	Riegle
Bumpers	Kennedy	Rudman
Burdick	Lautenberg	Sarbanes
Byrd	Leahy	Sasser
Chafee	Levin	Specter
Chiles	Mathias	Stafford
Cohen	Matsunaga	Stevens
D'Amato	Melcher	Tsongas
Danforth	Metzenbaum	Weicker
Dixon	Mitchell	Wilson

NAYS—28

Abdnor	Hawkins	Quayle
Armstrong	Hecht	Randolph
Boren	Heflin	Roth
Cochran	Helms	Symms
DeConcini	Humphrey	Thurmond
Denton	Jepsen	Trible
East	Kasten	Warner
Garn	Lugar	Zorinsky
Grassley	Mattingly	
Hatch	Nickles	

NOT VOTING—21

Cranston	Goldwater	McClure
Dodd	Hart	Murkowski
Dole	Hollings	Pryor
Domenici	Inouye	Simpson
Durenberger	Kassebaum	Stennis
Evans	Laxalt	Tower
Glenn	Long	Wallop

So the motion to lay on the table Mr. HELMS' amendment (No. 2598) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I wish to update the Senate, to indicate where we are at the moment.

From the list that the minority and majority have been keeping, we have the following amendments remaining to be acted upon: one by the Senator from Ohio (Mr. METZENBAUM), one by the Senator from Massachusetts (Mr. KENNEDY), one by the Senator from Vermont (Mr. LEAHY), one by the Senator from Tennessee (Mr. SASSER), and I have one final amendment. That makes a total of five amendments, and I have not found that there is any controversy surrounding any one of the five. We have checked them on both sides of the aisle, and they will be accepted.

I have also looked around and asked about anyone who wants a rollcall vote on final passage, and I have not been able to ascertain that anyone desires to have a rollcall vote on final passage. So if I can make a general assessment at this time, I think we can handle these five remaining amendments in a relatively short period of time and voice vote final passage. I am not saying that is a final decision, but I say that appears to be where we are, and then we will go to conference.

AMENDMENT NO. 2599

(Purpose: To prohibit the availability of funds to lay up hopper dredges under certain circumstances)

Mr. METZENBAUM. 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 Ohio (Mr. METZENBAUM), for himself, Mr. LEVIN, and Mr. RIEGLE, proposes an amendment numbered 2599.

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

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

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act may be obligated or expended within six months after the date of enactment of this Act to remove from operational readiness, or to relocate from a home port, any hopper dredge so as to reduce the number of Federally-owned hopper dredges which are available for use on the Great Lakes to less than two.

Mr. METZENBAUM. Mr. President, this amendment would prevent the retirement of two Government-owned hopper dredges based on the Great Lakes for an additional 6 months.

I am offering this amendment to gain time so that we can determine whether the private dredging industry is capable of taking over this dredge work.

Mr. President, this amendment would cost the Government no additional funds. The Federal Government pays the cost of dredging harbors regardless of who actually does the work.

This amendment is necessary because of action announced earlier this year by the Assistant Secretary of the Army for Civil Works, William Gianelli, to reduce the Federal hopper dredge fleet.

Mr. Gianelli's plan flies in the face of recommendations submitted to Congress by the Army Corps of Engineers. In April 1982, the Corps of Engineers submitted a study outlining the minimum Government dredge fleet that would be needed to provide the national defense and emergency needs of this Nation. That report clearly stated that the Government must have eight hopper dredges, and two of these dredges should be based on the Great Lakes.

But the administration chose to ignore the Corps of Engineers' recommendation. Mr. Gianelli decided the

Government could get by with only four hopper dredges, and the Great Lakes could get by with none at all.

The Assistant Secretary notified Congress in a letter dated March 11, 1983, that the so-called excess Government dredge equipment would be decommissioned by the end of this calendar year.

Since that time, there have been no hearings, no investigations and little thought about who would do the dredge work on the Great Lakes, or about what the cost would be.

According to Mr. Gianelli, a new organization, the so-called Corps of Engineers Reserve Fleet (CERF), made up of privately owned dredges, could be called upon in the event of an emergency. Supposedly, the CERF concept was successfully tested in mobilization exercises.

But the fact is, the whole test was conducted on paper.

Mr. President, I am not opposed to a wider role for the private dredging industry on the Great Lakes. We have been heading consistently in that direction for several years. According to a 1981 GAO report:

Private industry's share of the corps' Detroit district's (dredge) work on the Great Lakes has increased from about 12 percent in fiscal year 1977 to about 66 percent in fiscal year 1981.

This share has continued to increase since 1981.

But I am not certain that the private dredging industry can perform all the work now handled by the corps dredges. In addition, many questions remain about the increased costs that could be incurred by the Government due to the lack of competition in the private dredging industry.

There is only one Great Lakes based company that operates hopper dredges, and its two dredges are frequently performing work outside the lakes.

This company has already obtained through the Freedom of Information Act, corps cost records, which enable it to predict Government estimates for dredging jobs. The company can then bid within the required 25 percent of that amount, guaranteeing an automatic 25-percent increase in dredging costs out of the taxpayer's pockets.

This company recently increased its daily operating cost estimate from $19,000 to $26,000 even though audits disclosed daily costs as low as $16,000 per day.

The rental rate for the *Markham,* one of the two corps dredges, is only $17,000.

Mr. President, actions ordered by Mr. Gianelli have contributed to the appearance that Government dredging costs are higher than they actually should be.

For instance, the workweek of the corps hopper dredges was ordered reduced from 6 to 5 days. Due to the high proportion of fixed costs, the corps was forced to substantially increase the daily rental rate, further reducing its competitive position vis-a-vis the private dredging contractors.

Mr. President, it is clear that further investigation is required before we can permit Mr. Gianelli to implement this fleet reduction plan. There are too many unanswered questions involving the availability of privately owned hopper dredges, and the potential cost to the Government.

I urge my colleagues to support this amendment so that we can get some answers to these questions. We should have full knowledge of the facts before going forward.

Mr. LEVIN. Mr. President, I am pleased to cosponsor this amendment with the Senator from Ohio.

