

Stenographic Transcript Of

HEARINGS

Before The

COMMITTEE ON FINANCE

Book 1.

UNITED STATES SENATE

EXECUTIVE SESSION

Washington, D. C.

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Oral
Analysis

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EXECUTIVE SESSION

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WEDNESDAY, MAY 14, 1980

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United States Senate,
Committee on Finance,
Washington, D.C.

The Committee met at 11:00 a.m. in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long (Chairman of the Committee) presiding.

Present: Senators Long, Talmadge, Ribicoff, Byrd, Nelson, Gravel, Bentsen, Matsunaga, Baucus, Boren, Bradley, Dole, Packwood, Roth, Danforth, Chafee, Heinz, Wallop, Durenberger.

The Chairman: Tell us about the budget waiver thing briefly, Mr. Stern.

Mr. Stern: Under the Budget Act, you cannot take up a bill that affects entitlements in the upcoming fiscal year until after the resolution for that year has been acted on, and it is quite likely that the disability insurance conference report could be acted on in the Senate before the Conference Report on the Budget Resolution is.

There is a procedure for requesting a waiver of a Budget Resolution so that a bill can be taken up under those circumstances.

1 In this case, it is our impression the Budget Committee
2 will be very pleased to do this, because the bill saves money
3 every year and those savings are assumed for purposes of the
4 1981 Budget Resolution.

5 So we recommend the Committee report out a Resolution
6 requesting a waiver so that the disability bill conference
7 report may be taken up in the Senate.

8 The Chairman: Are there any objections?

9 (No response)

10 The Chairman: Without objection, then, we will report
11 that out.

12 The debt limit?

13 Mr. Stern: The next item on the agenda is the debt
14 limit, Mr. Chairman.

15 Mr. Shapiro: As you may recall, the debt ceiling has a
16 new procedure right now. This will be the first opportunity
17 that it will be before the Congress.

18 The procedure is only in the House of Representatives.
19 It has no effect in the Senate whatsoever.

20 But to review the situation as to the House, because it
21 is not before you yet, the House has a new procedure which
22 says that after there is a conference report on any Concurrent
23 Budget Resolution the enrolling clerk of the House is to
24 prepare a Joint Resolution and that Resolution is to raise the
25 temporary debt ceiling that was approved in the Budget

1 Resolution.

2 The effect of this is to prevent the House from having to
3 vote separately on a debt ceiling. Since the Budget
4 Resolution includes the debt ceiling, the House will be
5 assumed to have passed it by the same vote they passed the
6 Budget Resolution and the Clerk, after the Joint Report on the
7 Joint Resolution is passed.

8 The Clerk transmits to the Senate the Joint Resolution
9 and it then proceeds in the Senate just as if it had been
10 passed by the House in regular procedures.

11 It is referred to the Finance Committee, and then goes to
12 the Senate under normal procedures. You have the regular
13 votes you had in the other cases.

14 Since the First Budget Resolution has not been agreed to
15 by the Conference, the Joint Resolution has not been sent to
16 the Senate by the House as yet. However, the present debt
17 ceiling expires at the end of May so the issue is timely and
18 needs to be considered.

19 Under our present debt limit, it is \$879 billion -- that
20 is, a \$400 billion permanent debt ceiling and a \$479 billion
21 temporary debt ceiling.

22 After May 31 of 1980 at the end of this month, that
23 temporary debt limit expires and will revert back to a \$400
24 billion debt limit which is the permanent debt limit and the
25 Budget Resolution that will be passed by the Conference, it

1 will increase the temporary debt ceiling both to the end of
2 the fiscal year 1980 and also for the fiscal year 1981.

3 In other words, the Joint Resolution that comes to the
4 Senate will include both of those.

5 The table that has been distributed to you will show you
6 some of the relevant numbers you have.

7 In fiscal year 1980, you will see this present law is
8 \$879, but it reverts to \$400 billion right up to the end of
9 this month.

10 The Treasury proposals would have an \$888 billion for the
11 rest of the fiscal year 1980, in other words, from June 1
12 through September 30th; and \$117 billion for fiscal year 1981.

13 Let me point out that these are peak totals. On August
14 29, 1980, the Treasury has a peak period, even though at the
15 end of that period they may have more revenues coming in which
16 is beginning.

17 September 15th, you have quarterly payments that come in,
18 so the Treasury does get more money. But the peak period, the
19 debt ceiling has to cover for the rest of this fiscal year is
20 August 29th, and then in fiscal year 1981, it is June 30th.

21 And therefore, the debt balances will be less. However,
22 the Treasury is proposing you cover \$888 billion to cover
23 their peak period for the rest of their fiscal year. They are
24 also requesting \$917 billion for fiscal year 1981.

25 In the righthand column of that table, you will see the

1 present status of the Budget Resolutions. The House has a
2 debt ceiling of \$896.7 billion for fiscal year 1980 and the
3 Senate is \$895 billion. And somewhere in that range, when
4 they agree to the Conference Resolution, that Joint Resolution
5 with that one number will come to the Senate.

6 However, you do need to act before the end of this month.

7 Senator Byrd: Mr. Chairman, may I ask a question?

8 The Chairman: Yes.

9 Senator Byrd: How did the Senate Budget Committee get
10 into the Act?

11 Mr. Shapiro: Senator Byrd, the Budget process has always
12 required that one of the provisions would have what the debt
13 ceiling should be. All it is is they have their revenues
14 coming in, their spending, and then the deficit in that amount
15 is automatically added to the debt ceiling.

16 In other words, it is not a legislative process. All it
17 is is the Budget Resolution includes a provision that shows
18 what the debt ceiling should be. That has been the case since
19 1974.

20 It is in the Budget Resolution, but it has no legislative
21 effect whatsoever.

22 Senator Byrd: So it is no different from what it has
23 been in the past?

24 Mr. Shapiro: That is correct. There is no change in
25 that whatsoever.

1 The Chairman: Senator Dole?

2 Senator Dole: Mr. Chairman, I think this is an
3 appropriate time to discuss the oil imports fee because we
4 could -- I passed out an amendment that I may offer to the
5 debt ceiling and I would rather move first on S. J. Res. 159
6 and report the Resolution of Disapproval to the Senate Floor
7 and hopefully persuade the leadership to let us vote just on
8 the Resolution of Disapproval without cluttering up the debt
9 limit, because I understand the importance of that.

10 I have discussed this with Senator Byrd.

11 The Chairman: Which Senator Byrd?

12 Senator Dole: Our Senator Byrd. The other, I have not
13 discussed it with. I think there is strong support to
14 disapprove the oil import fee. That was indicated on the vote
15 we had in the Senate and it has been indicated on the House
16 side.

17 It has now, for a different reason, at least temporarily,
18 been affirmed by Judge Robinson. I would hope that we could
19 accommodate those of us who would like to have a vote on this,
20 Democrats and Republicans. At the same time, I do not want to
21 frustrate the efforts of those who want the increase in the
22 debt ceiling to be clean and unencumbered by amendments.

23 So if we can work out some agreement, I think Senator
24 Roth shares that view, and others may on the Committee.

25 The Chairman: We do not have either one of them here at

1 the moment.

2 Senator Dole: We have S. Res. 159.

3 The Chairman: Do we?

4 Senator Dole: It is coming up later.

5 The Chairman: Let me ask this. Can that be initiative
6 in the Senate, or is it a revenue bill which must be initiated
7 in the House under the Constitution?

8 Mr. Stern: The Resolution of Disapproval are you talking
9 about?

10 Senator Dole: Yes.

11 Mr. Stern: I guess our impression, after talking to some
12 staff, is that the House would regard that as something which
13 must originate in the House. We could, of course, still act
14 on a Senate Resolution reported out and wait until a House
15 Resolution came over before you actually sent it over.

16 The Chairman: Here is my thought. I believe that that
17 is a fair proposition and I think that our leadership ought to
18 go along with the Committee, if the Committee votes for the
19 Resolution, as I believe it will.

20 And simply say, letting us vote on the Resolution, that
21 hopefully we will wait until the House sends theirs over and
22 then send ours on through to them.

23 If there is any change we can do it when they send it.
24 But I think we can probably send a message that we are in
25 business and we are acting to vote the Resolution out of the

1 Committee today with the understanding that I think we ought
2 to try to work on the basis that we prefer not to put this on
3 the debt limit bill and the leadership ought to cooperate with
4 us to keep this issue strictly a vote on the import fee.

5 Now, I can understand the fact that if the Senator cannot
6 get his resolution to a vote any other way, he may be
7 compelled to over it on the debt limit bill, but I would hope
8 the debt limit bill would be a debt limit bill and the import
9 fee matter could be voted on on the merits.

10 And that being the case, I assume that this may be vetoed
11 and if it is, we would have a straight, clean, up and down
12 issue. Are you for the 10 cents tax on gasoline or not? That
13 is what it amounts to, and have a straight up and down vote on
14 it.

15 Senator Ribicoff: If the Chairman would yield, I wonder
16 if either Mr. Shapiro or Mr. Stern would inform the Committee
17 exactly how the total sum taken in from the import fee
18 impacted the Budget Resolution.

19 Mr. Stern: Both the Senate and the House Budget
20 Resolutions, as passed by the respective bodies, assuming
21 their base is \$10 billion under existing law that would be
22 raised in fiscal 1981 by this oil import fee, a Senate
23 Resolution also assumes a \$10 billion tax cut and \$6.4 billion
24 worth of new taxes from tax legislation and some
25 administrative changes.

1 So the net effect would be if the oil import fee were
2 eliminated, you would have to raise \$6.4 billion in additional
3 revenue to be consistent with the Senate-passed Budget
4 Resolution.

5 I think the House numbers are roughly comparable.

6 Senator Ribicoff: So in other words, if we did this,
7 unless we raised \$6.4 billion, we would throw the Budget out
8 of balance to that extent if we passed this?

9 Is that the net effect?

10 Mr. Stern: That is right. You would not be able to pass
11 a \$10 billion tax cut and you would have to raise \$6.4 billion
12 to be consistent with the revenue figure the Senate approved.

13 Senator Ribicoff: I wonder if I may ask Senator Dole and
14 Senator Roth whether they propose substituting another
15 revenue-raising measure?

16 Senator Dole: My answer is I do not propose a tax
17 increase. You could later have a tax cut. That is, in
18 effect, what we would be voting on -- a \$10 billion tax
19 increase and maybe later on we might get a \$10 billion tax
20 cut.

21 I do not understand the \$6.4 billion figure, but as I
22 understand the budget process and the debate on the Floor,
23 certainly this import fee was sort of counting their chickens
24 before they were hatched. In any event, we never had a chance
25 to act on it.

1 The Budget Committee on the Senate side had it in the
2 revenue side, but the administration is not counting on this
3 to balance the budget. The Senate Budget Committee was not.
4 They were saying, in effect -- Bob Packwood is here and he can
5 correct me if I am wrong -- that this would provide for a \$10
6 billion tax cut.

7 Mr. Stern: That is true, Senator, but they also assumed
8 \$6.4 billion worth of new taxes either legislatively or
9 administratively without regard to either the \$10 billion
10 import fee or the tax.

11 Senator Dole: What is the \$3.3 billion? Do you mean
12 those taxes, the interest on dividends, withholding?

13 Mr. Stern: Well, that is what the Budget Committee said
14 they bore in mind.

15 Senator Dole: But they did not say it all came out of
16 the import fee.

17 Mr. Stern: No, sir.

18 Senator Packwood: But let me ask you a practical
19 question, Mike. I sat through those hearings and we go
20 through these in a mark-up in the Budget Committee and you go
21 through these perpetual arguments about earmarking and whether
22 we can tell the Finance Committee where it comes from. But is
23 this not roughly a fair statement?

