United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, May 4, 1972*

The House met at 12 o'clock noon.

Bishop George B. White, Apostolic Faith Holiness Church, Washington, D.C., offered the following prayer:

Enter ye it at the strait gate: for wide is the gate, and broad is the way, that leadeth to destruction, and many there be which go in thereat: Because strait is the gate, and narrow is the way, which leadeth unto life, and few there be that find it.—Matthew 7: 13–14.

May we pray.

O Lord, our Lord, how excellent is Thy name in all the earth, that Thou has blest me to stand here in the House of Representatives of our great country, to invoke Your blessing on this great body of people.

O Lord, let us understand Thee better.

The heavens declare the glory of God, and the firmament showeth Thy handiwork.

Keep back Thy servant also from presumptuous sins: Let them not have dominion over me, then shall I be upright, and I shall be innocent from the great transgression.

Let the words of my mouth, and the meditation of my heart, be acceptable in Thy sight, O Lord, my strength, and my Redeemer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 9019. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Jicarilla Apache Tribe in Indian Claims Commission docket numbered 22–A, and for other purposes; and

H.R. 13753. An act to provide equitable wage adjustments for certain prevailing rate employees of the Government.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8083. An act to amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes; and

H.R. 9545. An act to amend the Revised Organic Act of the Virgin Islands to provide that the Legislature of the Virgin Islands shall prescribe the minimum age for membership in the legislature.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 855. An act to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes;

S. 1140. An act to authorize the sale of certain lands of the Southern Ute Indian Tribe, and for other purposes; and

S. 3380. An act to permit immediate retirement of certain Federal employees.

The message also announced that Mr. HATFIELD was appointed as a conferee on the bill (H.R. 14582) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes" in lieu of Mr. INOUYE, excused.

RESIGNATION AS MEMBER OF THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation as a Member of the House of Representatives:

WASHINGTON, D.C.,
April 19, 1972.

Hon. CARL ALBERT,
House of Representatives,
Washington, D.C.

MY DEAR MR. SPEAKER: On May 9, 1972, I will be inaugurated as Governor of the State of Louisiana and therefore hereby tender my resignation as a Member of the United States House of Representatives effective at 12 noon, central daylight time on May 9, 1972.

Please accept my sincere gratitude for your many courtesies and my best wishes for your continued success as Speaker of the House. You and my colleagues will always have a special place in my memories as I embark on a new career in service to the people of Louisiana. It has been a distinct honor and privilege which I shall always cherish to have been a Member of this distinguished body.

Warmest personal regards and highest esteem,

Sincerely yours,

EDWIN EDWARDS.

HARASSMENT OF SOVIET JEWS

(Mr. FRENZEL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, in the city of St. Paul, a part of the metropolitan area which includes my district, there is a Soviet cultural exhibit. Cultural exchanges are desirable for they provide an excellent means for understanding between peoples of different interests, languages, and backgrounds.

But ironically, the Russian cultural exhibit, featuring the work of artists and intellectuals, is being held at the exact time when the Government of Russia is increasing its persecution of Jewish scholars and intellectuals because they have refused to renounce their culture.

I am informed that a young Jewish teacher, Leonid Yoffe, has just been conscripted into the Soviet Army. His friends believe he was drafted because he was a teacher. Another young Soviet Jew, David Markish, in his early twenties, is another young scholar who is being drafted. David's wife was allowed to leave Russia, but he was not. Mrs. Markish is now in Minneapolis and took her place in the orderly candlelight walk demonstration held last Wednesday night, April 26, to protest the increased harassment of Soviet Jews.

Another young scholar, Victor Yahout, was thrown out of school and asked to join the army. When he declined, he was allegedly threatened with commitment to a mental hospital. His whereabouts are unknown today.

All of these bits and pieces of information go only to prove facts that are already painfully obvious; that the Government of the U.S.S.R. shamefully persecutes and harasses Soviet Jews and the persecution is increasing. Unfortunately, none of us can dictate Soviet policy. All of us should do our best to bring these depressing facts to world attention.

TENTATIVE SCHEDULE FOR THE APPROPRIATION BILLS

(Mr. MAHON asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. MAHON. Mr. Speaker, in late January the President sent to Congress his budget for fiscal year 1973 which begins on July 1 next.

The Committee on Appropriations has been hard at work in hearings on the various appropriation bills.

We are today announcing a reporting schedule which if followed will enable the House to complete action on all the regular appropriation bills for 1973 prior to July 1, the beginning of the new fiscal year.

I shall insert in the body of the RECORD of today, at a later point in the proceedings, appropriate information as to the tentative scheduling of these bills.

I should say that we have conferred with the leadership of the House and with the appropriate chairmen of the various committees with regard to the matter. Of course, we do hope that the related authorization bills which have not been cleared will be cleared as soon as possible.

In order that all the regular annual appropriation bills might be cleared through the House by the 1st of July we will probably be asking for rules waiving points of order in the event a related authorization bill has not cleared.

APPOINTMENT OF CONFEREES ON H.R. 8140, TO PROMOTE SAFETY OF PORTS, HARBORS, WATERFRONT AREAS, AND NAVIGABLE WATERS OF THE UNITED STATES

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8140) to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Maryland? The Chair hears none, and appoints the following conferees: Messrs. GARMATZ, CLARK, LENNON, PELLY, and KEITH.

PERSONAL ANNOUNCEMENT

Mr. DULSKI. Mr. Speaker, I missed four rollcalls this week due to illness. Had I been present, I would have voted "yea" on rollcalls Nos. 130, 131, 132, and 133.

CONGRESSMEN STRATTON AND O'NEILL CALL FOR IMMEDIATE ACTION TO ADOPT THE 1971 SOCIAL SECURITY AMENDMENTS AND TO BOOST BASIC BENEFITS BY 20 PERCENT

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, it has been almost a year now since this House enacted H.R. 1, which included a lot of very important increases in the social security program, including a 5-percent increase across the board in basic benefits.

That program is still stalled over in the other body, however, because of the controversy surrounding the welfare reform question. I think too much time has gone by already, and I believe we ought to act now, without any further delay, to adopt the social security amendments which we passed last year, along with the addition of the 20-percent increase in basic benefits recommended in February by the chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. MILLS).