This amendment is an important one for the Great Lakes region as the Corps of Engineers begins a transition from the use of federally owned and operated hopper dredges to private industry dredges to meet the Federal Government's responsibility to navigation and commerce on the Great Lakes. Under the amendment, the corps is prohibited from using any funds during a period of 6 months after enactment for the purpose of removing from readiness or relocating from their home ports the two corps hopper dredges currently in operation on the Great Lakes.

Pursuant to Public Law 95-269, the Chief of Engineers completed in April 1982 a report entitled the "Minimum Dredge Fleet Study." It recommended that the corps operate a federally owned minimum fleet of eight hopper dredges to perform emergency and national defense work, and other dredging work intended to keep the minimum fleet efficiently utilized. The *Hains* and *Markham,* with home ports in Grand Haven, Mich., and Cleveland, Ohio, respectively, were designated as part of the minimum fleet to be stationed in the Great Lakes.

However, subsequent to the approval of the Chief of Engineers report by the Assistant Secretary of Army for Civil Works, the administration directed the corps to evaluate a "reserve fleet" concept, which involves using the dredging industry as a reserve to be called upon by the corps when the need arises. In March 1983, the administration decided that the corps' minimum fleet should be reduced to four hopper dredges, none of which would be based in the Great Lakes. The effect of this decision for the Great Lakes is that the reserve fleet is the only fleet for dredging work.

The reserve fleet plan is untried and untested, with many unknowns. Its implementation could ultimately increase costs to the Government for hopper dredge work.

To remove the *Hains* and *Markham* from their home ports on the Great Lakes is premature given the uncertainties surrounding this plan. The amendment offered here today would allow the Congress and the corps to review and evaluate whether the dredging industry has the ability to perform the work previously undertaken by the corps hopper dredges at a reasonable cost and in a timely manner.

I should like to indicate one additional concern about this plan.

Over the past several years, only one company with hopper dredge capability has been awarded contracts for major dredging work on the Great Lakes previously accomplished by the corps hopper dredges. In addition, only one other company with hopper dredge capability bid on several contracts offered by the corps during the industry capability program (ICP), which was designed to increase the amount of dredging work contracted to industry. Without hopper dredge competition, it is possible that the cost for dredge work may escalate once the corps dredges are retired, since the corps dredges will no longer compete against the industry hopper dredge for work as they did during the ICP.

This concern and others should be carefully evaluated by the Congress, and I would urge the Environment and Public Works Committee to undertake such a review to insure that what the corps has proposed will actually satisfy the Federal Government's responsibility to navigation and commerce in the entire Great Lakes region.

Again, Mr. President, I want to indicate my support for this amendment and urge Senate passage. i also want to especially thank Senator METZENBAUM for accepting my suggestion to modify this amendment so that the corps hopper dredges remain stationed at their home ports. This action will benefit the city of Grand Haven, where the *Hains* has been stationed for a number of years.

And finally, Mr. President, I want to express my appreciation to Senators ABDNOR and DURENBERGER for their help in this matter.

Mr. METZENBAUM. Mr. President, it is my understanding that the amendment is acceptable to the managers of the bill; and if it is, I have nothing further to add.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2599) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2600

Mr. LEAHY. 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 Vermont (Mr. LEAHY) proposes an amendment numbered 2600.

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

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

The amendment is as follows:

At the appropriate point in the bill, add the following:

No funds in this or any other Act shall be used to process or grant oil and gas lease applications on any federal lands outside of Alaska that are in units of the National Wildlife Refuge System, except where there are valid existing rights or except where it is determined that any of the lands are subject to drainage as defined in 43 C.F.R. 81002, unless and until the Secretary of the Interior first promulgates, pursuant to section 553 of the Administrative Procedure Act, revisions to his existing regulations so as to explicitly authorize the leasing of such lands, holds a public hearing with respect to such revisions, and prepares an environmental impact statement with respect thereto.

Mr. LEAHY. Mr. President, I think we could probably cover this in less than a couple of hours of debate or, from the look on the face of the chairman of the Appropriations Committee, possibly 30 seconds.

It is a consensus amendment, involving the controversial issue of oil and gas leasing in national wildlife refuges. It is the same language that Senator MCCLURE, Senator JOHNSTON, and I worked out in the supplemental, holding up leasing until an environmental impact statement is done.

My only concern, of course, is the first supplemental may never become law.

So I urge its inclusion in this. But it has been cleared as near as I can tell by everyone who has looked at it.

Mr. HATFIELD. The Senator is correct. It is already in the supplemental. We are merely taking it from the supplemental and putting it on the CR. It has been cleared on both sides.

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

The amendment (No. 2600) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2601

Mr. SASSER. 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 Tennessee (Mr. SASSER) for himself and Mr. THURMOND proposes an amendment numbered 2601.

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

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

The amendment is as follows:

At the appropriate place, insert the following: "Notwithstanding any other provision of this joint resolution, $300,000 is appropriated for the Capital Children's Museum."

Mr. SASSER. Mr. President, we propose that $300,000 be provided toward the support of maintenance costs of the Capital Children's Museum.

This museum is one of the Nation's best models of innovative education, of ways to spur math and science achievement, and of how to use the computers and other new communications technologies.

The museum serves 250,000 people each year including many teachers who come there to be trained in new and better ways to teach. The museum also serves hundreds of children and youth from its immediate neighborhood, a neighborhood which is made of slums in the shadow of the U.S. Capitol and keep these children off the streets of an impoverished, urban ghetto. The museum has thousands of visitors who are handicapped, and it has a corps of 160 senior volunteers in a model program, emulated throughout the country, by people who are interested in helping the elderly.

The Children's Museum is only 4 years old, but in that short time, it has developed sources of income to support almost half its budget. That is, it earns over $750,000 annually toward support of its $2 million operating costs.

The increased demand by visitors, requests from 41 States for technical assistance by other museums and by educators, and regular delegations from the Department of State have made this a prominent institution. It is a unique demonstration of the kind of innovation for which the United States is admired throughout the world.

This small support is required to help close the museum's funding gap to guarantee that it can stay open to continue its outstanding work.

Mr. President, I urge the adoption of the amendment.

Mr. President, I offer this amendment on behalf of myself and Senator THURMOND. It has been cleared with the managers of the bill on both sides.