24 The Budget Committee presumed passage of the withholding
25 tax, even though at the time I spoke and indicated it will not

1 pass. It is not going to pass. They should not count on it.

2 But they presumed it, even though they cannot mandate it,
3 and they presumed some other savings which are unlikely to
4 pass in my estimation.

5 If those do not pass, and we eliminate the oil import
6 fee, then under the Senate Budget Resolution we will be back
7 in a deficit position again.

8 Mr. Stern: That is correct.

9 Senator Roth: Mr. Chairman?

10 The Chairman: Yes, Mr. Roth?

11 Senator Roth: I would like to underscore that the Senate
12 just a few short days ago very strongly went on record that
13 they do not support the oil import tax and I do not think
14 there is any question about what the Congress is going to do
15 any more than what they are going to do on a number of other
16 areas where this administration is proposing substantial tax
17 increases.

18 One of my concerns, Mr. Chairman, and I would like to
19 address the question to you, if I may, is a number of us feel
20 that there should be an opportunity in this committee, as well
21 as on the Senate Floor, to consider some tax cuts.

22 What we do today and what we do in the future will depend
23 a little bit on what the Chairman indicates will be the course
24 of mark-ups in this Committee.

25 I assume that sometime down the road we will have further

1 mark-ups where there will be the opportunity to propose
2 changes in tax legislation.

3 For example, Gaylord Nelson and myself have a bill
4 involving delaying the Social Security increases. A number of
5 other people have some other proposals in this area.

6 What I would like to ask you is, it is my understanding
7 there will be no further meetings this month, but we will have
8 further opportunity to make proposals in the tax area?

9 The Chairman: We may have to have further meetings this
10 month. We do not have them scheduled right now, but we may be
11 compelled to do that.

12 But as far as I am concerned, yes, there will be
13 opportunities to offer further tax cuts on legislation. We do
14 have three bills out there that we have pretty well loaded
15 with amendments, and I would hope we can agree to pass those
16 bills without loading them with more amendments after the
17 Committee has agreed we are going to put certain amendments on
18 there.

19 Now, we may have to negotiate about what we will try to
20 add to it, but my thought is to the extent that I would ask
21 any Senator not to offer an amendment on one of those bills,
22 or one of these we have right here if we go out with it. I
23 would suggest that we offer them the opportunity to offer it
24 on something else, that we expect to go down to the White
25 House prior to the time that we conclude our session, because

1 otherwise you would be prejudicing the opportunity of a
2 Senator to have his suggestion considered, and I do not want
3 to prejudice any member of this Committee or of the Senate,
4 for that matter.

5 Yes, Senator?

6 Senator Bentsen: Mr. Chairman, I have made my views
7 known before on this. I very strongly feel we are going to
8 have to bring about a tax cut to try to do something about
9 productivity in this country.

10 I happen to be one of those 19, I believe it was, who
11 supported the tax on gasoline. I believe it is a constructive
12 step. I believe it helps contribute to conservation in this
13 country. I believe it is the responsible thing to do.

14 When they talk about increasing taxes in this Committee
15 by \$6.4 billion, as Senator Packwood has said, some of those
16 have very little chance of passing. Now, something does have
17 to pass, if we are going to bring about that balanced budget.

18 And I think in being responsible that we have to decide
19 which ones we are going to go for.

20 This happens to be the one I will support. It does the
21 dual thing of providing room for, I think, a tax cut in part
22 and also a balanced budget and also contributes to
23 conservation in this country. Part of the economic malaise we
24 have in this country today is because we have failed to
25 reindustrialize our society.

1 The Japanese today, in effect, tear down all of their
2 factories and throw out all of their equipment once every ten
3 years. We do it once every thirty years.

4 You do not have to think of that long to know their
5 people are going to have more efficient, more modern tools in
6 their hands than we have. Politicians traditionally do not
7 like to do those things that do not take effect until some
8 time far in the future.

9 Well, productivity, tax cuts, do not have an immediate
10 effect. They take some time. But I think that is a positive
11 and certain way to make some real headway in fighting
12 inflation in this country through production lines and not
13 unemployment lines.

14 I believe the way that we have to do it is by putting
15 more products on the shelf and putting them on the shelf
16 cheaper. That means you have to do it more efficiently. That
17 means you have to have more modern equipment and I strongly
18 urge that we do leave this particular tax measure in effect.

19 We are going to turn right around and face this problem
20 of dividend withholdings and the other ways to try to make it
21 up, and you are going to see a lot of fellows turn around and
22 vote against that, too -- vote against the tax on gasoline,
23 turn around and vote against dividend withholding and whatever
24 it is on disability they are proposing, that one, too.

25 I just do not think that is the way we should face up to

1 this particular situation, and if I remain in the minority, I
2 still will strongly support putting the tax on gasoline.

3 Again, a tax cut that does something about taking some of
4 the burden off of the Social Security tax increase that
5 Senator Roth is talking about.

6 I share that concern with him, but I also want to see
7 that coupled with a tax that will increase productivity in
8 this country. Frankly, I think it is going to end up being a
9 lot more than what we are talking about here. But I would
10 like to see us get started down that road.

11 Senator Roth: Mr. Chairman?

12 The Chairman: Senator Roth.

13 Senator Roth: I think Senator Bentsen raises a very
14 valid point worthy of discussion. I think it is something
15 that ought to greatly concern this Committee, even though I
16 happen to disagree with the means he would use to reach the
17 common goal that we both support.

18 I think we might as well face the fact that this tax is
19 going to be paid pretty much by the same people who pay the
20 Social Security taxes, and I do not think we are kidding
21 anyone but ourselves when we say we are offering some tax
22 relief to the working people by delaying the Social Security
23 increase and, at the same time, increasing taxes by \$10
24 billion by a gasoline tax.

25 Essentially, it is the working people who will pay that.

1 Now, there are several ways we can approach this problem.
2 I could not agree more strongly as a member of the Joint
3 Economic Committee and a believer in the supply side of
4 economics, that we have to do something about productivity,
5 but we do not necessarily have to do that by increasing taxes
6 as this administration is proposing.

7 They have proposed an increase on the gasoline, the oil
8 import fee. They are proposing an increase through
9 withholding dividends and interest.

10 Time and again we see that this administration has come
11 down on the side of higher taxes.

12 I would just like to underscore that, already, we have
13 something like \$80 billion in increased taxes coming about.
14 That is coming out of the private sector, and it is that money
15 that we feel somehow ought to go back to do something about
16 productivity.

17 That, I would also say, do something about the working
18 people of this country. I would think it is important for
19 this committee to fully understand that the typical
20 American family of four will be paying something like \$6100 in
21 Federal taxes this year. That is a 45 percent increase in the
22 three Carter years.

23 I would point out that if we do not do something about
24 tax relief in 1981 that it is going to go up another 30
25 percent, up to \$7,800 for the typical American family. So I

1 am very concerned that we do something about productivity, but
2 I am also very concerned that we do something about the
3 working people of this country who are bearing the heavy
4 burden of ever-increasing taxes.

5 I would hope that we -- and I intend to offer a number of
6 tax proposals that will help both the working people and
7 productivity, and I look forward to working with Lloyd Bentsen
8 and others in that area. But make no mistake. This \$10
9 billion increase on gasoline is not going to save that much
10 through conservation.

11 Gasoline has already increased substantially and will
12 continue to increase. The important fact is, it is adding a
13 burden on the working people of this country and I think
14 the Senate has shown overwhelmingly in following Senator
15 Dole's leadership that they want to reject this tax.

16 Senator Dole: I do not want to belabor the point, but I
17 would like to point out one other thing that disturbed me. I
18 picked up the Washington Star yesterday and I passed this
19 article around and apparently, under some DOE complication, in
20 the event that the import fee should go into effect, there are
21 going to be windfalls which could reach as high \$100 million
22 over the next few weeks because a lot of people have
23 stockpiled gasoline and they will be able to charge 10 cents
24 more a gallon even though they have paid less for it.

25 That is another area that I think whatever happens to

1 imports, we ought to figure out some way to address that so
2 that that does not happen.

3 But I would just repeat, I certainly have the highest
4 respect for my colleague from Texas, and I would not quarrel
5 with anything he said except that I think he said it very
6 honestly. His choice would be to accept this tax increase
7 rather than another tax increase, and I am not certain that
8 that is not my choice.

9 I may vote for the \$3.3 billion withholding tax on
10 interest and dividend income. I doubt it, but it would make
11 more sense to me than imposing a 10 cent tax on gasoline used
12 by the very people that Senator Roth just referred to.

13 But getting back to the point in issue, I am certainly
14 willing to accommodate the Chairman and Senator Harry Byrd and
15 others who want to keep the debt ceiling matter free and
16 unincumbered, and all I want to do is just report out the
17 disapproval resolution, not take any further action until the
18 House acts and, if it is defeated there, we could still act, I
19 guess, or still do something.

20 The Chairman: Why do we not just vote on it? Because to
21 me, it is very clear what the outcome is going to be, and we
22 have other Senators who have proposals that they want us to
23 vote on today.

24 Senator Bentsen: Mr. Chairman, this is a terribly
25 important one and I really want to comment on it a little bit

1 more before we do it.

2 Let me say again, I did not say I was going to vote on
3 the particular \$6.4 billion in any particular way. I said
4 there will be Senators here who will vote against any tax,
5 whichever tax is proposed, whether it is on disability income
6 or whether it is dividend withholding and the rest. And they
7 will have a perfect record of voting against taxes.

8 And I understand the popularity of such a position but I
9 think in trying to provide some room for a tax cut that will
10 move this country forward that this is one step to try to
11 accomplish that. It does not resolve it by itself, but it
12 serves the dual purpose of the conservation and raising some
13 funds to give us some room to try to delay the increase in
14 Social Security which I am concerned about, as is the Senator
15 from Delaware.

16 And in turn, to try to improve productivity in this
17 country, and I am going to be proposing such legislation, Mr.
18 Chairman, at the very earliest opportunity and I would also
19 say that I think this administration makes a mistake in
20 proposing this tax increase on gasoline without some positive
21 information on tax cuts.

22 Now, what happened in Canada with Clark up there when he
23 proposed a tax increase on gasoline, the post mortems on that
24 because he did not offer the alternative of where it was going
25 to be spent, or whether tax cuts were going to come.

1 And I think this administration would be well-served if
2 they would say now, we want to phase in a tax cut and we can
3 accomplish that. A balanced budget and a phased-in tax cut,
4 where people can know what they can count on. And it is not a
5 situation where Congress has passed a tax increase with the
6 idea that they are going to spend it someplace else, but you
7 have to be able to balance one off against another, and I
8 would hope that we would see something proposed definitive,
9 very soon, telling us where the tax cuts will come.

10 And I, for one, am going to propose such.

11 Thank you, Mr. Chairman.

12 Senator Byrd: Mr. Chairman?

13 The Chairman: Senator Byrd?

14 Senator Byrd: I think the figures pointed out by the
15 staff dramatize just how phony, in my judgment, this budget
16 is. It is not a balanced budget. My strong belief is it will
17 be proved to be unbalanced to the extent of at least \$30
18 billion.