Accordingly, the distinguished majority whip of the House, the gentleman from Massachusetts (Mr. O'NEILL) and I have joined today in introducing legislation which would separate these social security improvements from the welfare program, would add onto the social security portion of H.R. 1 the 20-percent increase recommended by Mr. MILLS of Arkansas, and would enact this legislation now without waiting any longer for a resolution of all the controversy surrounding the welfare reform program.

Only in this way, Mr. Speaker, will those older Americans who are in a position to take advantage of these improved benefits passed by the House last June still be around to enjoy them when they are finally enacted into law.

Speaking for the distinguished majority whip and myself, we invite Members on both sides of the aisle to join with us in cosponsoring this new, realistic social security bill, and pushing it through to enactment.

RE-REFERRAL OF H.R. 9807, AMENDING DISTRICT OF COLUMBIA CODE

Mr. MONTGOMERY. Mr. Speaker, by the direction of the Chairman of the Committee on Armed Services, I ask unanimous consent that the Committee on Armed Services be discharged from the further consideration of the bill (H.R. 9807) to amend section 39–704, District of Columbia Code relating to the jurisdiction of courts-martial of the militia of the District of Columbia, and that the bill be re-referred to the Committee on the District of Columbia.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

SUPPLEMENTAL APPROPRIATION FOR SPECIAL PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS, 1972

Mr. MAHON. Mr. Speaker, pursuant to the order of the House of April 19 last, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1174) making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Ohio (Mr. Bow) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1174) with Mr. ABERNETHY in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Texas (Mr. MAHON) will be recognized for 1 hour and the gentleman from Ohio (Mr. Bow) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, a few weeks ago after considerable negotiating by the U.S. Government with other countries of the world in connection with our fiscal position in the world, it was determined by the administration that the dollar should be devalued by 8.57 percent in relation to gold.

This legislation authorizing the devaluation of the dollar recommended by the President passed the Senate by a vote of 86 to 1.

When the measure was considered by the House there was extensive debate and the House, on a rollcall vote, approved the devaluation of the dollar by a vote of 342 to 43. That was on March 21 of this year.

The President signed the bill into law on March 31, 1972—Public Law 92–268.

Under that law, the price of gold has been increased from $35 per fine troy ounce to $38 per fine troy ounce. That is, the new par value of the dollar of $1 is equal to one thirty-eighth of a fine troy ounce of gold. This in turn required certain adjustments in various international institutions including the International Monetary Fund, the World Bank, and others, this requirement stemming from the various articles of agreement of the institutions of which we are members.

As a result of our contribution to these various funds and institutions which are referred to in the report—and, of course, the report is available to Members, having been filed sometime ago—and the related articles of agreement, it has been determined that the amount required to adjust our contributions upward, in view of the devalued dollar, is about $1.6 billion.

The measure now before us therefore provides for an appropriation of not to exceed $1.6 billion for the purpose of squaring our accounts in these various international funds.

This appropriation could have been placed in the supplemental appropriation bill which passed the House and passed the Senate some time ago and which is now in conference, but it was decided that early action was imperative and that preferably it should be handled in a separate appropriation measure.

I know of no alternative available to the House at this time other than to provide these funds.

That, briefly, is the situation. The report has been available for several days. It contains the details. Of course, I should add here that the matter was rather fully debated in March when the authorization bill was before the House.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I am pleased to yield to the distinguished gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I thank the gentleman for yielding.

Would the distinguished chairman of the Committee on Appropriations tell me why there are no departmental reports to be found in the report accompanying this legislation?

Mr. MAHON. We had a request from the President for the funds to be provided. This is based on the budget estimate, submitted by the President on April 4. It is House Document No. 92-276.

Mr. GROSS. Well, does not the House of Representatives often get requests for legislation from the President and do not most of the reports carry the position of the various departments, in this case the Treasury and the Bureau of the Budget?

Mr. MAHON. That is true on legislative bills as a general proposition, as I understand it, but the same procedure is not followed on requests for appropriations because it is not necessary. The President himself has asked for the funds.

Mr. GROSS. The Committee on Appropriations holds hearings on all other legislation. Why was this an exception?

Mr. MAHON. This is not in the form of an exception insofar as departmental reports are concerned. This is the way we handle both regular appropriation bills and special joint resolutions which provide for appropriations as in this case.

Mr. GROSS. If the gentleman will yield further, let me ask the gentleman this question: Where are the hearings on this legislation?

Mr. MAHON. There were no formal hearings on this matter. There were numerous conferences, but hearings were held on the authorization, and the matter was extensively considered in the House and in the other body. At this point, it is more or less a procedural matter—a mandatory matter.

If I may, I should like to call attention to Public Law 268 of the 92d Congress. Section 3 of that act provides:

SEC. 3. The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

Ample precedent exists for providing that our Government and other governments put up the necesasry funds in the event the currency of a member nation is devalued. The currency of our Nation was devalued. It is at this point a matter more or less of the arithmetic of supplying what we agreed to do. We were presented with detailed statements showing what funds were required, and they are in the report on the pending measure.

Mr. GROSS. The gentleman from Texas is no stranger to the House of Representatives and the Congress of the United States, and he well knows that no act of one Congress is binding upon another; that the Congress can act as it sees fit. It could reject this bill today, and I hope that it does. So I do not quite understand the logic of the gentleman's reasoning in attempting to say that there were no hearings on this $1.6 billion bill with respect to what this would do to the huge Federal and debt deficit of the country, no report from the Treasury Department, and no position on the part of the Bureau of the Budget. I am amazed that the legislation is here in that fashion.

Mr. MAHON. We, of course, have a letter from the Director of the Office of Management and Budget, George Shultz, requesting that the funds be made available. And of course from the President also. This appropriation automatically follows the authorization, which was approved by the House by a very heavy vote, as the gentleman knows, and as I see it we have no acceptable alternative at this point.

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Ohio.

Mr. BOW. I should like to point out to the gentleman from Iowa that we have the hearings before the Committee on Banking and Currency which were held March 1, 2, 3, and 6 of this year. They are very extensive hearings, and they were made available to the members of the Appropriations Committee. So the testimony before that committee was considered, and the House passed on the measure by a very large vote.