Mr. HATFIELD. Senator THURMOND is a cosponsor?

Mr. SASSER. Senator THURMOND is a cosponsor.

Mr. President, this is a sole support for the Washington Children's Museum. It is a small amount of funding to keep this worthwhile institution open.

Mr. President, I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, I am pleased to join with the distinguished junior Senator from Tennessee, Mr. SASSER, in sponsoring this amendment which would appropriate $300,000 for the support and maintenance of the Capital Children's Museum, located in Washington, D.C.

The Children's Museum is the result of much innovative thinking and hard work by volunteers and professionals in the field of early childhood education. Since its inception as a three-room facility in 1977, the Children's Museum has flourished, and now occupies a full city block in northeastern Washington, D.C.

Mr. President, this is much more than a museum. It is an education workshop, which provides "hands-on" exhibits for children who reside in or visit their Nation's Capital, training for over 1,000 teachers per year, and internships for 70 to 100 youths working in the education field. The museum and its staff, which includes some 350 volunteers, also provide technical assistance to schools and school boards throughout the country, as well as information on innovative education techniques in answer to requests from many foreign countries.

Those who operate the museum have done an exceptionally fine job of using services of volunteers, contributions from the private sector, and earned income from museum programs to help defray operating expenses. In order to encourage the continuation and expansion of this worthwhile program, which benefits the entire Nation, it is both appropriate and necessary that some financial support be provided by the Federal Government. For this season, I join Senator SASSER in asking that the sum of $300,000 be appropriated for the Capital Children's Museum. I hope that our colleagues on both sides of the aisle will support this amendment, which will help one of the finest educational endeavors anywhere in the world continue its excellent work and benefit even more children.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be named as a cosponsor of this amendment. It is an excellent amendment and has been cleared on this side.

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

The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2601) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we have on our list remaining one amendment that I shall offer shortly and also one that we expected the Senator from Massachusetts (Mr. KENNEDY) to offer.

I do not see the Senator from Massachusetts in the Chamber at this time.

AMENDMENT NO. 2602

(Purpose: To appropriate funds for construction of a Federal Building Courthouse in Newark, N.J. and for design necessary for repair of the Customhouse-Courthouse in St. Louis, Missouri)

Mr. HATFIELD. 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 Oregon (Mr. HATFIELD) proposes an amendment numbered 2602.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

Sec. . Notwithstanding any other provision of this joint resolution, there is hereby appropriated $39,000,000 from the Federal Building Fund, for construction of a Federal Building-United States Courthouse in Newark, New Jersey, and $550,000 from the Federal Building Fund, for design necessary for repair of the Customhouse-United States Courthouse in St. Louis, Missouri.

Mr. HATFIELD. Mr. President, this amendment I offer with the clearance of the authorizing committee, the Senator from Vermont (Mr. STAFFORD) and the ranking minority member, the Senator from New York (Mr. MOYNIHAN), and on behalf of the Congressman from New Jersey, Mr. HOWARD, who has requested this with the support of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from New Jersey (Mr. BRADLEY).

It is to provide for the funding of a courthouse in Newark, N.J., and for the design to begin on a customs house-courthouse located in St. Louis, Mo.

This matter has been cleared on both sides of the aisle, and we wish to take it to conference.

● Mr. LAUTENBERG. Mr. President, I rise in support of the Hatfield amendment to provide funding for the construction of a badly needed Federal building and courthouse in Newark, N.J. This building will cost $39 million and provide 290,000 square feet of space.

GSA acknowledged the need for this facility since fiscal year 1981. Because of the small amount GSA has for construction, funding for this building was eliminated in fiscal year 1984.

Mr. President, the tenants scheduled to be located in this facility, with the exception of the courts are currently occupying expensive leased space. The courts also have need of expansion.

I commend the distinguished chairman of the Appropriations Committee for offering this amendment and urge its adoption by my colleagues.●

Mr. BRADLEY. Mr. President, I thank the chairman for offering the amendment. The need is great for the construction of a Federal building and courthouse in Newark, N.J. As Members of the Senate may be aware, the General Services Administration in its public buildings service management plan for fiscal years 1981-87, dated June 1, 1981, recommended construction of a Federal building and courthouse in Newark, N.J., in fiscal year 1984 containing 408,000 occupiable square feet of space at a cost of $89,500,000. The GSA management plan for fiscal years 1982-88, dated February 16, 1982, recommended construction of a Federal building-courthouse containing 309,000 square feet at an unidentified cost. Construction was then identified to begin in fiscal year 1989. Currently, all of the tenants scheduled to be located in the building, with the exception of the courts, are located in expensive leased space. The courts have a need for expansion and since their requirements are special purpose, it is the policy of GSA and the Congress to locate them in federally owned space. The building is justified; however, due to GSA's small amount of funds for construction, the proposed construction of the building in Newark in fiscal year 1984 was eliminated.

Mr. President, recently the chairman of the House Committee on Public Works and Transportation and many other New Jerseyans had brought to my attention the continued need for this facility, and I therefore recommend construction of a new Federal building-courthouse containing 290,000 square feet of space at a cost of $39 million. Of this amount, $3.8 million will be necessary for design of the facility.

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

The amendment (No. 2602) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I wonder if I could inquire of the minority leader at this point if they have any information concerning the amendment of the Senator from Massachusetts that he had indicated he would like to offer because we are now ready to go to third reading.

Mr. LEAHY. Mr. President, if I could have just a moment, I know the Senator from Massachusetts was in the Chamber about 3 minutes ago. Someone is checking with him.

Mr. President, I have been informed by Senator KENNEDY's office that he will not be offering that amendment and if the distinguished chairman will indulge me just for a moment let me make absolutely sure there are not other amendments.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. EXON. Mr. President, I am prepared to offer an amendment addressing a problem in the Hill-Burton program. The Hill-Burton program gave financial assistance to health care facilities in exchange for a promise to provide a reasonable amount of uncompensated care for the poor. In 1979, the Department of Health and Human Services promulgated regulations intended to improve hospital compliance in the program. However, these same regulations also apply to not-for-profit nursing homes participating in the program. On several occasions, the Department of Health and Human Services has admitted that it did not consider the effect these regulations would have on participating not-for-profit nursing homes. And in fact, these regulations pose a serious threat to the financial integrity of many Hill-Burton nursing homes.