19 I have talked separately with three top economists and
20 they predict a \$50 billion deficit.

21 The talk coming out of Washington that the President and
22 the Congress have reduced government spending is totally
23 misleading. The facts of the Budget show that this Budget
24 Resolution, adopted by the Senate this week or last week
25 provides for a spending increase of \$65 billion.

1 That is certainly not getting government spending under
2 control.

3 I think that I am prompted to make these remarks because
4 of the facts brought out by the staff this morning.

5 Senator Dole: Mr. Chairman, I would like to include in
6 the record before we vote, a list of the tax increases we are
7 all going to have a chance to vote on, over \$100 billion next
8 year.

9 That is not the way to balance the budget, but I think
10 the record ought to be clear that that is one suggestion, and
11 I think it is my understanding we will now vote on S. J. Res.
12 159.

13 The Chairman: Yes, sir.

14 Senator Byrd: Is that yours, Senator?

15 Senator Dole: Yes, sir.

16 Could we have a roll call on that?

17 Mr. Stern: This is a vote to order favorably reported
18 Senate Joint Resolution 159, a Resolution of Disapproval of
19 the Oil Import Fee.

20 The Chairman: Call the roll.

21 Mr. Stern: Mr. Talmadge?

22 Senator Talmadge: Aye.

23 Mr. Stern: Mr. Ribicoff?

24 Senator Ribicoff: No.

25 Mr. Stern: Mr. Byrd?

1 Senator Byrd: Aye.
2 Mr. Stern: Mr. Nelson?
3 (No response)
4 Mr. Stern: Mr. Gravel?
5 Senator Gravel: Aye.
6 Mr. Stern: Senator Bentsen?
7 Senator Bentsen: No.
8 Mr. Stern: Mr. Matsunaga?
9 (No response)
10 Mr. Stern: Mr. Moynihan?
11 (No response)
12 Mr. Stern: Mr. Baucus?
13 Senator Baucus: Aye.
14 Mr. Stern: Mr. Boren?
15 Senator Boren: Aye.
16 Mr. Stern: Mr. Bradley?
17 (No response)
18 Mr. Stern: Mr. Dole?
19 Senator Dole: Aye.
20 Mr. Stern: Mr. Packwood?
21 Senator Packwood: No.
22 Mr. Stern: Mr. Roth?
23 Senator Roth: Aye.
24 Mr. Stern: Mr. Danforth?
25 Senator Danforth: Aye.

1 Mr. Stern: Mr. Chafee?

2 Senator Chafee: Aye.

3 Mr. Stern: Mr. Heinz?

4 Senator Heinz: Aye.

5 Mr. Stern: Mr. Wallop?

6 Senator Dole: Aye by proxy.

7 Mr. Stern: Mr. Durenberger?

8 Senator Durenberger: Aye.

9 Mr. Stern: Mr. Chairman?

10 The Chairman: Aye.

11 Senator Packwood: May I say something while he is
12 totalling the votes?

13 The Chairman: Senator Packwood?

14 Senator Packwood: I am inclined to agree with Harry
15 Byrd. I have a feeling this budget is not going to be
16 balanced next year, although it could be, Harry, if our
17 assumptions are right. If we are begging on a 7.4 percent
18 unemployment and a lower rate of inflation that is going to
19 come about.

20 The House had a budget not counting on the funds from
21 this oil import fee, assuming their assumptions were right,
22 and I think we are unwise before the First Concurrent
23 Resolution is adopted to go ahead and make this cut, at least
24 until we have given an effort at trying to balance it if our
25 assumptions are right without the oil import fee.

1 And we do not know that at the moment, and I think for
2 those who have promised we will have a balanced budget, taking
3 this part of it out, irrevocably will guarantee that we will
4 not have a balanced budget.

5 Senator Dole: We are just preventing an increase.

6 Senator Packwood: We are guaranteeing a deficit.

7 The Chairman: Everyone has had a chance to make his
8 position clear. The yeas are 13, the nays are 3. The
9 absentees will be accorded the opportunity to record
10 themselves.

11 But, in any event, the Resolution is agreed to.

12 Let me ask Senator Byrd, would you like to hold a hearing
13 on this debt limit matter before that matter is acted on?

14 Senator Byrd: Well, we have had a hearing on it. The
15 Subcommittee on Taxation has had a hearing on it.

16 The Chairman: The bill is not here yet, is it?

17 Senator Byrd: No. It does not make too much difference
18 to me, whatever the Committee would want to do.

19 The Chairman: What I thought we ought to do, when the
20 bill comes over, it might be well, Senator Dole just indicated
21 to me to hold that bill at the desk because frequently we get
22 caught in a time squeeze and if we got caught that way, we
23 could offer our committee amendment on the Floor and we have
24 never had any difficulty doing it that way.

25 And that way we save the three-day layover rule in case

1 any Senator wanted to object. You never can tell. Sometimes
2 a single Senator might want to object. So you save the
3 three-day layover rule.

4 Senator Byrd: Mr. Chairman, I wonder if the Committee
5 could agree today on the time, on the date to which it would
6 be extended and the amount in which it would be -- it seems to
7 me the Committee would need to decide that before the Senate
8 consideration.

9 The Chairman: Let me just submit the point that
10 concerned me. If we are going to have to ask -- let's see.
11 Under the House procedure, they would ordinarily send another
12 bill in September, would they not? Is that right?

13 Mr. Shapiro: The House Joint Resolution that will be
14 sent over will have an extension of the debt ceiling for the
15 remainder of fiscal year 1980. That would be through
16 September 30th, and also for the entire fiscal year '81. It
17 would be in the resolution that would come from the House
18 after the First Concurrent Budget Resolution is passed.

19 The Chairman: What I have in mind is if we are going to
20 have to ask for an increase in September, of course we will
21 have to have another debt limit bill. But if all we are going
22 to do is simply extend the same figure, the same debt limit
23 that we would set with this debt limit bill, I do not see any
24 point in having to have another debt limit bill just to extend
25 what we have done and simply limit it to a four-month period.

1 Furthermore, I think that if we have a figure that we
2 hope will not be increased, I would think it would put
3 pressure on the administration to stay within the debt limit
4 figure and not put us under the burden of passing another debt
5 limit bill and subject themselves to it by trying to stay inside
6 the debt limit we have fixed, at least for the year.

7 Of course, if they are going to have to ask for an
8 increase in it, that would be an appropriate occasion for
9 another debt limit bill, but I do not see the point of trying
10 to just make it a four-month bill or something of that sort,
11 just for a few months, if we are going to simply extend the
12 same figures.

13 Senator Byrd: Mr. Chairman, let me, if I may, throw this
14 out for the Committee's consideration. I personally would
15 prefer that the increase be granted up through September 30,
16 but I recognize what you have indicated, that in this
17 particular year the Congress will go out by October 1 and
18 maybe even sooner, possibly even sooner.

19 That being the case, I wonder what the Chairman and the
20 Committee would feel about this: to extend the debt limit to
21 February 1 of 1981 at which time in January the Committee
22 could then take a look at it.

23 What the House has done is extend it for 18 months. It
24 seems to me that is unreasonable.

25 The Chairman: The House's procedure has to do with

1 sending us a bill over here when they pass their Budget
2 Resolution. Is that not right?

3 Mr. Shapiro: That is correct.

4 The Chairman: When would their first Budget Resolution
5 come in next year?

6 Mr. Shapiro: Next year it would not be until May 15th.

7 Senator Byrd: But the Senate does not have to follow the
8 House procedure.

9 Mr. Shapiro: You see, all this says is the House has an
10 automatic procedure that once the Budget Resolution is agreed
11 to, a Joint Resolution is agreed to, a Joint Resolution
12 automatically comes over. The House can still initiate a debt
13 limit extension without regard to the Budget process. It does
14 not preclude that.

15 What Senator Byrd is suggesting is that it would require
16 the House sometime after the new Congress comes into session
17 to send over a new debt ceiling.

18 Now, the only question I would like to point out is I
19 understand the objective of what Senator Byrd is saying.
20 February 1 may be short.

21 If the new Congress does not come back until the third
22 week of January, it takes a little time to get things
23 organized.

24 Senator Byrd: They cannot come back the third week in
25 January. The President will be inaugurated.

1 Mr. Shapiro: I mean to get it organized. To get it
2 organized, you may want to have 15 or 30 more days, just to
3 make sure you do not run into a problem with the new Congress,
4 if you were going to pursue your objective of having one that
5 goes into the next Congress.

6 The Chairman: What do you think would be about the
7 earliest that we could make it and still give them adequate
8 time so they could not have a legitimate complaint about not
9 having time to consider it, look at it, and think about it.

10 Mr. Shapiro: You know, with a new Congress and without
11 knowing what are going to be the new issues, if you had
12 something like March 1, it would give the new Congress time to
13 get organized and have the entire month of February to have
14 the bill go through the House and Senate.

15 The Chairman: How about March 1? Does that sound all
16 right, Harry?

17 Senator Byrd: What about February 15th?

18 The Chairman: Well, the man just got through explaining
19 what the problem is with February 15th and that is that the
20 House would have difficulty getting organized that quickly.

21 Mr. Shapiro: I do not want to give the impression it is
22 impossible. All I am saying is the shorter the time, the more
23 pressure it puts on both the House and the Senate, and what
24 generally happens is, the House takes up to the last couple of
25 days to send it to the Senate, and then you have a short

1 period of time.

2 The Chairman. If we are going to have a negotiation, I
3 wouldn't be concerned about it, Harry, but I was hoping to put
4 it at a date they would take. How about making it March 1 and
5 putting the figure at 905, which is the highest figure they
6 estimate they will need through February 27th.

7 Mr. Shapiro. Senator Byrd is reading from the testimony
8 the Treasury submitted at his hearings and indicated that if it
9 was extended through February 27th that a \$905 billion figure
10 would be the level that would be required.

11 The Chairman. The problem with that is you would probably
12 have to have a conference. It seems to me that if you set the
13 date to where we were talking about setting it and then you give
14 them the figure that they have here, they are going to have to
15 pass another debt resolution anyway, and they are going to have
16 to come in and report how they are making out, and how they hope
17 to make out, and what they think their prospects for a balanced
18 budget are and all of that kind of thing.

19 It seems to me that by doing that, I would like to send them
20 something where they will take it.

21 Senator Byrd. You are giving them exactly what the Treasury
22 asked for under my proposal.

23 The Chairman. Well, that is what they testified, what
24 they thought they would need at that point; but I'm not sure they
25 asked for that. Did they ask for \$905 after that particular day?

1 Mr. Shapiro. Yes. That is in their testimony before the
2 Committee. In other words, the assumptions they have indicate it
3 would be \$905 billion. That was the testimony that Treasury sub-
4 mitted to Senator Byrd when he held hearings in the subcommittee.

5 The Chairman. They indicated they could live with that?

6 Mr. Shapiro. Yes.

7 The Chairman. Well, that would be all right with me then.

8 Senator Byrd. Why don't we make it March 1 and \$905?

9 The Chairman. Well, if that's all right with the Committee,
10 I'm willing to agree with that. Is that all right with you?

11 All in favor say "Aye."

12 (There was a chorus of "Ayes.")

13 The Chairman. Opposed, "no."

14 (There was no response.)

15 The Chairman. The "Ayes" have it.

16 Now, let's see if we can get to Senator Talmadge's matter.

17 I am trying to urge that we skip over the health insurance at the
18 moment because if we get involved in it, we are not going to be
19 able to vote on these other matters. We will have to get back to
20 it, and we are not going to be able to complete health insurance
21 at this point, so let's look at Senator Talmadge's proposal.