So we do have the very recent testimony of the Department, and among those witnesses were Arthur Burns, the Secretary of the Treasury, and Secretary Volcker. The gentleman, I am sure, must have read these, because he reads all the hearings and the reports. Early in March they had these hearings, and then the bill was before the House on March 31. So there is a complete record as to the reason for the measure before this body, and the questions which the gentleman has asked are pretty well answered in those hearings before the Banking and Currency Committee.

Mr. GROSS. Mr. Chairman, will the gentleman from Texas yield so that I may respond to the gentleman?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, that was rather an odd answer, I will say to my friend, the gentleman from Ohio.

Mr. BOW. It was not an answer. It was an observation.

Mr. GROSS. In this instance I will have to say it was a strange answer. No hearings were held by the Appropriations Committee although that committee has been holding hearings almost every day since the first of the year on all other kinds of legislation that require financing. Today that committee relies on the hearings of another committee. I must say that this is amazing.

Mr. BOW. I know the gentleman realizes the questions have been very carefully studied for the full and complete disclosure of the net effect. Then the full Appropriations Committee did meet and consider this resolution at length.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, in my opinion we exercised the other subject thoroughly, and I would like simply to inquire two points of information. In the opinion of the chairman of the Committee on Appropriations, would it not be necessary if we take this action today, as committed as we may be by the legislative action and authorization previously taken, that we might very well be called upon to do the same thing for restoration of the so-called true dollar value for the United Nations and maybe even the "Overseas Private Investment Corporation"—OPIC—in addition to these world banks and international monetary funds?

Mr. MAHON. I do not know what the Congress might do by way of legislation involving these subjects. Of course, it would depend on what the Congress might determine should be done, but certainly in the area covered by this legislation—the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank—for these we have no alternatives.

As to what might be done with respect to other agencies or international organizations, or commitments of this country, I am not advised as to what proposal may be submitted to the Congress or what proposal may be considered by the appropriate committees of the Congress in the future.

Mr. HALL. I appreciate the gentleman's answer. May I say "Heaven forbid" such a thing would accrue, but I am afraid we are establishing a precedent by that action specifically written into Public Law 92-268—and, by the way, I was among 43 who opposed it—that we might establish a call on our Treasury for making up this 8.57 percent default as it develops in the call price for gold. So, I hope the gentleman's statement is true and that we will not act errantly again in authorizing such a thing, because these birds always come home to roost, and I think I am borrowing an expression from the gentleman from Texas himself.

Mr. Chairman, I have another question if the gentleman will yield further.

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, I understand in the gentleman's opening remarks he said he felt we had no other alternative except to appropriate these funds in compliance with the authorization of Public Law 92-268. Would it not be possible in view of the statement in the gentleman's own report, in paragraph 2, page 5, dealing with the question of callable capital, and that it is only a remote or contingent liability, for us to not actually appropriate at this time that $663 million involved therein, but simply recognize the obligation and

be on call for it by the action of any future day in this Congress if the World Bank and the others that are involved in that specific amount should call for it, or any future Congress and thus allow them to work their will, I repeat, recognizing that the legislative authority is already present?

I have seen appropriations for emergencies, or "on call," go through here within 48 hours. Certainly that would not upset the world monetary exchange or funding of these projects by World Bank.

I am just asking the question. Would it not be possible to withhold this $663 million from actual appropriation, which will take the money out of circulation and in effect put it in escrow and on call of these agencies which we have legislated for, and instead to save that money for working capital in the U.S. Treasury at this time of deficit?

Mr. MAHON. Well, my understanding is that under Public Law 92–268 we are required to take the action which is proposed in this resolution.

Mr. HALL. If the gentleman will read, on page 2 of the report, the basic legislation explanation of Public Law 92–268, all it does is authorize the commitment. I do not believe, on careful research, that we must make this callable money, which is only a contingency, anyway, immediately available. We could just stand behind it with the good faith and credit of our Government. I would strongly urge that we consider an amendment at the appropriate time to that effect; and I thank the gentleman for yielding.

Mr. MAHON. I thank the gentleman for his comment. Let me again read a part of section 3 of Public Law 92–268:

> The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions.

So, as I understand it and as I see it, we are bound by these articles of agreement to which our country has subscribed as a member.

Mr. HALL. The gentleman does understand that my proposal would be to recognize that with the full faith and credit of the United States, as we indeed already have, because that is the law of the land now. Public Law 92–268 is the law of the land.

Mr. MAHON. Yes.

Mr. HALL. But as the gentleman's own report says further, and as all of us understood at the time we debated the other legislation, which became the law of the land, the callable capital is a highly contingent liability. It has never been called in the past. And it is highly unlikely that these subscriptions will be called in the future, considering the size of already existing callable capital and reserves which the international banks have built up.

So let us just recognize that obligation and stand behind it with the full faith and credit of the U.S. Treasury, contingent funds and everything else, but not actually appropriate the money and take it out of circulation and put it on the shelf in escrow, for that extra $663 million which probably will not be called anyway. We can use that in our cash flow daily balance in the Treasury.

Mr. MAHON. I believe my friend from Missouri would agree that of course much of this is in the nature of a bookkeeping transaction. The callable capital may never be expended. What we are doing is complying with our commitment. But it is expected that this money will not be expended. It will not show as funds expended during the fiscal year. We hope that these funds will not be expended in the future—at any time in the future.

Mr. HALL. I think the gentleman argues extremely well for my point. We recognize the commitment, but why commit it if we stand behind it, and take it out of the cash flow? I have heard the gentleman say 100 times, if I have heard him say it once, that it is these bookkeeping accounts and these authorizations that come home to roost and are strapping our Treasury.

Here is an opportunity to withhold $663 million, the greater part of a billion dollars, and to keep it in our cash flow and routine turnover in our Treasury. It is that much less we would have to borrow and pay interest on, rather than placing the whole $1.6 billion in escrow.

I believe it is a logical and feasible solution, and I urge the gentleman to give it consideration.

Mr. MAHON. I thank the gentleman for his contribution.

Mr. Chairman, I have no further requests for time.