Since 1980, the Department has said that it would address the nursing home's problems under the 1979 regulations. It is now late 1983, and the Department has taken no formal action. My amendment simply calls for new regulations which distinguish between hospitals and nursing homes for purposes of complying with their obligations under the Hill-Burton Act.

Mr. WEICKER. Mr. President, I understand the concern of the Senator from Nebraska. However, I would urge him to consider introducing his amendment on another piece of legislation. It is crucial that the Senate pass this continuing resolution in very short order. The Labor and Human Resources Committee has jurisdiction in the Hill-Burton area and I would hope that the chairman of that committee could address this matter.

Mr. HATCH. Mr. President, I join with the Senator from Connecticut. I believe that the Senator's amendment would be more appropriately consid-

ered on another piece of legislation. If the Senator will choose not to offer his amendment, I will pledge that I will assist the Senator from Nebraska in seeing that his amendment is considered in the very near future.

Mr. EXON. Mr. President, I appreciate the offers of my colleagues from Connecticut and Utah. I, too, believe that it is important for the Senate to act quickly on the continuing resolution. Therefore, based on the assurances of my colleagues, I will not offer my amendment at this time.

Mr. RUDMAN. Mr. President, I rise to express my concern regarding the report language in the committee report on Senate Joint Resolution 193 pertaining to the so-called gray market. That language directs the Department of the Treasury "to publish forthwith the proposed customs regulations" pertaining to the gray market. It further states that "the committee believes that a very serious problem involving the rights of trademark owners exists and that the Customs Service should no longer delay the publishing of these regulations which are designed to address these critical matters."

By way of background, Mr. President, this issue involves the right of a variety of small American businesses to import a wide variety of genuine trademarked products such as watches and electronic goods. Because many foreign manufacturers attempt to charge artificially high prices for their products in the United States, these small businesses can purchase the genuine goods abroad and resell them here at prices lower than those charged by the foreign manufacturer's American subsidiary or controlled distributor. The benefits of this to the American consumer in the form of greater competition and lower prices are obvious. For example, when the independent distributors introduced price competition, the prices for Seiko watches, Nikon cameras, and Canon cameras all dropped by about one-third. I should stress, at this point, that we are talking about genuine goods, not counterfeit products which is an entirely separate issue.

Under longstanding Federal law, the American owner of a U.S. trademark registration has been allowed to prevent the import of goods bearing that trademark. However, for the last 50 years, first by common practice and by formal regulation for over a decade, the Customs Service has recognized a limitation to that. When the foreign and American trademark rights are owned by the same company or companies under common ownership or control, the foreign manufacturer or its controlled subsidiary may not exclude the imports of its products.

For reasons that escape me, the Customs Service recently proposed regulations to the Treasury Department which would repeal the current regulations and force these small American businesses to stop competing with the foreign manufacturers. The Treasury Department has yet to act on Customs proposal and the language in the Appropriations Committee report on Senate Joint Resolution 193. It is my understanding that my colleague indicated that he was intending to offer a sense of the Senate amendment with the same effect of the report language, but, to conserve the time of the committee and the Senate, would settle for the report language. For the record, I should note that I would have vigorously opposed a sense of the Senate amendment had it been offered and would also have opposed the report language had I known it was going to be offered. Unfortunately, report language cannot be amended on the floor of the Senate and so there is no action I can take at this time.

Mr. President, it should be noted that neither the regular fiscal 1984 Teasury-Postal appropriations bills, both the version passed by the House and the version approved by the Senate Committee on Appropriations, nor the accompanying reports, contain any similar report or bill language. In addition, it is my understanding that there is considerable opposition to changing the existing Customs regulations in both the House and Senate authorizing committees. Given the fact that the legislative history is mixed at best and that Senate Joint Resolution 193 fell to a filibuster, admittedly on an unrelated matter, it is my belief that the report language in question is in no way binding on the Department of the Treasury.

In conclusion, Mr. President, let me state that I believe that the gray market issue is relatively simple. Should large foreign manufactures be permitted to reverse existing policy and be allowed to charge artifically high prices for their product by prohibiting small American businesses from importing their products in competition with them? Should Federal regulations be altered in such a manner that American consumers have to pay more for a product than consumers overseas have to pay when there is not even a suggestion that that is necessary to protect American industry? I suggest that the answer to both those questions is a resounding no and that the wisest course of action is for the Treasury Department to let the Customs Service's misguided regulations die a quite death.

BRUNSWICK HARBOR STUDY, GEORGIA

Mr. HATFIELD. Mr. President, during the markup on Senate Joint Resolution 194, the continuing resolution, the Appropriation Committee agreed to include report language which directed the Corps of Engineers to update and reevaluate data on the Brunswick Harbor study in Georgia.

However, due to a printing error that language was inadvertently omitted.

As I have indicated, the committee had approved the language for inclusion in Senate Report 98-304.

Therefore, I ask unanimous consent to include in the RECORD at this point, the language on Brunswick Harbor which should have been included in the committee report.

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

BRUNSWICK HARBOR, GA. STUDY

The committee is aware that since completion of the Phase I study of Brunswick Harbor in 1980, the Georgia Ports Authority has completed a navigation channel connecting Colonels Island with the existing Federal navigation channel. The Authority is presently constructing extensive, new cargo terminal facilities on Colonels Island, with cargo shipments expected to begin in 1985. This will result in an increased use of the channels which are already constricted for newer, longer vessels. Within available funds, the committee expects the Corps of Engineers to resume the study and reevaluate and update the economic data from the earlier reconnaisance.

Mr. LEVIN. Mr. President, as most of our colleagues know, Senator COHEN and I have been working with Senator DOLE, the distinguished chairman of the Finance Committee, on legislation to reform the disability program of the Social Security Act. Our bill, S. 476, which is pending before the Finance Committee, presently has 33 cosponsors. It includes several basic reforms which would make the current continuing disability reviews fairer and bring some administrative stability to the program. There are some 21 States which are flouting SSA's required standards and procedures for conducting these reviews.