22 Senator Talmadge was here. He was first on the scene this
23 morning. He was here before I got there, and he asked that we
24 consider this matter, Section 9 of H.R. 5505.

25 Senator Talmadge. Mr. Chairman, this is something the

1 Committee has acted upon before. Currently we have a tax of five
2 cents a pound imposed on a tread rubber used for recapping or
3 retreading tires of the type used on highway vehicles. New tire
4 manufacturers don't have it, so it discriminates against the
5 retreaders who are trying to use old tires and conserve rubber.

6 This provision is supported by the Treasury Department, by
7 the Joint Committee staff, and by the House Ways and Means Committee
8 The Committee has already acted on it before. The House approved
9 it by a voice vote August 1976, H.R. 2474. It was reported by the
10 Finance Committee September 1976. There was no action taken on
11 it. The House approved it by a voice vote in March 1978, H.R. 5103.
12 It was reported by the Finance Committee October 1978. No floor
13 action was taken.

14 I hope the committee will approve it.

15 The Chairman. All in favor say "Aye."

16 Senator Danforth. Mr. Chairman?

17 The Chairman. Mr. Danforth.

18 Senator Danforth. Mr. Chairman, this appears to be a rare
19 bill in that it is a House revenue bill, as I understand it.

20 The Chairman. (Nods affirmatively.)

21 Senator Danforth. And I understand fully what you said
22 earlier, and I totally agree with you. A lot of us, the big
23 issues we are thinking about, whether it is depreciation, social
24 security taxes or whatever, and we have been looking for a revenue
25 bill. And I understand the desirability of not seeing every little

1 bill that hops through the Finance Committee become a Christmas
2 tree. On the other hand, there are also lesser matters which a
3 number of us have been interested in for a period of time which
4 really are not controversial at all.

5 One that I have specifically in mind is a proposition that
6 was agreed to by the Finance Committee unanimously last year in
7 connection with the technical corrections bill relating to the
8 deductibility of certain prize programs for employees of
9 franchisees such as automobile agencies and the like -- an uncontro-
10 verial provision which got bogged down in the House on the theory
11 that it was not really a technical correction, even though it was
12 a part of the technical correction bill.

13 I was curious as to whether this would be the appropriate
14 vehicle for such an uncontroversial proposition which has the
15 unanimous approval in the Senate and has been worked out. Treasury
16 supports it. There is no problem in the House at all. And
17 whether it would be possible for me to attach it as an amendment.

18 The Chairman. Let me just submit, before we had this session
19 I sent over to Mr. Stern a proposed amendment that I would like to
20 see offered on item 4 which is the health insurance matter, and
21 Mr. Stern sent me word back that under the rules of the Committee
22 it would not be possible to comply because we could not comply
23 with the 48-hour rule.

24 Isn't that right, Mr. Stern?

25 Mr. Stern. Yes, sir.

1 The Chairman. So I said well, I would have to wait and offer
2 my suggested amendment to the health matter at a later meeting.
3 And that was not a rule I advocated. That was a rule which was
4 more or less thrust upon us by Senator Haskell when he was here.
5 He didn't want us to be considering matters without having notice
6 that we were going to bring them up. In fact, that was sort of
7 a limitation because usually chairmen, if anyone, know what's
8 getting ready to happen. Chairmen ought to know what we were
9 getting ready to do. It doesn't always happen, but he ought to.

10 So my thought is why don't you just list that as one of the
11 items you want considered, and the next time we meet we will
12 consider it.

13 Now, Senator Talmadge has been fishing for this thing for
14 quite a while, and I think all he really wants to do is report
15 that out, isn't that right, Senator Talmadge?

16 Senator Talmadge. Yes. And attach it to the first revenue
17 vehicle that comes over from the House.

18 The Chairman. So that would not prejudice at all your rights,
19 Senator, to bring yours up the same way he did his; or you can
20 offer it to the same thing he offers his to.

21 Senator Dole. Why can't we just report Senator Danforth's?

22 The Chairman. Well, we didn't have any notice on that. I
23 mean, I don't see it here. So it just seems to me --

24 Senator Danforth. Well, Mr. Chairman, the problem is, this
25 H.R. 5505, I have never heard of it before, but apparently it is

1 the first House revenue bill we have seen in some time.

2 The Chairman. Is it a House-passed revenue bill we are
3 talking about here?

4 Mr. Shapiro. The H.R. 5505 is, but Senator Talmadge is
5 suggesting taking one provision from that bill, Section 9, taking
6 it out of H.R. 5505 and attaching it to a revenue measure coming
7 up on the Senate floor to be sent out. The H.R. 5505 has not
8 been on the Committee's agenda reported out by itself.

9 Senator Boren. Mr. Chairman.

10 The Chairman. What is H.R. 5505? Where is that?

11 Mr. Stern. The bill is in the Finance Committee. A number
12 of these provisions have been acted upon by the Committee and
13 in fact have been signed into law in the meantime.

14 The Chairman. Did Senator Talmadge just move to report this
15 out as an S-numbered bill?

16 Mr. Stern. I believe he is just asking the Committee to
17 approve this amendment. You have a choice of offering it as an
18 amendment to one of the three tax bills already on the floor or
19 to report this and perhaps other things out as an amendment to
20 a new bill. There are some vehicles you can use for that purpose
21 in Committee.

22 I believe Senator Talmadge is just asking for the Committee
23 to substantively approve this provision.

24 Senator Talmadge. And attach it to a House-passed revenue
25 bill.

1 Mr. Stern. He was not asking that the Committee report out
2 that particular H.R.-numbered bill.

3 The Chairman. Why don't we just vote that out? We have it
4 here on the agenda with 48 hours' notice that we are going to
5 consider it. And I am not seeking to praise anybody else, but I
6 think we ought to all go by the same rules.

7 Senator Danforth. I have never heard of the rule before.

8 (Laughter.)

9 The Chairman. Well, I have had to live with it for some
10 time. Why don't we just vote on Senator Talmadge's thing, and
11 in due course we will vote on yours?

12 Senator Danforth. Okay.

13 Senator Dole. I move it.

14 The Chairman. All in favor say "Aye."

15 (There was a chorus of "Ayes.")

16 The Chairman. Opposed, "no."

17 (There was no response.)

18 The Chairman. The Talmadge thing has been disposed of. I
19 would like to vote on this matter here. I have a resolution here.

20 Suppose, Mr. Shapiro, you explain about that tax exempt
21 matter.

22 Mr. Shapiro. All right, Mr. Chairman. The House has
23 considered a matter, H.R. 5741 which deals with the mortgage
24 subsidy bonds. As you know, last spring Chairman Ullman and
25 Congressman Conable, the ranking Minority member -2

1 Senator Talmadge. May we have order, gentlemen, so we can
2 hear Mr. Shapiro?

3 Mr. Shapiro. A bill was introduced in the House which in
4 effect suspended the availability of the use of tax-exempt financing
5 for housing bonds. It was a practice which grew up in 1960, the
6 late '60s, by some of the states and in 1976 by some of the local
7 governments. And it was a concern it was going unrestricted,
8 and the Ways and Means Committee members and certain members of
9 the Banking Committee in the House put in the bill to in effect
10 take away the tax exemption for the use of these bonds.

11 That bill became, as many of you know, very controversial in
12 the House. And after considerable action and review by the
13 Committee, there are a series of about 10 or 11 provisions under
14 the circumstances for which tax-exempt housing bonds can go out
15 to single family owner-occupied homes. Such things as requiring
16 you to be the principal resident, someone must not have been a
17 homeowner for three years, they have income limitations, purchase
18 price limitations, how much can be paid down.

19 In other words, what the policy difference is in the Ways
20 and Means Committee was whether or not the use of these bonds was
21 to be for housing purposes and to what extent tax policy and
22 housing policy ought to be coordinated.

23 There is also a problem of transitional rules for the bonds
24 in issuance, what to do for the future; so you have transitional
25 rules and a permanent rule. The transitional rules are very

1 complicated. They have somewhat haphazard results. They are
2 designed to take into account certain special situations that
3 occurred on April 25th when the Ullman-Conable bill was intro-
4 duced; and subsequent to that there were a series of other pro-
5 visions added at that particular time.

6 That matter has been passed by the House and is pending in
7 the final committee. As a result of the fact of the hardships
8 currently being experienced in the housing industry, these bonds
9 have not been issued. Because of the bill having passed the
10 House, bond counselors are reluctant to give opinion on this.

11 Senator Long has suggested the possibility of the Finance
12 Committee supporting a resolution to allow the marketing of these
13 tax-exempt bonds for 1980. In other words, what he is saying is
14 for the rest of the year he would not look at any restrictions
15 that may ultimately be passed by the Finance Committee of the
16 Senate without regard to the House bill.

17 What he would say is to the extent the Finance Committee
18 considers a permanent rule, it would be prospective after December
19 of 1980, so it would be in the future. But for the rest of 1980,
20 the present law without restrictions could be followed by the
21 state and local governments, by bond counselors in issuing their
22 opinions, with two limitations.

23 One is they can issue all of the bonds they can by the end
24 of this year, 1980, so it would be free marketability of bonds
25 without restriction by the end of this year. The second

1 limitation would be that all of the proceeds of the issues that
2 go out by the end of this year would have to be placed in
3 mortgages by the end of 1981, so they would have approximately
4 seven months from now until December 31 to issue the bonds, and
5 then they have an additional 12 months to actually make sure
6 the proceeds go out to mortgages and into housing. And this
7 would be a resolution that would be issued by the Finance Committee
8 and ultimately voted on by the Senate.

9 Senator Gravel. Mr. Chairman.

10 The Chairman. Yes, Mr. Gravel.

11 Senator Gravel. As you recall, we passed last year
12 resolution 188 which I had authored which dealt with the transi-
13 tional rule at the time which was before the House Ways and Means
14 Committee, and that solved the problem up to that point in time.
15 Whatever was in the pipeline was able to go through, but because
16 the House has not acted, we now have the problem compounded
17 through the course of this year. So I think that your move with
18 this resolution is an excellent one and takes away the one-house
19 legislative process on the marketplace which we are experiencing.
20 Because Alaska has about 40 percent of its housing that comes
21 from these types of bonds, and when the House failed to execute
22 and follow through on its transitional rule, it left that market-
23 place nowhere.

24 What you are doing is really dealing with this with finality.
25 I commend you, Mr. Chairman, and I would really like to be

1 associated as a co-sponsor of this resolution. I hope the
2 Committee will act upon it, because it is grossly unfair for
3 members of the Congress about having the Congress having acted
4 on it to do things which impair the viability of the marketplace.

5 Senator Talmadge. Mr. Chairman.

6 Senator Packwood. Mr. Chairman.

7 The Chairman. Senator Packwood.

8 Senator Packwood. I agree with making the date prospective.
9 All you will have is confusion if you try to make it retroactive
10 and wonder if your bonds fit within that date or not. But if
11 we are going to start moving prospectively past 1980 into the
12 industrial development bond for housing market, I hope we take
13 a very close look at it. We are going to dwarf all of the other
14 industrial bonds we have put together, and maybe -- I have never
15 been wild about these industrial development bonds to begin with,
16 and maybe we should go to the place where everything is a type C
17 bond, and it is all back to zero again, in essence, and we can
18 start all over.