Under leave to extend my remarks, so that this RECORD will be more complete, I am including the full text of the report of the committee—House Report 92–1016—which accompanied the pending joint resolution:

> The Committee on Appropriations, to whom was referred House Joint Resolution 1174, making a supplemental appropriation for special payments to international financial institutions, fiscal year 1972, and for other purposes, report the same to the House without amendment and with the recommendation that the joint resolution be passed.
>
> THE PURPOSE OF THE JOINT RESOLUTION
>
> The joint resolution would appropriate such sums as may be necessary—*but not to exceed $1,600,000,000*—to enable the Secretary of the Treasury to carry out the provisions of Section 3 of the Par Value Modification Act, Public Law 92–268, approved March 31, 1972. That law authorizes and directs the Secretary to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund and the four international development lending institutions—namely, the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank, the International Development Association, and the Asian Development Bank.
>
> The supplemental appropriation request from the President is contained in H. Doc. 92–276, of April 4. The accompanying resolution follows the President's recommendation for appropriation of "such amounts as may be necessary" but in addition, the Committee has added a ceiling on the amount. As explained below, the precise amounts involved will depend on exact dollar holdings as of the time of formal notification of par value modification. The latest available estimate is $1.594 billion, accounting for the statement in H. Doc. 92–276 that the total needed is not expected to be more than $1.6 billion. This latter figure is the ceiling in the joint resolution.
>
> THE BASIC LEGISLATION
>
> Public Law 92–268 reads as follows:
>
> "SECTION 1. This Act may be cited as the 'Par Value Modification Act.'
>
> "SEC. 2. The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold. When established such par value shall be the legal standard for defining the relationship of the dollar to gold for the purpose of issuing gold certificates pursuant to section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).
>
> "SEC. 3. The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.
>
> "SEC. 4. The increase in the value of the gold held by the United States (including the gold held as security for gold certificates) resulting from the change in the par value of the dollar authorized by section 2 of this Act shall be covered into the Treasury as a miscellaneous receipt."
>
> The legislation was passed in the Senate March 1, 1972, by a vote of 86 to 1, and in the House March 21, 1972 by a vote of 342 to 43.
>
> As will be noted, Section 2 directs the Secretary to take the steps necessary to establish a new par value of the dollar of one dollar equals one thirty-eighth of a fine troy ounce of gold, thus changing the value from $35 an ounce to $38 an ounce.
>
> The maintenance of value obligation directed by Section 3 stems from a provision in the agreements governing each of these international financial institutions providing that each member country that devalues its currency must maintain the value of its contributions as measured by a common yardstick—in this case, gold. The Committee is advised that these provisions have been applied routinely to all other countries devaluing their currencies and there has been no instance in which these obligations have not been fully discharged.
>
> The dollar is to be devalued in terms of gold by 8.57 percent, and thus the dollar holdings of the international financial institutions will have to be increased by 8.57 percent. The purpose is to assure that the contributions of all members are maintained in value in relation to each other despite changes in exchange rates. This provision has worked in favor of the United States by assuring that other countries that have devalued in the past have not diminished the value of their contributions. The Committee understands that all other countries have fulfilled their maintenance of value obligations. Thus, the burden-sharing principle has not been diminished by currency devaluations. The maintenance of value provision also assures that the U.S. share in the assets and voting rights in these institutions is not impaired by our devaluation.
>
> This proposed appropriation of $1.6 billion is the final legislative step necessary to carry out the United States part of the agreement reached at the Smithsonian Institution last December on a series of interrelated measures designed to help resolve balance of pay-

ments problems, to restore more settled conditions in the foreign exchange markets, and to provide a framework from which longer-term reform of the international monetary system can evolve. The Smithsonian Agreement included an overall weighted average realignment of approximately 12 percent in the currencies of other industrial countries, excluding Canada, and as a part of this realignment, an agreement that the United States would devalue the dollar.

The realignment and devaluation actions rest on the proposition that they should have the effect of making American products more attractive in foreign markets and at home. The devaluation should expand export opportunities for American industrial and agricultural products and create more jobs for American workers in factories, on farms and in export supporting businesses. The Executive Branch indicates that it will take a few years for the effects to be fully felt, but over time the increased competitiveness of our economy, if combined with action to combat inflation and restore domestic economic growth, should, it is felt, lead to increased sales abroad.

THE BASIS FOR THE $1.6 BILLION—IN SUMMARY

As previously noted, $1.594 billion is the latest estimate from the Executive Branch of the total appropriation availability needed to acomplish the purpose of Public Law 92-268. Although there is necessarily some uncertainty as to the *precise* total amount of the obligations until the change in the par value is notified, on the basis of present estimates the Committee has rounded the appropriation to "not to exceed $1.6 billion." This is the same total that was before the House when it acted on the authorization bill last month.

There are three different kinds of obligations to which maintenance of value applies. They result from: (1) participation in the International Monetary Fund, (2) the callable capital of the international development banks, and (3) paid-in capital subscriptions to these institutions, as follows:

Institution	Budget impact	Estimate of amount (millions)
1. Exchange of assets with the International Monetary Fund.	None	$525
2. Callable capital with respect to World Bank, Inter-American Development Bank, and Asian Development Bank (contingent liability).	None expected	663
3. Paid-in with respect to World Bank, International Development Association, Inter-American Development Bank, and Asian Development Bank.	None until fiscal year 1974 and thereafter.	406
Subtotal		1,594
Roundup		6
Total ("not to exceed")		1,600

THE BASIS FOR THE $1.6 BILLION—IN MORE DETAIL

In further explanation by way of more detail, the following is based upon a statement supplied by the Treasury Department:

"International Monetary Fund

"Our financial relationships with the International Monetary Fund will result in a $50 million net increase in our assets. First, because the dollar portion of $5,025 million of our Fund subscription is denominated in dollars of a fixed weight and fineness of gold, this subscription will increase in current dollar value by 8.57 percent, or $431 million. Against the increased value of this asset, the United States will incur an equal liability derived from the requirement of maintenance of value of the dollar portion of our subscription in terms of gold. This will result in an exchange of assets, which will involve issuance by the Treasury Department of a letter of credit to the Fund in the amount of $431 million.

"There will also be an 8.57 percent increase, equal to $144 million, in the United States gold tranche of $1,675 million in the International Monetary Fund. Because this asset represents gold paid to the Fund. Because this asset represents gold paid to the Fund in partial fulfillment of U.S. subscription obligations, there is no offsetting maintenance of value obligation. However, the increase in value of this asset will be partially offset by the requirement that we maintain the value in terms of gold of a United States drawing from the Fund of $1,015 million, resulting in an increased obligation of $94 million. A letter of credit will be issued to the Fund in this amount as part of the normal process of issuing such letters of credit in connection with U.S. drawings.