Our staffs—that of Senator COHEN and myself and that of Senator DOLE along with the staffs of other concerned Members—have been working for the past 2 weeks to develop a compromise package which all three of us can support. We are very close. But, our time is running out; we may have only one week left.

Senator COHEN and I are prepared at this point to offer our bill as an amendment to the continuing resolution. In our discussions with Senator DOLE, he has advised against it but has promised on previous occasions a vehicle to which we could attach our disability provisions.

Mr. President, I would like to ask the distinguished Senator from Kansas if he would help us reach an agreement on a vehicle for raising the disability issue.

Mr. COHEN. Would the Senator yield?

Mr. LEVIN. I would be happy to yield to my good friend from Maine, Senator COHEN.

Mr. COHEN. I join Senator LEVIN in making this request to the Finance Committee chairman. And I want to emphasize that both Senator LEVIN and I applaud the efforts that Senator DOLE has made on behalf of this legislation. He has been willing to meet with us on numerous occasions to discuss these issues and answer our inquiries.

We are, however, under the 2-minute warning for this legislation because its benefits can be felt only if it is passed before we recess. Senator LEVIN and I have refrained from offering this bill on other legislation because of our sincere interest in reaching a compromise with Senator DOLE. I don't think that interest has waned; I just think time is running out. That is why I join Senator LEVIN in asking my good friend, the Senator from Kansas, if he can work with us on reaching an agreement on a vehicle for offering our amendment to reform the disability program.

Mr. DOLE. Will the Senator yield so that I may respond?

Mr. LEVIN. Of course.

Mr. DOLE. As my colleagues both know, I am sincerely interested in bringing to the floor for the Senate's consideration legislation to amend the current practices and procedures of the social security disability program. That is why I have joined them in trying to achieve a compromise package. I, too, think we are very close, but I recognize their concern that time is running out. I appreciate their willingness to forgo offering their amendment to the continuing resolution. As my colleagues are aware, there will be other vehicles for the disability amendment, and I will work with them to find a suitable one. In the meantime, I hope we will continue to work through our staffs to eliminate the remaining points of difference, so we can achieve a final compromise proposal.

Mr. LEVIN. We would certainly continue to seek an acceptable compromise during the next few days. I thank the Senator from Kansas for his cooperation, and I yield the floor to Senator COHEN.

Mr. COHEN. I too want to thank the Senator from Kansas for his commitment, and I want to express my continued interest in working for a compromise proposal.

KEEPING MONTANA'S TRADE DOORS OPEN

● Mr. BAUCUS. Mr. President, few Montanans come in contact with the U.S. Customs Service. But for Montana businesses that depend on imported goods and tourism, that Federal agency is vitally important. I am very pleased that this appropriations bill contains language that will protect those businesses from unwarranted cutbacks in Customs office services.

The Customs Service operates a series of border stations. These stations process all kinds of imports. For example, Montana's 21 border stations process imports of ore concentrates, roofing materials, lumber, fertilizer, farm machinery, field seed, and oil field equipment. Many of these imports are critical to Montana's economy.

The border stations are organized into districts. In each district, some of the key employees are the import specialists. They review import documents, classify imported products, and assure that correct duties are paid. To accomplish this, they often work closely with both importers and customs brokers representing importers.

Sometime last year, Customs decided to devote more resources to drug interdiction. However, Customs did not ask Congress for more money; instead, it began shifting resources over from import processing. Overall, this shift would have reduced the number of Customs employees by about 2,000.

Phase I of the planned shift apparently was the implementation of a centralized duty appraisement system. Phase II apparently was the closure of about 34 border stations. In early 1983, phase I—centralized appraisement—began. According to Customs, this involves centralizing the current import specialist function from various field offices to fewer and more efficient administrative centers located throughout the country.

Sounds reasonable. Unfortunately, it was not, because Customs had not carefully evaluated the impact centralized appraisement would have. For example, a preliminary GAO report I commissioned found that "Customs officials * * * have not prepared an official cost/benefit study for the proposed centralization," that "Customs has not prepared an official estimate of savings," that "the total cost to Government will be unknown until a cost/benefit study is prepared," that "[t]he impact of centralized appraisement activities is unknown," and that Customs "did not conduct an analysis regarding the impact of removing import specialists from a given location."

The absence of any careful evaluation became especially clear when centralized appraisement hit Montana.

For example, Customs transferred two import specialists from Great Falls, Mont. to Pembina, N. Dak. Two major problems, at least beset their transfer. First, Pembina is remote: While the Great Falls area has a population of about 80,000 and is served by five commercial airlines and a bus system, the Pembina area has a population of about 600 and is served by no commercial transportation whatsoever. Therefore, it would be extremely difficult for importers and customs brokers to reach Pembina to discuss complicated import processing problems.

Second, Pembina is in a different Customs district than Montana. Import specialists reviewing District 33 imports under the ostensible supervision of the District 33 Director would be located hundreds of miles away in another district; therefore, it would be extremely difficult for the District Director to adequately supervise them.

Mr. President, I am very pleased that the Senate Appropriations Committee has included language in the Treasury appropriations bill that requires the Customs Service to give the committee 6 months notice before closing, consolidating, or transferring any Customs offices. Last April, I testified on this situation before the Appropriations Subcommittee on Treasury, Postal Service, and General Government, and asked the committee to take action to preclude the proposed reorganization.

The Senate Finance Committee adopted my amendment requiring similar advance notification to the Customs Service authorization bill. That bill, which has been reported by the Finance Committee, should be considered by the Senate next year.

Mr. President, efficient import processing is critical to the economy of Montana and many other States, and promotes friendly relations with our major trading partners. Therefore, it is critical that any proposed reorganization be carefully conceived and implemented. We should be doing everything in our power to foster and develop trade with other countries, and Customs offices play a vital role in those relationships.