19 I would prefer if we are going to make this prospective
20 that you will have some kind of a market-sharing limit on it;
21 and I think we ought to take a look at what the Treasury Department
22 is thinking of in terms of tax credits for home purchasing which
23 is an infinitely more effective provisions.

24 If you really want to help home ownership by this industrial
25 development bond approach, one, I would support the prospective

1 date. I think you ought to put some kind of market share limita-
2 tion on it so that states don't go hogwild this year. And I
3 think we ought to see if we consider Treasury's or some variation
4 of Treasury's tax credit proposal.

5 Mr. Talmadge. Mr. Chairman.

6 The Chairman. Senator Talmadge.

7 Senator Talmadge. I notice this is a sense of the Senate
8 resolution and would therefore not be binding. Is it the
9 Chairman's idea to propose this as a substitute to the House-
10 passed bill or to deal with the two separately?

11 The Chairman. Well, my thought is, you see, we have a bill
12 over here that we will hold hearings on, and it is going to
13 involve all kinds of problems.

14 I was asked in the conference on the windfall bill to agree
15 to bring this back in that conference, and I was told at that time
16 that the mind can't conceive of all of the problems that would
17 develop in connection with that bill.

18 Now, what bothers me about that bill is that bill is keeping
19 people from owning homes. That bill is preventing the states,
20 and the cities, and the counties from coming to the aid of their
21 citizens. It is a bill to keep people out of homes, and it is
22 a bill to put workers out of work. That is the way it is working.

23 Up until that fiasco is resolved it means that people in
24 the plywood mills are all out of work. People in the timber
25 industry are out of work. People in the paper industry are out.

1 There are all kinds of industries where they take the chips and
2 things off the wood as they saw it and make it into paper products
3 and things like that. You have all of those people out of work,
4 the bricklayers out of work, the carpenters out of work.

5 That bill is going to be kicking around here for quite a
6 while to come, and it may not even become law. But meanwhile,
7 that bill has at least a million people out of work in this
8 country right now, and it is going to do worse than that for us
9 if we don't do something to resolve the controversy.

10 It seems to me we ought to make it clear that these bonds
11 that the cities, and counties, and state governments want to
12 issue to help their people get in out of the rain and under some
13 shelter should be permitted to go on ahead between now and
14 January 1.

15 I see Mr. Wallop wants to speak.

16 Senator Talmadge. . . Would the Chairman yield further?

17 The Chairman. Yes.

18 Senator Talmadge. I applaud the Chairman's resolution and
19 I certainly support it. I wanted to clarify whether it was
20 a substitute to the House-passed bill or a separate initiative?
21 It deals with a problem we have in the city of Atlanta which has
22 issued \$30 million worth of revenue bonds. The House-passed bill
23 tried to pass with the specific problem that the city of Atlanta
24 had, but they were limited by a rule of the Rules Committee that
25 made it totally ineffective.

1 Whatever action the Treasury purports to do in this regard
2 certainly ought not be retroactive.

3 I share the distinguished Chairman's view. I support his
4 resolution.

5 The Chairman. Thank you, sir.

6 Mr. Wallop.

7 Senator Wallop. Mr. Chairman, may I just echo what you said
8 and say that I support it as well. And let me also say that in
9 a state such as ours which is undergoing enormous energy-associated
10 growth, in which there has never been a massive housing industry,
11 it has virtually made it impossible for us to house people who
12 are coming in to mine the coal and drill the new oil wells and
13 other things that are trying to help the country out.

14 And when we get down to trying to find some other means of
15 helping our people gain shelter, we find that the federal formulas
16 generally do not fit a state that is growing rapidly. So you have
17 a state such as ours which took a little piece of its mineral tax
18 and instead of coming hat in hand to the government set up a
19 program by which at least some of our people could obtain low
20 cost housing.

21 It is fairly well limited. The Wyoming Community Development
22 Authority and those people have been sitting without any available
23 housing money for the last six or seven months. And I share
24 what you are doing.

25 There is a different approach to this same thing which

1 Senator Williams and I have co-authored. I assume at the time
2 we get the hearings it will be balanced against the Ullman-Conable
3 proposal. But I think for the moment what we are doing is dead
4 right, not only for the country and the people out of work but
5 those who are in need of housing.

6 Senator Bentsen. Will we be hearing from the Treasury on
7 this?

8 The Chairman. Yes, the Treasury and everyone else.

9 Mr. Dole and Mr. Chafee have had their hands up.

10 Senator Dole. Mr. Lubick has had his hand up. He has both
11 hands up.

12 The Chairman. I can't look in all directions at one time,
13 but I will get to Mr. Lubick.

14 Senator Dole. I am on your side. That's why I want to
15 get ahead of Mr. Lubick.

16 (Laughter.)

17 Mr. Lubick. I will be glad to turn it around after you have
18 spoken.

19 (Laughter.)

20 Senator Dole. I did want to ask a question. What impact,
21 if this is a sense of the Senate -- this follows on Senator
22 Talmadge's question -- will this make any difference to bond
23 counselors if we pass a Finance Committee sense of the Senate?
24 Say it passes the Senate; I don't know whether the House would
25 pass it or not.

1 Does anyone have any view on whether the bond attorneys would
2 then issue clean opinions?

3 Mr. Shapiro. It is not clear yet, Senator Dole. I have talked
4 to a few bond counselors to try to get a feel, and they're not
5 sure how they are going to react. I think much may depend on how
6 it is perceived after the Finance Committee and the Senate act.

7 It may well depend on what Senator Ullman's response is,
8 either as an individual or as a committee. Clearly, if Chairman
9 Ullman and Congressman Conable were to agree with it publicly,
10 I think it would be relied on by counselors. Without any public
11 expression by anyone in the House, it is a question as to what
12 bond counselors would do. They have not determined, as far as
13 I can find out, what their positions may be.

14 Senator Dole. Is there a different attitude on the part
15 of members of the House? I know they strongly oppose or did
16 strongly oppose this. Is that still pretty much the same?

17 Mr. Shapiro. As you may recall, when the House members
18 were trying to urge the Senate conferees to accept this provision,
19 this particular provision, was when they were advocating, that
20 is, to have 1980 without limitation; and they were willing to
21 agree to that because of the complexity of the transition rules,
22 and that was one of the quid pro quos. They were saying a
23 permanent rule beginning in '81 without any limitation in 1980.
24 The House conferees were willing to support that, so this is
25 consistent with that position.

1 I should point out though that was a package provision. It
2 was in 1984 a permanent rule to get the issue behind them. At
3 that particular time the Ways and Means had not taken the bill
4 to the floor, and they would just as soon get it behind them
5 without going to the House floor as well. They recognize they
6 might have some problems on the House floor which did not materi-
7 alize. They did pass the bill. I don't know what their current
8 thinking is.

9 But when the windfall profit conference was going on, they
10 supported this.

11 Senator Dole. Are there any resolutions pending in the
12 House, any sense of the House resolutions similar to this one?

13 Mr. Shapiro. I'm not aware of any as of now.

14 Senator Dole. This would not preclude, as the Chairman has
15 pointed out, going ahead and holding hearings and cleaning up
16 some of the alleged abuses in the program.

17 Mr. Shapiro. What Chairman Long is saying is housing is
18 in a difficult situation right now, and he would like to do some-
19 thing to encourage them to start building homes, to use this
20 until the Finance Committee has time to determine what it wants
21 to do with the bill, whether to hold hearings or make any changes.
22 But there is a needed expression of the sense of the Finance
23 Committee on the retroactivity with regard to the rest of this
24 year, 1980.

25 Senator Dole. I support the effort.

1 The Chairman. Mr. Chafee.

2 Senator Chafee. Mr. Chairman, I support your effort and
3 would like to be a co-sponsor, if possible. In my state, seventy
4 percent of the mortgages issued in 1979 came under this industrial
5 state financing proposal. However, I do think that it is important
6 that we get around to correct some of the abuses.

7 We have income limitations in our state. We do not believe
8 there have been abuses. But if there are not some corrections
9 of the potential abuses, I see the market being so flooded that
10 the benefits will not be those that we anticipate under this
11 tax-exempt financing, so we will be worse off. And of course,
12 trying to build schools and the traditional issuance of a
13 municipal bond, the savings will be less. So I hope we will move
14 on with some kind of a market share limitation, perhaps based on
15 the past three years or something like that, but certainly way
16 above those proposed by the House with the five percent.

17 Senator Bentsen. Mr. Chairman, I am very sympathetic to
18 what the Chairman is trying to accomplish, and we do have a
19 crisis in the housing market; but what John Chafee is talking
20 about, if you just have a flood of these things, there is no
21 question that you will kick the interest rate up, so there has
22 to be some kind of limitation. I don't know what it is.

23 Obviously the House side, what they have sent us has too
24 many restrictions in it and is not very workable. So, again,
25 I support the thrust of what you are trying to do.

1 The Chairman. Senator Byrd wants to be recognized.

2 Senator Byrd. I feel Senator Long is totally correct. What-
3 ever is done should be prospective. I do feel, however, that
4 there is abuse in this tax-exempt field, and I would hope that
5 at sometime the Committee would address that.

6 I see no reason why a doctor should build an office building
7 with tax-exempt bonds, or why a savings and loan should build
8 a savings and loan building with tax-exempt bonds. So I think
9 there should be a tightening up, but I don't think it should be
10 retroactive. I think it should be prospective, and I support
11 Senator Long's position.

12 The Chairman. Senator Baucus.

13 Senator Baucus. I just want to make a point here, and that
14 is that I think we have to help bond counselors make a clear
15 statement. Maybe it would be helpful not only to pass this
16 resolution, but also at the first opportunity an amendment to
17 some bill or something so that it is law, that these provisions
18 are not made retroactive.

19 I was trying to find some additional way to speed up the
20 process here so it is not ambiguous.

21 The second point I want to make is generally the same as
22 Senator Byrd's or Senator Packwood's. I think there are probably
23 some abuses in this area, and there are more efficient ways to
24 stimulate housing, but we will address those hopefully sooner
25 rather than later. But during the time being I think we have to

1 act on this measure.

2 The Chairman. Senator Matsunaga.

3 Senator Matsunaga. Mr. Chairman, you seem to have the votes,
4 so let's vote.

5 The Chairman. Well, we've got to hear from Mr. Lubick. He
6 might change your mind.

7 Go ahead, Mr. Lubick.

8 Mr. Lubick. Mr. Chairman, I will not get into the merits of
9 this subject because we will save that for the hearing. I take
10 it that is your wish as well.

11 I would like to point out that under Senator Gravel's resolu-
12 tion which was adopted, I guess it was last year, to go along
13 with the continuing transition rules of the House, that indeed
14 there is a continuing flow of these bonds onto the market. They
15 are coming out at about the rate of one billion a month. Under
16 the transition rule that has been accepted there are about \$150
17 million allowed for each state housing agency.

18 The fact of the matter is that if this particular resolution
19 is adopted without hearings, we are going to have double the
20 volume of municipal securities issued for the rest of the year.
21 We estimate that this resolution would increase the volume of
22 bonds coming to market for the rest of this year by \$20 billion.
23 That is going to mean an additional shortfall of revenue, an
24 additional loss of revenue in fiscal '81 of \$250 million. We
25 have made estimates as to the number of additional housing starts

1 that will be affected by this resolution, and that comes to about
2 43,000 starts. When you consider the revenue loss, that amounts
3 to a cost of \$65,000 per new housing start. That is money which
4 will be drained away from what Senator Bentsen has referred to
5 earlier as our need to reindustrialize our economy. It will be
6 drained from capital investment in fixed plant and equipment.