"Thus, in the Fund, as a result of the change in the par value of the dollar, the total increase in assets equals $575 million and the increase in liabilities amounts to $525 million. The $525 million in letters of credit that are to be issued to the Fund will not result in budgetary expenditures even when drawn upon, since transactions with the Fund represent exchanges of assets that are outside the budget under existing concepts. However, in order to issue these letters of credit an appropriation of approximately $525 million is needed. The amount of the appropriation can only be approximate since the exact amount of the Fund's holdings of dollars will vary by small amounts from day to day and the exact amount of the letters of credit to be issued to the Fund can only be determined as of the day when the United States par value is formally modified.

"Callable Capital

"In the World Bank, the Inter-American Development Bank (IDB) and the Asian Development Bank (ADB), our subscription of callable or 'guarantee' capital is denominated in dollars of a fixed weight and fineness, and the change in the par value of the dollar means a increase of 8.57 percent in our callable capital obligation. The U.S. callable capital in the World Bank is $5,715 million, in the IDB it is $1,370 million, and in the ADB it is $100 million. The total increase in the current dollar amount of these callable capital subscriptions, plus those authorized by Congress but not yet subscribed amounts to $663 million.

"This callable capital is a highly contingent liability. It has never been called in the past and it is highly unlikely that these subscriptions will be called in the future considering the size of already existing callable capital and the reserves which the international banks have built up. Therefore, no budgetary impact is anticipated. Nevertheless, funds must be available to meet these obligations if they are ever called, and an appropriation of $663 million is thus required.

"Paid-In Subscriptions

"There is a substantial maintenance of value obligation with respect to the paid-in subscriptions to the development lending institutions—the multilateral banks mentioned above, plus, the International Development Association. This amounts to an estimated $406 million on paid-in subscriptions, both those previously authorized and appropriated and those recently authorized but not yet appropriated; maintenance of value to be made, of course, only when and to the extent appropriations are enacted. The maintenance of value paid-in capital obligation in the World Bank is $51 million; in the Inter-American Development Bank $224 million; in the Asian Development Bank $9 million; and in the International Development Association $122 million. Only these obligations are expected to result eventually in budgetary outlays. The total obligation can only be definitely determined on the basis of dollar holdings as of the day on which the par value is changed and is therefore subject to some adjustment. In particular, the IDB is studying the appropriate application of maintenance of value to the pending subscription of $1 billion to the Fund for Special Operations.

"The maintenance of value obligation on the paid-in subscriptions will be paid in the form of letters of credit. However, the letters of credit would be drawn down only after a period of several years as the development lending institutions need the funds for disbursements. No disbursements of these funds, and therefore no budgetary impact, is anticipated in fiscal year 1972 or 1973. It is expected that drawdowns of somewhat less than $350 million would be fairly evenly spread over fiscal years 1974–1976. Subsequently, the remaining draw-downs are expected in the fiscal years 1977 to 1986 as certain dollar loans of the World Bank and the IDB mature.

"Increases in Assets

"Offsetting these increases in liabilities resulting from maintenance of value are increases in certain of our international reserve assets.

"With respect to liquid assets, there is an increase of $828 million in the value of United States gold holdings; an increase of $155 million in United States holdings of Special Drawing Rights; an increase of $144 million in the United States gold tranche in the International Monetary Fund; and, finally, an increase of $27 million in the value of United States foreign exchange holdings.[1] These increments in value total about $1.1 billion.

"The increment in value of gold will result in a direct cash inflow into the Treasury of $828 million as gold certificates equivalent to the increase in gold value are issued to Federal Reserve banks. However, under the unified budget accounting concepts, this increment in value will not be considered a budgetary receipt.

"Budgetary impact

"The $525 million in letters of credit to be issued to the International Monetary Fund will not result in budgetary expenditures even when drawn upon since transactions with the Fund represent exchanges of assets that are outside the budget.

"The callable capital has never been called in the past and it is highly unlikely that it will be called in the future. It represents a remote contingent liability and is without budgetary or cash impact until it is actually called.

"The maintenance of value on the $406 million of paid-in subscriptions will have eventual budgetary impact. However, this amount will be paid in the form of letters of credit and these letters of credit will have a cash impact only as they are drawn down.

"No disbursements on these letters of credit, and therefore no budgetary impact, is anticipated in the fiscal years 1972 or 1973. It is expected that drawdowns of somewhat less than $350 million would be fairly evenly spread over fiscal years 1974–1976. Subsequently, the remaining drawdowns are expected in the fiscal years 1977 to 1986, as certain dollar loans of the World Bank and the IDB mature.

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[1] In addition to these adjustments in assets and liabilities, net losses on certain operational foreign exchange accounts, including both so-called swaps and foreign currency borrowing, maintained by the Exchange Stabilization Fund and the Federal Reserve will be absorbed by those institutions. These losses are presently estimated at about $145 million for the ESF and under $200 million for the Federal Reserve. These losses do not require appropriations.

"Overall impact

"The overall effect of both maintenance of value and the increases in the value of assets will be as follows:

"In terms of its effects on Treasury cash, to increase our resources, through the write-up of our gold holdings.

"In terms of budgetary *expenditures*, a probable rough balance between savings on interest expense (as a result of the added cash resources of the Treasury) and the additional paid-in capital subscription to the international development institutions.

"In terms of our over-all asset and liability position, an approximate offset between added contingent and deferred liabilities and the increased value of our gold and capital subscriptions.

"Reason for Indefinite Appropriation

"The appropriation request does not contain a specific sum for the total amount of maintenance of value. It is difficult to state a specific sum since the maintenance of value obligation changes depending upon the amount of dollars which the international institutions have on hand at a particular time. In the International Monetary Fund there are drawings of dollars and repayment of dollars and in the other institutions dollars are continuously being drawn down. However, it is expected that maintenance of value will amount to no more than $1.6 billion."

Mr. BOW. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, it is hard to believe this legislation is brought here today for serious consideration because we are not going to do anything for the citizens of this country whose dollars were equally devalued and shrunk by the action that was taken the other day.

A group was in my office yesterday in behalf of securing the release of $107 million that have been impounded or reserved by the administration for several months. Their dollars, the $107 million, are affected by the 8.57 percent devaluation just as much as the dollars in the International Monetary Fund and the World Bank and every other international lending institution.