With advance notice of future reorganization plans, Congress will have a chance to pass legislation that would block any changes that are not in the public interest.●

AGRICULTURAL MARKETING ORDERS

● Mr. BENTSEN. Mr. President, I regret that the Senate Appropriations Committee has not seen fit to include in this continuing resolution language that restores to the U.S. Department of Agriculture the responsibility for reviewing agricultural marketing orders and the activities and regulations pertaining to them. Due to the need for prompt passage of this legislation and the desire of the managers to keep this bill clean to expedite its passage there will be no attempt to add this language as a floor amendment. However, this provision is still in H.R. 4139, the Treasury appropriations bill, so there will be another opportunity to consider this issue on the Senate floor and I will urge the Senate to approve this restriction at a later date.

Mr. President, I strongly support this needed clarification. A similar provision was included in the House version of the Treasury appropriations

bill at the request of my distinguished colleague from Texas, House Agriculture Committee Chairman KIKA DE LA GARZA.

Agricultural marketing orders by law are supervised by the Secretary of Agriculture. The Agricultural Marketing Agreement Act of 1937 requires the Secretary to administer these agreements for the benefit of both producers and consumers. These marketing orders are subject to the approval of the growers who participate in them, and they can be voted out of existence by those growers at any time.

Texas growers of oranges, grapefruit, lettuce, onions, melons, and tomatoes have and use marketing orders. They are used to control such things as the size and quality of fruit going to market. By assuring that Texas fruits and vegetables are of uniformly high quality when they go to market, they are building a reputation for quality and reliability. Such a reputation is vital if advertising and promotion programs are to work effectively to build markets for these products.

These marketing orders have worked well for many years. However, under this administration there has been a power grab by the Office of Management and Budget. David Stockman, who has long been a vocal opponent of all farm programs, has attempted to take the administration of these marketing orders away from the USDA and to use that administrative authority to hamper the working of these marketing orders.

I opposed that attempt to undermine the Federal marketing order system, and the problem has lessened considerably. I ask that a copy of an earlier letter on this issue be printed following my remarks. Without this amendment, however, there is no guarantee that the problem will not arise again whenever Mr. Stockman feels like taking another swipe at marketing orders.

Chairman DE LA GARZA and I both grew up in the Rio Grande Valley of Texas, where we produce the finest grapefruit in the world. We have seen the good that these marketing orders do in assuring consumers a reliable supply of high quality products. We have also seen the harm that OMB interference can do. I am told that a routine package of minor regulatory changes was submitted by valley growers in July, and approval was just received about the first of November. If this delay had come during the harvest season for such perishable crops it could have caused massive disruption.

Mr. President, I am glad to work with the Appropriations Committee to expedite passage of the continuing resolution at this time. However, this does not eliminate the need for passage of the provision to block OMB from interfering with the administration of agricultural marketing orders. This is an ongoing problem which we need to respond to in order to prevent future losses to agricultural producers due to bureaucratic infighting.

The letter follows:

U.S. SENATE,
Washington, D.C., July 21, 1982.

Hon. DAVID STOCKMAN,
Director, Office of Management and Budget, Washington, D.C.

DEAR MR. DIRECTOR: Many Texas farmers have expressed concern about the application of the Paperwork Reduction Act to agricultural marketing orders. As a cosponsor of this legislation, I authorized the section setting specific targets for burden reduction, and I want to make sure that this law is now being properly implemented.

The intent of this law is to reduce the unwanted and unneeded burden which has been imposed on our economy by federal paperwork. Your office has a major responsibility in reducing federal paperwork. Requiring your approval of all federal forms was done specifically to ensure an independent, outside review of agency decisions.

In the case of marketing orders, the paperwork is imposed by choice through a vote of the membership of the marketing order. As a farmer, I can assure you that the producer-members of these marketing orders have little tolerance for paperwork which is not essential.

I would also point out that the burden reduction goals are suggested, not mandated. Thus, the law should not be construed as requiring cutbacks in activities necessary to the operation of the marketing order.

However, marketing order forms are uniquely subject to direct review by those who are burdened by them. Additionally, the highly perishable nature of fruits and vegetables dictates speedy approval of this paperwork. Provisions for such emergencies are included in this law, and your expeditious handling of these approvals will be appreciated.

The Paperwork Reduction Act is a virtually important tool that should not be destroyed through misuse. This law specifically prohibits its use as a back door means to circumvent other statutes. Care must be taken to avoid even the appearance of misuse, such as the current perception of a threat to federal marketing orders. I am aware that there is opposition to marketing orders, but such battles must be fought in other arenas.

Thank you for your attention to this important issue, and I would appreciate having your comments on the points which I have raised.

Sincerely,

LLOYD BENTSEN.●

GREAT PLAINS GASIFICATION PROJECT

● Mr. METZENBAUM. Mr. President, the committee report on the continuing resolution contains report language on the Great Plains coal gasification project. It should be clear to the Synthetic Fuels Corporation that the report language merely expresses the intent of a majority of the Appropriations Committee. It should not, nor does it, reflect the sentiment of the Senate Energy Committee, which has jurisdiction over the SFC, or the Senate as a whole. In fact, I strongly believe that both the Senate and the House would refect any proposal to extend price guarantees to Great Plains and thus the committee report represents a minority view of the Congress.

I would also note that the report language violates both the spirit and intent of a colloquy which took place between Senator MCCLURE and myself during Senate consideration of H.R. 3383, the Department of Interior and Related Agencies Appropriations Act for 1984.

In the colloquy, Senator MCCLURE stated that language contained in the report accompanying H.R. 3363 is not intended to pressure or influence the SFC's evaluation of the Great Plains project and/or its application for price guarantees. Senator MCCLURE stated that "the board is free to make its own judgment on whether the conditions required by law for direct negotiations with Great Plains have been met."

Nothing has occurred to change those assurances. The SFC remains free to act in accord with its own judgment on the merits of the Great Plains project.

The AFC should realize that, notwithstanding the nonbinding report language, Congress has clearly prohibited DOE from issuing price guarantees without first obtaining congressional approval—nonnuclear R&D Act. Further, the board should realize that Congress has specifically barred the transfer of the Great Plains project to SFC—Pub. L. 97-100.

It is my belief that Great Plains has not met the conditions for price guarantees and that any action by SFC to provide it with such guarantees would violate the law and carry with it serious consequences for the board.

It is also my belief that if an effort to authorize price guarantees for Great Plains were brought to Congress it would be soundly defeated.

The Appropriations Committee report is not the committee with jurisdiction over the project and its opinion on the future of Great Plains should not be given any weight.