7 We think that taking this action at this time will have some
8 very serious fiscal consequences, and it will not have a signifi-
9 cant consequential effect in revitalizing the housing industry.
10 So we would urge against the resolution.

11 The Chairman. Mr. Lubick, do you have any opinion on how
12 bond counselors would treat the resolution?

13 Mr. Lubick. I honestly do not, Senator Long. I have never
14 acted in that capacity.

15 The Chairman. Well, if the bond counsels want to take the
16 view that this doesn't give them adequate assurance, then it
17 won't have any impact because there won't be any bonds sold.

18 Mr. Lubick. I am not suggesting that bond counsel will --
19 our estimates are on the basis that the bond counsel will
20 accept the resolution at its word, and I suppose there is an
21 aggressions law in effect in bond counsel's opinion, so that
22 is likely to occur.

23 The Chairman. My attitude about this is the House -- I was
24 advised when we were in conference that if we would pass your
25 bill for you, that your people would go along with a January 1

1 effective date. Isn't that right?

2 Now, you didn't advise me, but that is the advice I was
3 getting from the House people over there.

4 Now, is that correct or not?

5 Mr. Lubick. As to what we would do, we haven't really
6 thought about that. I don't know if that is true. I think a
7 lot turns on what the ultimate bill is. One has to make tradeoffs
8 in the whole thing.

9 The Chairman. My impression was that the House people,
10 had we been willing to bring this back from conference, the
11 House people would have been very happy to go along with the
12 January 1 effective date.

13 Mr. Shapiro. What the Chairman is saying, in the windfall
14 bill, if the whole package of the housing bond issue had been
15 settled in the windfall bill, the house conferees were willing
16 to accept no limitations for 1980 in exchange for the Senate
17 compromising on a final permanent solution -- not necessarily
18 the House bill but a permanent solution to take effect beginning
19 January 1981.

20 Mr. Lubick. Are you now suggesting enacting a House bill
21 with that effective date, January 1?

22 The Chairman. No, I am not suggesting that at this moment.
23 What I am saying is that my impression is that we don't have
24 any problem about getting the January 1 effective date at such
25 point of we can get you something you want; that is, a bill to

1 limit the use of these bonds for the future. Meanwhile, I regret
2 to say that the decision-making by the Administration and by the
3 Federal Reserve, for whatever reasons, and I am sure that in the
4 main that they are worthy reasons, they have got the housing
5 industry shut down. You have young people who cannot buy homes
6 all over the whole United States. You have the city, state, and
7 county governments trying to come to the aid of their citizens,
8 but you have that blocked.

9 You are not blocking them, I don't think, because you want
10 those people out on their own. You are just blocking them because
11 other things are more important for various and sundry reasons.
12 But it seems to me if we are not going to make this bill retro-
13 active anyway, we ought to make it clear we are not going to make
14 it retroactive, and that indicates people can go ahead and use
15 some bonds to get into some homes. That is all I am trying to
16 do, to make it clear that as far as we are concerned, it is not
17 going to be retroactive.

18 Now, maybe the bond counsel will settle for this. If they
19 won't settle for this, after the Senate votes the resolution, if
20 Mr. Ullman or Mr. Conable or both of them would say that they
21 don't intend on being retroactive in this area, I think they
22 would.

23 But in any event, I think we ought to be trying to do some-
24 thing, because so far no one has done anything to help anyone
25 get into homes. And it seems to me we ought to do what we can.

1 Senator Dole. Mr. Chairman, I move it reported and have a
2 record vote.

3 The Chairman. Call the roll.

4 Mr. Stern. Talmadge.

5 Senator Talmadge. Aye.

6 Mr. Stern. Ribicoff.

7 (No response.)

8 Mr. Stern. Byrd.

9 Senator Byrd. Aye.

10 Mr. Stern. Nelson.

11 Senator Nelson. Aye.

12 Mr. Stern. Gravel.

13 The Chairman. Aye by proxy.

14 Mr. Stern. Bentsen.

15 Senator Bentsen. Aye.

16 Mr. Stern. Matsunaga.

17 Senator Matsunaga. Aye.

18 Mr. Stern. Moynihan.

19 (No response.)

20 Mr. Stern. Baucus.

21 Senator Baucus. Aye.

22 Mr. Stern. Boren.

23 Senator Boren. Aye.

24 Mr. Stern. Bradley.

25 (No response.)

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Mr. Stern. Dole.

Senator Dole. Aye.

Mr. Stern. Packwood.

Senator Packwood. Aye.

Mr. Stern. Roth.

Senator Roth. Aye.

Mr. Stern. Danforth.

Senator Danforth. Aye.

Mr. Stern. Chafee.

Senator Chafee. Aye.

Mr. Stern. Heinz.

(No response.)

Mr. Stern. Wallop.

Senator Wallop. Aye.

Mr. Stern. Durenberger.

Senator Durenberger. No.

Mr. Stern. Mr. Chairman.

The Chairman. Aye.

Fifteen ayes and one nay. The resolution will be reported.

Senator Byrd might want to act on these three bills.

Senator Byrd. Yes. Thank you, Mr. Chairman.

The first bill is S. 485, introduced by Senator Cannon

and Senator Laxalt. Under the current law, a two percent excise

tax is imposed on the amount of certain wagers, including bets

in sporting events, bets in lotteries and on so-called

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1 off-track betting. Also, a \$500 per year occupational tax is
2 imposed upon persons liable for the 2 percent excise tax.

3 The difficulty with the present law is that illegal
4 betting operations do not pay the 2 percent tax. As a result,
5 legal betting operations are penalized. The bill would
6 eliminate the 2 percent excise tax and the occupational tax
7 for wagering businesses authorized under state law.

8 The Treasury here can speak for itself, but my
9 understanding is the Treasury supports the repeal of the taxes
10 whether or not the wager is authorized by state law.

11 The Chairman: Is that right?

12 Mr. Halperin: We suggested the whole tax be repealed and
13 not just in those cases, and I understand Senator Cannon found
14 that acceptable and you do, as well.

15 Senator Byrd: This proposal would repeal the entire tax,
16 and Treasury would support that.

17 Mr. Halperin: Right.

18 Senator Chafee: What is the revenue on this?

19 Mr. Shapiro: The revenue for fiscal year 1980 is \$12
20 million and for 1981 is \$13 million, and it goes up to \$14
21 million and \$15 million up in the middle 1980s.

22 The Chairman: I would suggest we put a date so it won't
23 create a budget problem. I am always thinking of you Budget
24 fellows over there. Shall we just move the date forward? Is
25 that a proper Budget Committee amendment?

1 Senator Packwood: You can draw any one of these
2 amendments to fit within the budget limitation. Make it
3 effective what, December 29th?

4 Mr. Shapiro: What you may want to do, the bill presently
5 is effective to June 30, 1979. You could say the first of
6 the year, January 1. That is just an arbitrary date that was
7 picked.

8 The Chairman: Is that all right?

9 Senator Byrd: (Nods affirmatively.)

10 The Chairman: Without objection, it will be so amended.
11 All in favor of reporting it, say "Aye."

12 (There was a chorus of "Ayes.")

13 The Chairman: Opposed, "No."

14 Senator Danforth. No. I would like to be recorded in the
15 negative, Mr. Chairman.

16 The Chairman: (Nods affirmatively.)

17 Senator Byrd: The next bill is S.2180. Is is the only
18 bill for the benefit of a particular individual I have ever
19 introduced since I have been in the Senate. I did it as a
20 question of equity.

21 Now, the current law is this. The gain on the sale of a
22 principal residence may be deferred if a taxpayer purchases a
23 new residence within a certain time period. In the case of the
24 construction of a new residence, construction must begin no
25 later than 18 months after the sale of the old residence. The

1 taxpayer must occupy and use the new residence no later than
2 two years after the sale of the old residence.

3 The problem is this. Mrs. Jane M. Cathcart of Warrenton,
4 Virginia, Fauquier County, Virginia, sold her residence and
5 began constructing a new residence. However, through no fault
6 of her own, the new residence was not completed within the
7 time specified under the law. The contractor who was building
8 the residence misappropriated the funds and failed to complete
9 the residence within the specified time.

10 I have a Xerox of a newspaper article, "Jury Decides
11 \$100,000 Judgment for the Shell." The contractor went to
12 Florida with the money. Mrs. Cathcart was not able to
13 complete the home.

14 Now, the bill would require the Secretary of the Treasury
15 to extend to five years the present two-year period under such
16 circumstances. It is narrowly drawn so it will apply only to
17 this particular case.

18 These circumstances are: one, the sale of a principal
19 residence in 1977; two, purchase of land for a new residence;
20 three, beginning construction for a new residence in 1977;
21 four, suspending construction to preserve evidence against the
22 builder. That was required of her by the Commonwealth's
23 attorney and the State's attorney prosecuting the builder.

24 Five, suing and obtaining a judgment against the
25 builder, which Mrs. Cathcart did; and six, not occupying the

1 residence within two years of the sale. She made every effort
2 to comply with the law but was prevented from complying
3 with the law, through no fault of her own, through the
4 embezzlement of her funds, which was recognized by the Grand
5 Jury in a civil suit.

6 It is narrowly drawn. It will apply only to this
7 particular case.

8 Senator Dole: Does the Treasury support it?

9 Senator Byrd: I am not sure the Treasury does, but I
10 will let them speak for themselves.

11 Mr. Lubick: If Senator Byrd is willing to use 15 years
12 worth of chips on this one, I guess we can't resist too
13 strongly.

14 (General laughter.)

15 The Chairman: What is the Treasury's position?

16 Mr. Lubick: No objection.

17 Senator Byrd: Thank you.

18 The Chairman: I would suggest that I would hope this
19 bill would be labeled a private relief bill so that no one
20 would be under any illusion that this was legislation of a
21 general nature. If someone can comply with it, okay, they get
22 the same treatment; but no one can have any doubt about what
23 we had in mind if we had in mind providing relief for this
24 situation.

25 If some other taxpayer in the country meets these exact

1 specifications, obviously they would be entitled to it.

2 Senator Byrd: But so far as we know, there is no one else
3 who would benefit from this.

4 Mr. Shapiro: This will be drafted outside the Internal
5 Revenue Code. It is like a special provision in a tax bill but
6 will not be a part of the Internal Revenue Code.

7 The Chairman: It ought to self-destruct after it does
8 what it has set out to do.

9 Mr. Shapiro: It does. It has a termination date on it so
10 it will self-destruct.

11 The Chairman: All in favor, say "Aye."

12 (There was a chorus of "Ayes.")

13 The Chairman: Opposed, "No."

14 (There was no response.)

15 The Chairman: The "Ayes" have it.

16 Senator Byrd: Thank you, gentlemen.

17 The Chairman: Have you another?

18 Senator Byrd: There is one more. This was introduced by
19 Senator Stone, S.2167. Under the current law, homeowner's
20 associations are taxed on taxable income which is set aside in
21 a sinking fund for future improvements, at the highest
22 corporate tax rate, now 46 percent. Long-term capital gains
23 are taxed at 28 percent.

24 Associations are permitted deductions for expenses in
25 connection with taxable income, and a \$100 deduction against

1 taxable income is permitted. Currently there are no controls
2 over the extent to which homeowner's associations can create
3 the commonly controlled corporations.