But you who are sponsoring this legislation have no legislation today nor will you have tomorrow to take care of the shortfall that these people are suffering as well as every citizen of this country. There is an 8½-percent shortfall in every one of their dollars, too.

By the act of increasing the price of gold from $35 to $38 an ounce you who voted for it devalued every citizen's dollars in this country by 8.5 percent. And yet the only people you are going to give consideration to today, tomorrow or for the rest of this session of Congress are the international lending institutions.

Some of those so-called banks make 50-year loans with a 10-year grace period. The borrowers pay nothing on the principal or any interest whatever for 10 years. The borrowers make a small payment in the second 10 years and perhaps 1 or 2 or 3 percent for the next 30 years. Of course, the loans will never be paid, but that is another story. On some of these so-called loans there is a 1-percent carrying charge throughout the 40- or 50-year period, and no other interest charge. Yet you are going to bail these people out by sinking another $1.6 billion into these international lending institutions.

I just cannot believe you are serious in bringing a bill like this before the House that so baldly discriminates against the citizens of this country.

Mr. MAHON. Will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman.

Mr. MAHON. Of course, there were no official articles of agreement covering the devaluation of the dollar in this country. The $107 million which has been impounded by the Government that was appropriated for the REA program, is worth less not because of the devaluation provisions in the legislation we passed but as a result of inflation, contributed to greatly by the fact that the Federal Government has been spending far beyond the revenues in hand or in sight.

Inflation has devalued the dollar in this country. There is no doubt about it. I know of no way, though, to help our people in this respect except for everybody to use restraint and discretion in managing our affairs.

We have agreed solemnly with other nations of the world that if our dollar is devalued, our contribution to these international institutions—whether good or bad—will be met. This is a commitment of the Government. We have agreed, in case of devaluation, to make up the difference just as other countries have when they devalued their currency. It is not a very happy thing. In fact, it is a very disquieting and discomforting thing.

I just hope that we do not have to devalue the dollar again. But if this country does not do a better job in managing our fiscal and economic affairs, I am sure the gentleman from Iowa will agree that we could be faced with this problem again.

Mr. GROSS. Does not the Constitution of the United States say that the Congress shall provide for the coinage of money and the regulation thereof, and does not the gentleman think implicit in that is the obligation and responsibility on the part of the Congress to protect the integrity of the people's money of this country?

Mr. MAHON. I could not agree with the gentleman more.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. MAHON. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. GROSS. I thank the gentleman. The gentleman's answer is, "Yes, of course" it is the obligation and responsibility of the Congress of the United States, but we are not doing it, are we? Congress is perfectly willing to devalue our citizens' dollars by 8.5 percent but then provide for the expenditure of $1.6 billion to restore the value of American dollars dished out abroad in order to save international lending institutions. This is sad. It is more than sad. It is tragic, and an outrage.

Mr. BOW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I recognize the fact that this is a very controversial and difficult bill or resolution to bring to the floor of the House.

However, Mr. Chairman, I believe that we have an obligation to the House and to the country to do this. I had hoped that we would not have to do it.

If, over the years, we had been more frugal and had followed some of the advice of the distinguished chairman of this committee and the gentleman from Iowa and others, including myself, we would not have found ourselves in the position of having to meet this crisis.

But, I might say to you that I feel we are under an obligation to appropriate this fund.

As our report shows, there is not going to be a great effect on the budget. In a way, it will have an effect on the budget on 1973, 1974, and 1975, but what we must consider—and I think this is important—is that the Congress of the United States did by its own actions enter into the International Monetary Fund, into the International Bank for Construction, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank.

This was done by acts of Congress in which the Congress of the United States having control, as the gentleman from Iowa has suggested, did enact the law.

Now, all those laws that were enacted—and I say this goes back to 1945 in most instances, up to the Asian Bank Act in 1966—all were enacted by the Congress and signed by the President and became public law.

In each one of them there is a provision that whenever the par value of a country's currency is reduced, then that country shall pay into the Fund additional funds.

In other words, if other countries that are members of the Fund devalue, they are required to pay into the Fund, and we are committed by acts of Congress to pay into the Fund.

Now, may I suggest that it is nothing new for countries to have to pay in because of devaluation. I would like to call your attention to the fact that a number of countries, throughout the world, who are members of these organizations, have already, because of devaluation, paid in their share. And they did it immediately, as the law provides, in some 200 occasions.

Let me point out some of them. Afganistan. They did not pay in 8.5 percent; they paid in 125 percent. There are a large number of these countries, countries who cannot well afford to have to make such payments. In one instance one country, Brazil, for instance, paid 28,000 percent back into this Fund.

As I say, some 200 countries have made payments into this Fund.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to agree with the gentleman from Ohio, the distinguished ranking member of the Committee on Appropriations, that we have an obligation arising out of the devaluation that we have previously approved. I would like to ask the gentleman from Ohio, out of his great experience and knowledge in this field,

whether there are any other obligations that will have to be met by reason of the devaluation in the same sense that this bill obligates us?

Mr. BOW. There may be. That same question came up, and the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON) replied, as I shall have to reply, that he did not know of any. I think there may have been one that I know about which may have been in the supplemental, but I am not sure. But as I say, I cannot answer the gentleman's question completely.

Mr. CONABLE. To the best of the gentleman's knowledge, though, the problem has arisen only in the area of multilateral assistance?

Mr. BOW. The multilateral banks are the ones that we find, and they are all that I know about, because of the laws passed by the Congress in 1945, 1959, and in 1966, where we agreed that whenever the par value of a member's currency is reduced, or the foreign exchange rate on any of a member's currency has depreciated, then they make the payment, and it does not say that they can delay it, but that if we are called upon we shall when that event takes place.

Now, the Congress on March 31 did devaluate, which automatically brings into effect the provisions of these former laws requiring us to make these contributions.

Mr. CONABLE. I want to pay particular tribute to the knowledge the gentleman has in this field, and the vast experience that he has developed in his long years of service to the Congress, and to express some confidence that if there were other bills of this sort likely to come up in the immediate future that he would know of them.

Mr. BOW. I would hope that I would.

Mr. CONABLE. I know that the gentleman has been a very diligent member of the Committee on Appropriations, and therefore I would assume that this is the only time we will be called upon to meet this kind of an obligation.