The committee report also contains language directing the Treasury Department to publish certain customs regulations severely restricting the importation of genuine foreign-made goods at a discount. This regulation would undo a 50-year-old customs' practice of allowing such importation in certain cases.

The committee's directive does not appear in the text of the continuing resolution, and, as such, has no force of law. In my view, the Treasury Department is acting properly in moving cautiously on this proposed regulation. The proposal will make it easier for foreign manufacturers to control resale prices, which will result in a significant increase in the price of these imports, to the detriment of consumers. Insofar as no hearings have been

held on this issue, Treasury need not consider itself obligated in any way to proceed with this regulation.●

Mr. HUDDLESTON. Mr. President, I voted against the amendment offered by the distinguished chairman of the Senate Appropriations Committee (Mr. HATFIELD) that struck from the resolution language that would, among other things, make needed improvements in the school lunch and other child nutrition programs.

It is my understanding that the language in question is identical to H.R. 4091, as passed by the House. H.R. 4091 passed the House by a vote of 306 to 114 and has been placed on the calendar.

H.R. 4091 is the House companion bill to S. 1913, a bill I introduced on September 30. Fifty Senators have joined me in cosponsoring that bill. Seventeen of the Senators supporting the bill sit on the Senate Appropriations Committee.

S. 1913 stays within the budget established under the first concurrent budget resolution for fiscal year 1984. In that resolution, Congress allocated an additional $150 million for child nutrition programs for fiscal year 1984. CBO estimates that S. 1913 will add only $125 million to the fiscal year 1984 child nutrition budget.

The purpose of S. 1913 is not to make changes in the programs just because the money is budgeted. Rather, it is intended to respond to what I believe is a deplorable situation; that is, the high dropout rate in the reduced-price categories of the school lunch and breakfast programs. Approximately 400,000 children who once were receiving reduced-price meals are no longer participating in the school lunch and breakfast programs. In addition, children were forced from the free category to the reduced-price category because the income eligibility levels were changed for free meals. It was particularly devastating for these children because their cost of a meal went from free to 40 cents.

Although I am encouraged by the Senate's support of my bill, I am perplexed by the critical letterwriting campaign over my bill and the House bill.

The major criticism appears to be that my bill, as well as the House companion bill (H.R. 4091), would restore benefits to nonneedy children instead of needy children. Let me address this issue. The beneficiaries of my bill are not wealthy children as some would lead you to believe. They are the children of the working poor. These are children from families that do not qualify for a free meal because their income is over the free meal eligibility level. These are children whose families may not be eligible for food stamps or other welfare programs but whose income may be as low as $12,871 for a family of four. I would not for a moment assume that a family of four with an annual income of $12,871, before taxes, is having an easy time trying to make ends meet.

As to the criticism that only 30 percent of my bill is targeted to those children from families whose incomes are below $12,870 per year, I would point out that the 1981 Reconciliation Act did not cut the subsidies for free meals. Do critics suggest that we restore funding for programs that were not cut?

The fact of the matter is that the 1981 act cut too much from the reduced-price meal category. The doubling of prices for lunches and the tripling of prices for breakfasts hurt children of the working poor. And, I believe that the reality of the situation calls for our action now, not possibly sometime next year.

It is my intention that the children who should be helped now are those who were hurt the most by the budget cuts—that is, children who come from working poor families. The very poor children are allowed to receive a free breakfast and lunch if they are in a child care food program or school. Children coming from families that make $12,871 per year must pay, and, in 1981, Congress doubled the price of those meals. It is obvious, based on the drop in participation, that the increased price for a lunch or a breakfast is difficult to meet for many of the families with limited incomes.

I believe that the action by Congress on the budget resolution earlier this year, the recent vote in the House on H.R. 4091, and the number of cosponsors to my bill, S. 1913, show that both the House and Senate are determined to see that a majority of the 1 million low-income children who stopped participating in the school lunch program because of budget cuts are again able to participate in the program.

I ask unanimous consent that a list of the organizations supporting S. 1913 be printed at the end of my remarks.

It is my hope that, in the conference on the continuing resolution, we will be able to reach agreement on statutory changes to make needed improvements in the school lunch and other child nutrition programs.

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

ORGANIZATIONAL SUPPORTERS OF S. 1913

American Federation of State, County and Municipal Employees.
American Public Health Association.
American School Food Service Association.
Bread for the World.
Camp Fire.
Center on Budget and Policy Priorities.
Children's Defense Fund.
Coalition on Block Grants and Human Needs.
Community Nutrition Institute.
Council of Great City Schools.
Council of Jewish Federations.
Dairymen, Inc.
Food Research and Action Center.
Friends Committee on National Legislation.
Lutheran Councils in the USA.
National Association of Wheat Growers.
National Black Child Development Institute.
National Consumers League.
National Education Association.
National Farmers Union.
National Grange.
National Milk Producers Federation.
National PTA.
National Rural Housing Coalition.
National School Boards Association.
National Turkey Federation.
Public Voice for Food and Health Policy.
Rural Coalition.
Society for Nutrition Education.
United Church of Christ Office of Church and Society.
United Egg Producers.
U.S. Catholic Conference.
U.S. Conference of Mayors.
World Hunger Education Service.

PIK AND EMERGENCY LOAN PROGRAM AMENDMENT OFFERED BY SENATOR BUMPERS

Mr. COCHRAN. Mr. President, I have joined Senator BUMPERS in introducing a bill to correct the injustice of a decision made by USDA regarding procedures for operating the FmHA emergency loan program. In announcing the payment-in-kind program the administration indicated the purpose was to use the Government's large inventory of commodities to pay for a land diversion program that would significantly reduce production and the size of surplus stocks. At the same time, such a program would also reduce Government costs of storing large inventories of surplus commodities. Secretary Block has indicated the PIK program was a success in terms of these stated objectives.

However, I understand USDA now, after the production season has ended, after considerable flooding in my State and other parts of the Nation, and after the worst drought in over 50 years that seriously affected many farmers, has decided to expand the role of the payment-in-kind program. USDA now, after the fact, has decided the PIK program was also a natural disaster assistance program.