4 Now, the problem is this. Taxation of income of
5 homeowner's associations at the highest corporate rate means
6 that homeowner's associations pay generally more in taxes on
7 income connected with the repairs of their condominiums than
8 would a homeowner of a single family residence.

9 The bill under consideration would subject taxable income
10 of homeowner's associations to the same graduated tax rates,
11 as would a corporation's taxable income. These tax rates
12 begin at 17 percent on the first \$25,000 of taxable income, 20
13 percent on the next \$25,000, 30 percent on the next \$25,000,
14 40 percent on the next \$25,000, 46 percent on all taxable
15 income over \$100,000.

16 I understand the Treasury opposes this bill on the
17 grounds that homeowner's association set-asides for
18 improvements could become a tax shelter. But the Treasury can
19 speak for itself, of course.

20 The Chairman: Mr. Lubick.

21 Mr. Lubick: Yes. Basically the rule is for the
22 individuals to be taxed at their own marginal rates. As a
23 partnership or subchapter (s) corporation, if they are able to
24 pool together in this situation, obviously the average rate of
25 taxation of a homeowner is about 30 percent, so you will have

1 a significant amount of income taxed at rates below that, 17
2 percent on the first \$25,000, 20 percent on the next \$25,000.

3 So it seems to us you are setting up a device; and as
4 indicated in the pamphlet, you can have a proliferation of
5 homeowner's associations to perform various functions; so that
6 you could greatly expand the multiple corporation problem that
7 you have here.

8 You could have one homeowner's association to run the
9 swimming pool and one for some other reason, and ultimately
10 you would get them taxed at a 17 percent rate instead of at
11 their appropriate rate. So we would oppose the bill.

12 Senator Dole: Is there a \$100 deduction against the
13 homeowner's association's taxable income now?

14 Mr. Lubick: Right. The first \$100 is not taxable.

15 Senator Dole: Is that repealed?

16 Mr. Lubick: No, that stays.

17 Senator Byrd: The question is whether it should be taxed
18 at the highest rate or whether it should be taxed at what
19 would normally be the applicable rate.

20 The Chairman: Let me ask you. Is it suggested here to
21 report these out as S-numbered bills and offer them on the
22 floor? Is that the idea?

23 Sentor Byrd: I would think they would be reported out as
24 amendments to a House-passed bill, which is in the committee.

25 Mr. Stern: Mr. Chairman, in the committee you have, for

1 example, a bill which forgave the duty on carillon bills for
2 St. Paul's Episcopal Church. You might want to put the
3 gambling and other provisions on that.

4 (General laughter.)

5 Senator Byrd: Senator Danforth might object to that.

6 (General laughter.)

7 Senator Bradley: Mr. Chairman, since that subject has
8 come up, I would like to register my strong opposition to the
9 exemption for excise tax on wagers. I want to come at that
10 from two angles.

11 First of all, we are beginning the gambling experiment in
12 New Jersey. One thing we have learned is that tax revenues can
13 be significant. I see no reason to exempt gambling operations
14 from taxes. Secondly, these are particularly wagers on sports
15 events, and I don't think that human beings should become
16 roulette chips.

17 So I would like to register a strong opposition, and I
18 would like to be recorded as a strong "no" against that bill.
19 I would like to have the opportunity at a future time to make
20 this case at greater length about this particular bill because
21 it is one about which I feel very strongly from both personal
22 and state reasons.

23 Senator Byrd: The bill has been approved by the
24 Committee. But you can, of course, make your case on the
25 floor.

1 Senator Bradley: That is what I would intend to do. And
2 I would hope that the Committee would hear it. I will make
3 sure I talk to the members prior to the floor.

4 The Chairman: Mr. Boren.

5 Senator Boren: I would like to be recorded as against
6 485 also had there been a roll call vote.

7 The Chairman: Mr. Dole.

8 Senator Dole: Is there any urgency on this last one? I
9 wonder if we might defer action on this 2167 in view of the
10 comments made by Treasury. I would like to have our staff
11 explore it more.

12 Senator Byrd: That would be satisfactory.

13 The Chairman: All right. Then that will be done.

14 Let me ask Treasury to explain why does the Treasury
15 favor just repealing that tax on wagers? Is it because you
16 are not getting any revenue out of it or not enough to fool
17 around with?

18 Mr. Halperin: Yes, Senator Long. The revenue is very
19 small. And the question seems to us to be whether you want to
20 have a special excise tax on wagering to express, in a sense,
21 a certain disapproval of it. If that is the feeling, it
22 probably ought to apply across the board.

23 However, there are other ways to enforce laws against
24 gambling. There is a Federal statute which allows the Justice
25 Department to go in and find a Federal violation when people

1 are gambling in violation of state law. The IRS does not find
2 that this particular tax helps it to find income tax invasion.
3 So it is taking the IRS away from its normal mission and
4 getting it into the question of whether or not there has been
5 a violation of state law.

6 We feel it would be better to get the IRS out of that
7 business. This is obviously a very small amount of revenue.

8 Senator Chafee: Mr. Chairman.

9 The Chairman: Yes?

10 Senator Chafee: I was just astonished at the small amount
11 that the Treasury took in under this 2 percent. Maybe the
12 answer is to apply the 2 percent to all of the presently
13 exempt category. Does Treasury have any thoughts on that?

14 The Chairman: Let me ask you this. Isn't part of the
15 trouble that you have, though, that there are all kinds of
16 unlawful gambling taking place, and that insofar as somebody
17 does operate a legal gambling operation, he is paying the tax
18 so the tax tends to discriminate in favor of the corruptionist
19 and against the person who is engaging in a legal activity?

20 Mr. Halperin: That is true. We get about 75 percent
21 revenue from the State of Nevada. Obviously, we know 75
22 percent of the gambling is not taking place there. Most of the
23 illegal gamblers are not paying the tax.

24 The Chairman: For example, you have race tracks where
25 they take precautions to see that the horses have not been

1 drugged and that kind of thing, and they operate a legitimate
2 operation. They make a little money out of it and they pay a
3 tax in connection with it. And here is some other character
4 operating a handbook on the side, and he has an illegal
5 operation. But he has himself a bar room and a handbook in
6 the rear selling some numbers and one thing or another, and he
7 is not paying the tax in any event.

8 So the tax tends to discriminate in his favor because the
9 legitimate operator is paying it and he is competing with
10 that. I guess that is part of the reason your people take the
11 view that as far as you are concerned, you would just as soon
12 repeal it.

13 Mr. Halperin: Yes, Senator Long. Also, the original
14 purpose for this was not to raise revenue but to get the
15 Federal Government involved in the enforcement of gambling
16 laws. Since that has happened and since 1970 there was a
17 specific statute which makes it a Federal offense to engage in
18 a gambling business in violation of state law. So we don't
19 need the Internal Revenue Service to do that job.

20 The Chairman: So much for that. Let's try to vote on
21 these other matters.

22 The next item on the agenda down here is Section 6 of
23 H.R. 4746 about disclosure of tax returns. Explain that, Mr.
24 Shapiro.

25 Mr. Shapiro: Under present law there is a disclosure

1 provision in the Internal Revenue Code, Section 6103(d), which
2 makes the use of returns and return information available to
3 state agencies in the administration of their state tax laws.
4 There are cases, however, where states use special audit
5 agencies to audit the use of the tax administration in their
6 state.

7 The question is that these state audit agencies are not
8 permitted to really do an appropriate audit because they
9 cannot look at the Federal Tax Return information. This
10 particular provision would allow state audit agencies to have
11 access to tax return information only to the extent that they
12 use it in auditing their state tax administration agencies.

13 They would be covered by the strict disclosure
14 requirement and privacy requirements contained in the Internal
15 Revenue Code presently. It would just allow them to have the
16 authority to do what they believe is an appropriate auditing
17 job on the state tax agencies. So this provision is designed
18 to do that.

19 Senator Dole: Does the Treasury support it?

20 Mr. Halperin: We have no objection to this.

21 Senator Byrd: May I ask a question in that regard?

22 The Chairman: (Nods affirmatively.)

23 Senator Byrd: As I understand Senator Long's proposal, it
24 would not report H.R. 4746 but would only report Section 6 of
25 H.R. 4746.

1 Mr. Shapiro: That is correct. I would like to point out,
2 too, that Senator Ribicoff had requested the staff to bring up
3 a matter that Senator Percy had brought to Senator Ribicoff's
4 attention. That is the concern that Senator Percy had with
5 regard to privacy and the fact that he felt that GAO should be
6 mandated to have a review of the use of this information by
7 the state auditing agencies and report to the Congress one
8 year after the effective date of this provision and then again
9 a second time two years after this provision to determine how
10 well the disclosure and privacy requirements are being upheld
11 by the state auditing agencies.

12 Senator Talmadge: Mr. Chairman, in that connection I
13 would like to ask Treasury a question or two.

14 Mr. Lubick, I have read that if an IRS agent is
15 investigating a tax return, whether it be a mere audit or
16 whether it be the fraud squad or whatever it may be, and
17 discovers a heroin import operation, that it is now a
18 violation of the law and that that IRS agent cannot even
19 report that to Justice.

20 Am I correct?

21 Mr. Lubick: I believe that is correct, Senator Talmadge.

22 Senator Talmadge: What I am trying to ascertain is this.
23 You will remember a year or two ago, in an effort to protect
24 the privacy and confidentiality of the tax return, this
25 committee substantially tightened the situation up. I

1 supported it and I believed in it.

2 But I think from what I have heard that we went much too
3 far. If we have handcuffed IRS to where they can't even
4 represent the government of the United States in apprehending
5 a murderer or a traitor or a dope peddler, haven't we gone too
6 far?

7 Mr. Lubick: Senator Talmadge, both the Justice
8 Department and the Internal Revenue Service have been working
9 on this problem and they have a set of specific
10 recommendations to make to you to deal with your concerns that
11 would reverse in the appropriate situations the effect that
12 the pendulum had swung too far.

13 Senator Talmadge: Do you have something we could offer
14 at this specific time? I want to protect the reasonable
15 confidentiality of a tax return; but when we have made it
16 impossible for one arm of the United States Government to
17 cooperate with another arm of the United States Government in
18 law enforcement, we have gone too far.

19 Don't you share that view?

20 Mr. Lubick: We do, Senator. I do not have the
21 recommendations today, but they are about ready to come up and
22 we would like to send them up to you. I will come up
23 personally and go over them with you.

24 Senator Talmadge: Let me urge you to expedite it. From
25 what I have read and heard the situation, we made a horrendous

1 mistake and went too far. I am informed now that an IRS agent
2 can actually discover a murder and not even quote it to the
3 Justice Department. Is that right?

4 Mr. Lubick: I am not sure how he would discover a murder
5 in an audit return, but --

6 Senator Talmadge: I guess it is theoretically possible,
7 isn't it? The man might have left a note, "I killed my wife."

8 (General laughter.)

9 Mr. Lubick: Perhaps claiming a dependent who had been
10 done away with?

11 (General laughter.)

12 Senator Talmadge: Please expedite it and get it up to us,
13 because I, for one, would like to correct what I think is a
14 horrendous error that we made when we went completely
15 overboard in this matter.

16 Senator Baucus: Would the senator yield on that point?

17 Senator Talmadge: Yes.

18 Senator Baucus: I think the senator has raised a good
19 point. Senator Nunn introduced a bill on this general subject,
20 and my subcommittee is holding a hearing June 20th.