Mr. BOW. This kind of an obligation. And I am also advised by the Treasury and others that I have confidence in that possibly none of this fund actually will be used, except possibly in 1973, 1974, and 1975, will ever be called for out of the Treasury, so that there will not be a great impact upon the funds.

I have indicated my strong support for this House resolution relating to the President's urgent request for this $1.6 million. This is to maintain in terms of gold the holdings of U.S. dollars in various international financial institutions of which the United States is a member.

This action is necessary as the final legislative step in an action previously authorized by this House. Now the House has made it necessary for us to bring this bill to you by their action.

Let me point this out, if I may, and if I may have the attention of the gentleman from Florida who I am sure is interested in these matters, and the gentleman from Indiana, who have worked so hard on this over the years.

This House by its action on March 21 by a vote of 342 to 43 enacted the devaluation clause which automatically put into effect the laws I have referred to passed earlier by Congresses in 1945, 1959, and 1966 which require us to make up these deficits.

This is the reason we are here today. I am sure the gentleman from Texas and the gentleman from Ohio wish we were not here. But we have an obligation to fulfill the responsibilities of the House of Representatives and of the Congress of the United States and of our country where they have made a definite commitment—and we have to do it.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman.

Mr. GROSS. I wonder how many of those 343 Members who voted for that——

Mr. BOW. That is 342 Members.

Mr. GROSS. Well then, 342.

Mr. BOW. I do not want you to increase the vote by one more.

Mr. GROSS. I wonder how many of those 342 Members who voted understood at that time that they were going to be confronted with a situation like this?

Mr. BOW. I am quite sure that in the debate at that time the question was raised that we were going to have to bring in a bill to take care of the multilateral programs.

Mr. GROSS. If the gentleman will read the debate this subject was given the "once over very lightly" treatment.

Mr. BOW. I am surprised, the gentleman from Iowa being here on the floor at the time—I am surprised that anything of that kind could have been gone over very lightly.

In this connection, I think there are some basic considerations which the Members of the House should keep in mind in considering this request.

In the first place, we are being asked to do nothing more than to follow through on the obligations that we have assumed in the laws of the past which I have referred to.

There are good and sound reasons behind this that I have referred to. The laws that were passed in the past. They are designed to assure that the contributions of all members are maintained. I say all members. They have made their contributions.

This is just the first devaluation. But some of them, many times in large percentages have already paid theirs in. I think it is very important that we keep our share.

Another thing we must remember is that we have certain voting rights in this multilateral organization. In order to maintain our voting rights to help keep a tight rein, if we do not pay in, if we lose some of those voting rights in these organizations—I might point out in passing there have been over 200 cases where other nations have devalued or paid in.

Now it has been indicated and this is a rough one to look at—an appropriation of $1.6 million is required.

I think it should be considered also that the net budgetary effect is far less than that figure indicates—and this is important. In addition to this, the figure does not reflect the fact that there is a subsantial increase in assets.

Now, if I may have your attention on this increase, I think it is something you should consider. I particularly note with respect to the budgetary impact of this appropriations request, the increase in the dollar value of our gold—of our gold holdings as a result of the devaluation of the dollar. This involves a direct writeup of some $828 million.

In other words, there is an increase in our value of gold because of deflation in the amount of $828 million against gold certificates which may be issued by the Federal Reserve Bank. Under the unified budgetary accounting concept this increase in value is not considered a budgetary item. However, it represents a significant cash gain, and it will reduce the Treasury's borrowing needs with a consequent savings on interest cost, and savings will approximate ultimately the budgetary outlays which may occur.

In addition, there is, as I have said, no budgetary expenditure, because under our Treasury practices, transactions of the IMF are treated as exchange of assets. Furthermore, our drawing rights in the IMF are increased by $575 million, resulting in a net increase of our assets there of $50 million.

Mr. Chairman, I have tried to outline why, in my opinion, the House has a responsibility here—because of previous laws passed, because the law provides we shall pay in these funds, because the House, as recently as March 31, devaluated, and it is my opinion that we would be doing an irresponsible thing, we would be defeating the purposes for which Congress has acted in the past, if we did not approve this appropriation.

Mr. Chairman, I wish to express my strong support for the special House joint resolution relating to the President's urgent request for an appropriation of approximately $1.6 billion to maintain the value, in terms of gold, of the holdings of U.S. dollars in the various international financial institutions of which the United States is a member.

This action is necessary as the final legislative step in the devaluation of the dollar—an action previously authorized by this House on March 21 by a vote of 342 to 43.

In this connection, I think there are some basic considerations which the Members of this House should keep in mind when considering this request.

In the first place, we are being asked to do nothing more than follow through on obligations which we have assumed in the past. When we adopted the respective articles of agreement of the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank, we adopted the respective maintenance of value provisions contained in each of these agreements. In general, these provisions require that when any member country devalues its currency, that country must pay an additional amount of its own currency to maintain the value, in terms of gold, of its contributions to the institution.

There are good, sound reasons behind these provisions. They are designed to assure that the contributions of all mem-

bers are maintained in value in relation to each other despite changes in exchange rates. In the past, these provisions have worked in favor of the United States by assuring that other countries who have devalued have not diminished the value of their contributions. This prevents the underlying principle of burden-sharing from being diminished by changes in exchanges rates. It also assures, now that we have agreed to devalue, that our share in the assets and voting rights in these institutions will not be impaired.

Since this is the first time the dollar has been devalued, this is obviously the first time the United States has been called upon to fulfill its obligation to maintain the dollar value of its contributions to these institutions. By no means, however, is this the first time that these respective maintenance of value obligations have come into play. There have, in the past, been over 200 official exchange rate changes in the International Monetary Fund. In each case, the country concerned has fulfilled its maintenance of value obligations in the international financial institutions to which they belonged. More importantly, most countries, especially the large industrial countries, have fulfilled these obligations promptly.

Mr. Chairman, I do not think it is necessary for me to belabor the point at this time that the actions taken by President Nixon on August 15 reflected, to a great extent, the need to define anew the position of the United States in a substantially changing world economic order. We have been, and will continue to be, engaged in difficult monetary negotiations with our trading partners throughout the world. The outcome of these negotiations will have a direct bearing on the future of this country as a viable and respected world competitor. At a time when we are doing all we can to encourage and insist that the other leading nations of the world live up to their obligations and undertake fair and even-handed practices in their international relationships, I think the importance of the United States fulfilling its own obligation, such as these now under consideration, speaks for itself.