If USDA continues this decision, it in effect will require a farmer to consider the acres idled by the PIK program as having not only been in production this year but as having produced a normal income. The significance of this decision is the impact it will have on what percentage of loss a farmer will have to sustain on acres "actually" planted in order to qualify for assistance under the farmers home emergency loan program.

Normally a farmer would have to suffer a 30-percent loss in production during the disaster period. The practical effect of USDA's decision for a farmer who placed half his acres in diverted and PIK acreage is that he will

have to incur a 60-percent loss, not over 30 percent, on the acres he actually planted to qualify for an Emergency Production Loan.

According to all previous procedures, as indicated by FmHA instruction 1945-D for processing emergency loans, no authority was granted for considering PIK acreage since the emergency loan program was written to make production loss loans for losses as a result of natural disaster. FmHA has never given consideration to any payments received from ASCS on diverted acreage under these programs. Only ASCS program dollars, which compensate farmers for production losses as a result of a natural disaster and which do not have to be repaid, have been considered in determining whether a farmer has suffered a 30-percent production loss and therefore whether he qualifies for emergency loan assistance.

There are numerous farmers in Mississippi, and I am sure elsewhere, that have suffered substantial losses as a result of adverse weather this year. The emergency loan program, in a substantial number of cases, will be the only source of credit available to farmers to prevent them from facing a liquidation situation. Furthermore, in many cases, these farmers have been placed in this position as a result of depressed commodity prices, natural disaster, and other reasons beyond their control. It is a substantially unfair decision on the part of USDA to change rules of the assistance program after a natural disaster has occurred and very possibly leaving many farmers without adequate assistance.

There is no doubt that weather conditions this year have been severe. Over 1,400 counties across 31 States have requested disaster status. Many of these counties have received a disaster declaration but in doing so USDA has not considered PIK acres in this determination.

If USDA does not consider diverted and PIK acres when making county determinations, they should not use these acres in making individual farmer determinations.

USDA's decision is completely irrational and has the effect of allowing liberal consideration of county requests but restricted consideration of individual farmer requests for disaster status.

Mr. President, I urge my colleagues in the Senate to support this amendment.

Mr. LEVIN. Mr. President, as most of our colleagues know, Senator COHEN and I have been working with Senator DOLE, the distinguished chairman of the Finance Committee, on legislation to reform the disability program of the Social Security Act. Our bill, S. 476, which is pending before the Finance Committee, presently has 33 cosponsors. It includes several basic reforms which would make the current continuing disability reviews fairer and bring some administrative stability to the program. There are some 21 States which are flouting SSA's required standards and procedures for conducting these reviews.

Our staffs—that of Senator COHEN and myself and that of Senator DOLE along with the staffs of other concerned Members—have been working for the past 2 weeks to develop a compromise package which all three of us can support. We are very close. But, our time is running out; we may have only 1 week left.

Senator COHEN and I are prepared at this point to offer our bill as an amendment to the continuing resolution. In our discussions with Senator DOLE, he has advised against it but has promised on previous occasions a vehicle to which we could attach our disability provisions.

Mr. President, I would like to ask the distinguished Senator from Kansas if he would help us reach an agreement on a vehicle for raising the disability issue.

Mr. COHEN. Would the Senator yield?

Mr. LEVIN. I would be happy to yield to my good friend from Maine, Senator COHEN.

Mr. COHEN. I join Senator LEVIN in making this request to the Finance Committee chairman. And I want to emphasize that both Senator LEVIN and I applaud the efforts that Senator DOLE had made on behalf of this legislation. He has been willing to meet with us on numerous occasions to discuss these issues and answer our inquiries.

We are, however, under the 2-minute warning for this legislation because its benefits can be felt only if it is passed before we recess. Senator LEVIN and I have refrained from offering this bill on other legislation because of our sincere interest in reaching a compromise with Senator DOLE. I do not think that interest has waned; I just think time is running out. That is why I join Senator LEVIN in asking my good friend, the Senator from Kansas, if be can work with us on reaching an agreement on a vehicle for offering our amendment to reform the disability program.

Mr. DOLE. Will the Senator yield so that I may respond?

Mr. LEVIN. Of course.

Mr. DOLE. As my colleagues both know, I am sincerely interested in bringing to the floor for the Senate's consideration legislation to amend the current practices and procedures of the social security disability program. That is why I have joined them in trying to achieve a compromise package. I, too, think we are very close, but I recognize their concern that time is running out. I appreciate their willingness to forgo offering their amendment to the continuing resolution. As my colleagues are aware, there will be other vehicles for the disability amendment, and I will work with them to find a suitable one. In the meantime, I hope we will continue to work through our staffs to eliminate the remaining points of difference, so we can achieve a final compromise proposal.

Mr. LEVIN. We would certainly continue to seek an acceptable compromise during the next few days. I thank the Senator from Kansas for his cooperation, and I yield the floor to Senator COHEN.

Mr. COHEN. I too want to thank the Senator from Kansas for his commitment, and I want to express my continued interest in working for a compromise proposal.

Mr. HATFIELD. Mr. President, I know of no other amendments on our side. I am told by the minority side there are no other amendments.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

So the joint resolution (H.J. Res. 413) was passed.

Mr. HATFIELD. Mr. President, I move that the Senate insist on its amendments and ask for a conference with the House of Representatives on the disagreeing votes of the two Houses thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

There being no objection, the Presiding Officer appointed Mr. HATFIELD, Mr. GARN, Mr. COCHRAN, Mr. ANDREWS, Mr. KASTEN, Mr. RUDMAN, Mr. STENNIS, Mr. CHILES, Mr. JOHNSTON, Mr. LEAHY, and Mr. DECONCINI conferees on the part of the Senate.

Mr. BAKER. Mr. President, I shall not take but only a moment.

I think the two managers of this joint resolution, Senator HATFIELD and Senator STENNIS, and those who assisted them, are due a special note of thanks for handling this measure in the way they have and in the time they have.

I offer them my congratulations for it.

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

Mr. BAKER. I yield.

Mr. BYRD. Mr. President, I associate myself with the remarks of the majority leader with respect to the two managers of the joint resolution. They are to be complimented and I think that we are all in their debt.