21 Senator Talmadge: Are you holding hearings on it?

22 Senator Baucus: June 20th.

23 Senator Talmadge: I congratulate you.

24 Senator Matsunaga: We might lose some money, though. The
25 guns for hire might refuse to file returns.

1 (General laughter.)

2 The Chairman: I suggest that the reports simply say that
3 the GAO is instructed to look into this matter that Senator
4 Percy wanted to look into and see that it is not being abused.

5 Mr. Shapiro: We can express in the report the Committee
6 is concerned about privacy disclosure and that GAO does have
7 the authority to review this, and suggest that the Finance
8 Committee would like the GAO to keep a watch over this matter.

9 The Finance Committee, the Joint Committee and the Ways
10 and Means Committee all have the authority to mandate a
11 request to GAO to conduct such a review, and they can do it in
12 their own right. But we will provide this in the Committee
13 report as well.

14 The Chairman: With that qualification, then, I would ask
15 that we vote on the bill.

16 All in favor, say "Aye."

17 (There was a chorus of "Ayes.")

18 The Chairman: Opposed, "No."

19 (There was no response.)

20 Mr. Stern: Mr. Chairman, do you want to include this
21 measure plus the two that Senator Byrd brought up in with the
22 private relief measure, the excise tax on wagers, and also
23 Senator Talmadge's tread rubber provision, all as amendments
24 to this shell bill that you have in committee? The tariff on
25 the carillon for this church?

1 The Chairman: I am a little worried about putting the
2 matter about the wager thing on there because I am afraid
3 there is objection to that, some opposition to it. Maybe we
4 ought to put that on something where it can be by itself. I think
5 we may have some difficulty getting that through.

6 Mr. Stern: There is another shell bill you also have
7 which relates to the duty-free treatment of a carillon for
8 Ohio Wesleyan University. So if you want to put these three on
9 that one and the wager one on the church one --

10 The Chairman: The wager one on what bill?

11 Mr. Stern: I am looking up the number here. My
12 suggestion is that the three provisions -- the tread rubber
13 provision, the private relief provision and the audit agency
14 provision which you brought up -- be as amendments to H.R.
15 3317, which is a shell bill. The provision has been approved
16 for another bill which deals with the private relief for Ohio
17 Wesleyan University in the importation of a carillon. Then
18 put the wager provision on H.R. 3755.

19 The Chairman: What is that?

20 Mr. Stern: That is also a shell bill. The House
21 provision relates to the duty-free entry of a carillon for St.
22 Paul's Episcopal Church.

23 The Chairman: If there is no objection, we will do that.

24 Senator Bradley: Did you say Episcopal church?

25 The Chairman: Right. Is it all right, then?

1 (General laughter.)

2 The Chairman: Without objection, then, we have to add it
3 on something. The bill has already passed. The carillon bill
4 has already passed, hasn't it?

5 Mr. Stern: Well, the number of the bill is pending in
6 committee. The substance of the bill is to be offered as an
7 amendment to a tariff bill which is on the calendar.

8 The Chairman: All right. Without objection.

9 Now, Senator Nelson had a resolution here, a resolution
10 expressing a sense of the Senate in opposition to taxation of
11 Social Security benefits. Are you seriously opposed to taxing
12 Social Security benefits?

13 (General laughter.)

14 Senator Nelson: Well, it is a close question, Mr.
15 Chairman.

16 (General laughter.)

17 Senator Nelson: I would modify the resolution to change
18 it from a Senate concurrent resolution to a Senate resolution.
19 This resolution simply says that the 96th Congress will not
20 enact legislation to implement the Advisory Council's
21 recommendation.

22 The Advisory Council recommended that Social Security
23 benefits be taxed. That would effect 10.5 million Social
24 Security recipients. The tax would raise about \$3,700,000,000.
25 It would go to the general fund, not to the Social Security

1 fund. The average tax would be around \$350 million.

2 The point here is a question of equity. The Social
3 Security benefits have never been taxed, and as far as I
4 know, there has never been serious consideration or suggestion
5 that they be taxed. The Advisory Council made their
6 recommendation. The people who have retired, who made their
7 plans for retirement and who are retired, made their plans in
8 anticipation of having a certain amount of income, and the
9 income was included, 100 percent of their income from Social
10 Security, without any tax being paid upon it.

11 I don't take the position that at no time in the future
12 would we ever change any of the benefits of Social Security.
13 In fact, we have done it a lot of times. It has always been
14 increasing the benefits. There is controversy surrounding the
15 question of the death benefit, which has been recommended to
16 be terminated.

17 There is the controversy surrounding the question of
18 tuition benefits for students, dependent children who go to
19 college.

20 There are two points to make on this. I have not
21 conducted any hearings. There is no time to conduct hearings.
22 And I am getting loads of mail as Chairman of the Social
23 Security Subcommittee from people expressing their great worry
24 about this. Nothing is going to happen this year, at least not
25 if it is going to go through the orderly process of going

1 through the hearing process, because we can't have any
2 hearings on the provisions.

3 Secondly, as a matter of general principal it is my view,
4 at least, that whenever you make a modification of the Social
5 Security benefit, a proposed one such as this which was done
6 with the Advisory Council, or one on the tuition benefits,
7 support for dependent children or the death benefit, that you
8 ought to then, if you do decide that it is good policy, adopt
9 the provision effective five, six or seven years out in the
10 out years so you are not placing an unfair burden upon someone
11 who has made all of their plans in anticipation of being able
12 to send their child through college or, in this case, their
13 tax benefit.

14 So this is limited simply to a resolution saying that the
15 96th Congress will not enact legislation to implement the
16 Advisory Council's recommendation.

17 Senator Talmadge has asked to be placed on as one of the
18 cosponsors.

19 Mr. Stern: Senator Nelson, this would be a Senate
20 resolution expressing the sense of the Senate, did you say?

21 Senator Nelson: Yes. And I want to add in the resolution
22 some 24 cosponsors.

23 The Chairman: Am I one of the cosponsors?

24 Mr. Nelson: If you want, you just were.

25 The Chairman: Fine.

1 Senator Dole: Mr. Chairman.

2 The Chairman: Mr. Dole.

3 Senator Dole: I think all of us would probably like to
4 be cosponsors.

5 The Chairman: Everyone who wants to be a cosponsor,
6 raise his hand.

7 (General laughter.)

8 (There was a show of hands.)

9 The Chairman: Don't you want to be a cosponsor?

10 Senator Boren: I do want to be.

11 The Chairman: I assume everyone would like to be a
12 cosponsor unless he indicates he does not.

13 Senator Dole: Before we vote on it, I would like to put
14 in the record a brief editorial in the Wall Street Journal
15 about taxing Social Security. They made a point which I think
16 deserves repeating. I don't know if anyone will ever read the
17 record, but if they do it will buttress the argument made by
18 Senator Nelson.

19 As I understand it, the tax exempt status goes back to
20 some revenue ruling in the 1930s, 1938. Of course, the
21 Advisory Council to that was wrong and has been wrong ever
22 since. Does the administration have a view on taxing Social
23 Security benefits?

24 Mr. Lubick: I think we could even endorse Senator
25 Nelson's resolution because it talks about the 96th Congress.

1 I think it is a very big subject that has to be studied, and
2 we certainly don't have any plans in mind.

3 Senator Dole: You have taxed everything else. I thought
4 maybe --

5 (General laughter.)

6 Senator Matsunaga: Maybe they would like to cosponsor
7 it, too.

8 The Chairman: Let's call the roll so everyone can make
9 his position clear.

10 Mr. Stern: Mr. Talmadge.

11 (No response.)

12 Mr. Stern: Mr. Ribicoff.

13 (No response.)

14 Mr. Stern: Mr. Byrd.

15 Senator Byrd: Aye.

16 Mr. Stern: Mr. Nelson.

17 Senator Nelson: Aye.

18 Mr. Stern: Mr. Gravel.

19 (No response.)

20 Mr. Stern: Mr. Bentsen.

21 (No response.)

22 Mr. Stern: Mr. Matsunaga.

23 Senator Matsunaga: Aye.

24 Mr. Stern: Mr. Moynihan.

25 (No response.)

1 Mr. Stern: Mr. Baucus.

2 Senator Baucus: Aye.

3 Mr. Stern: Mr. Boren.

4 Senator Boren: Aye.

5 Mr. Stern: Mr. Bradley.

6 Senator Bradley: Aye.

7 Mr. Stern: Mr. Dole.

8 Senator Dole: Aye.

9 Mr. Stern: Mr. Packwood.

10 (No response.)

11 Mr. Stern: Mr. Roth.

12 (No response.)

13 Mr. Stern: Mr. Danforth.

14 (No response.)

15 Mr. Stern: Mr. Chafee.

16 Senator Chafee: Aye.

17 Mr. Stern: Mr. Heinz.

18 (No response.)

19 Mr. Stern: Mr. Wallop.

20 Senator Nelson: Mike, I do have a note that Senator
21 Talmadge wants to be added as a cosponsor, so I would assume
22 he should be voted "aye."

23 Senator Dole: Senator Packwood wanted to be quoted
24 "aye."

25 Senator Nelson: Senator Roth is a cosponsor. He would

1 like to be recorded "aye."

2 The Chairman: Senator Gravel asked to be recorded "aye"
3 before he left.

4 Mr. Stern: What about Heinz?

5 Voice: He is a cosponsor.

6 Mr. Stern: Mr. Wallop.

7 Senator Wallop: Aye.

8 Mr. Stern: Mr. Durenberger.

9 Senator Durenberger: I am not up for reelection, but I
10 will vote "aye" anyway.

11 (General laughter.)

12 Voice: You will be.

13 Mr. Stern: Mr. Chairman.

14 The Chairman: Aye.

15 Senator Durenberger: I will carry the 97th Congress
16 resolution.

17 (General laughter.)

18 Mr. Stern: Mr. Chairman, as a Senate resolution this has
19 not been introduced yet, so there are no cosponsors if you
20 report out an original resolution. Do you want to introduce
21 it and just agree that when it is referred to the committee,
22 it will be reported out so you can get everyone's name listed?

23 Senator Nelson: Yes, we will do it that way.

24 Is there anyone here who voted "aye" who does not wish to
25 be put on as a cosponsor?

1 Senator Dole: Just put them down alphabetically.

2 The Chairman: After Mr. Nelson, that is, list them
3 alphabetically.

4 (General laughter.)

5 The Chairman: It is unanimous, is it not?

6 Mr. Stern: There were only two senators not recorded,
7 Senator Ribicoff and Senator Bentsen.

8 Senator Nelson: Senator Ribicoff is a cosponsor.

9 The Chairman: You can check with them. I am sure they
10 want to be recorded.

11 Next we take Senator Matsunaga's proposal.

12 Senator Dole: Before we do, I have a request from Senator
13 Heinz. I think he would like to be heard on this because he
14 will be here tomorrow. I think Senator Ribicoff has an
15 interest, and Senator Bradley, I understood, had an interest.
16 If there is no objection, they would like to take action on
17 this tomorrow.

18 Senator Matsunaga: On which proposal?

19 Senator Dole: Yours.

20 Senator Matsunaga: On my proposal?

21 Senator Dole: Senator Heinz has requested we not act on
22 it today. He cannot be here until tomorrow. We meet tomorrow.

23 The Chairman: Then why don't we take it up tomorrow.

24 Senator Matsunaga: Well, I have waited all this time.

25 The Chairman: It will be the first order of business.

(Whereupon, at 12:25 p.m., the committee adjourned.)

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