Mr. Chairman, in considering the mechanics of our maintenance of value obligations, the numbers involved may be somewhat misleading unless considered in context.

Roughly $1.6 billion in appropriations is required, but the net budgetary effect is far less than that figure indicates. In addition, this figure does not reflect the fact that there are substantial increases in assets to offset the appropriations requested.

Of particular note, with respect to the budgetary impact of this appropriations request, is the increase in the dollar value of our gold holdings as a result of the devaluation of the dollar. This involves a direct writeup of some $828 million, against which gold certificates may be issued to the Federal Reserve banks. Under unified budgetary accounting concepts, this increase in value is not considered a budgetary receipt. However, it represents a significant gain in that it will reduce the Treasury's borrowing needs, with consequent savings on interest costs and these savings will approximate the ultimate budgetary outlays that will occur under this appropriation.

We are concerned with three different kinds of maintenance of value obligations. These obligations result: First, from our participation in the International Monetary Fund; second, from U.S. subscriptions in the callable capital of the international development banks; and third, from the U.S. subscriptions in the paid-in capital of these institutions.

Our obligation to maintain the value of the dollar portion of our International Monetary Fund subscription requires the issuance of letters of credit to the Fund totaling approximately $525 million. In order to issue these letters of credit, an appropriation is needed.

However, this action does not result in any budgetary expenditure, because under our budget practices transactions with the IMF are treated as exchanges of assets. Furthermore, our drawing rights at the IMF are increased by $575 million, resulting in a net increase in our assets of $50 million.

The maintenance of value liabilities arising from the total amount of our callable capital subscriptions in the World Bank, the Inter-American Development Bank, and the Asian Development Bank total to $663 million.

Callable capital, however, is a highly contingent liability, which serves as security for private market borrowings by these institutions. The subscriptions have never been called in the past and it is highly unlikely that they ever will be. Nevertheless, we must formally commit on these obligations, however, contingent, and this requires appropriations of approximately $663 million.

The only maintenance of value obligations which are even expected to result in actual budgetary outlays are those deriving from our paid-in capital subscriptions to the international development banks. This amount will amount to an estimated $406 million on our paid-in subscriptions.

I want to emphasize, however, that while these increases in our paid-in subscriptions will have a direct budgetary impact, no such impact is anticipated in fiscal years 1972 or 1973. In fact, budgetary outlays on these accounts will not begin until fiscal year 1974, and then will spread out over a 10-year period.

We can see, therefore, Mr. Chairman, that out of an appropriations request of approximately $1.6 billion, only a little over $400 million will actually involve any direct budgetary outlays and these will be spread out over a 10-year period beginning in fiscal year 1974.

I repeat, therefore, Mr. Chairman, that I believe the numbers involved in this appropriations request, and their significance, may be misleading if not put in their proper perspective.

In conclusion, Mr. Chairman, let us not forget the true nature of the business we are engaged in here today. This appropriations request, and the Par Value Modification Act which prompted it, carry out a major part of the U.S. contribution to the first multilaterally negotiated realinement of the world's major currencies. The Smithsonian agreement was hammered out in hard and arduous bargaining. It was designed, in large part, to help resolve certain balance-of-payments problems and to restore stability to foreign exchange markets. It will make American products more attractive in foreign markets and at home expanding job opportunities for American workers and farmers. It will take a few years for the full impact of the realinement to become effective, but over time the increased competitiveness of our economy, if combined with action to combat inflation and stimulate domestic economic growth, will lead to increased sales at home and abroad.

Perhaps more importantly, the Smithsonian agreement provides a framework from which longer term reform of the international monetary system will evolve. A difficult task has been accomplished; an even more difficult task lies ahead. In the interim, the bargain we struck was a fair one. Let us live up to it, in all its aspects, in a manner befiting our role as the leading nation in the world.

U.S. MAINTENANCE OF VALUE OBLIGATIONS

On February 29, 1972, Secretary Connally transmitted to Congress a draft bill to: First, authorize and direct the Secretary of the Treasury to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold; Second, authorize and direct the Secretary of the Treasury to maintain the value in terms of gold of the holdings of the U.S. dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association and the Asia Development Bank to the extent provided for and required by the articles of agreement of these institutions; Third, authorize the appropriation, to remain available until expended, of such amounts as may be necessary to satisfy these maintenance of value obligations; and Fourth, direct that the increase in the value of the gold held by the United States resulting from the change in the par value of the dollar be covered into the Treasury as a miscellaneous receipt.

This bill carries out the U.S. part of the agreement reached at the Smithsonian Institution on a series of interrelated measures designed to help resolve balance-of-payments problems, to restore more settled conditions in the foreign exchange markets, and to provide a framework from which longer-term reform of the international monetary system could evolve. The Smithsonian Agreement included an overall weighted average realinement of approximately 12 percent in the currencies of other industrial countries, excluding Canada, and as a part of this realinement, an agreement by the United States to propose to Congress a devaluation of the dollar. The realinement should have the effect of making American products more attractive in foreign markets and at home. It should expand export opportunities for American industrial and agricultural products and create more jobs for American workers in factories, on farms and in export supporting businesses. It will take a few years for the

effects to be fully felt, but over time the increased competitiveness of our economy, if combined with action to combat inflation and restore domestic economic growth, will lead to increased sales abroad.

This bill, submitted by the administration, passed the Senate on March 1, 1972, by a vote of 38 to 1, and the House on March 21, by a vote of 342 to 43. The President signed the Par Value Modification Act (Public Law 92–268) on March 31, 1972. See annex A.

The maintenance of value obligation which Congress has directed the Secretary of the Treasury to fulfill stems from a provision in the agreements governing each of these institutions providing that each member country that devalues its currency must maintain the value of its contributions as measured by a common yardstick, in this case gold. See annex B. Thus, a country that devalues by 10 percent must add another 10 percent of its currency to the institutions' holdings of its currency. The dollar is to be devalued in terms of gold by 8.57 percent, and thus the dollar holdings of the international financial institutions will have to be increased by 8.57 percent.

The purpose of this requirement is to assure that the contributions of all members are maintained in value in relation to each other despite changes in exchange rates. This provision has worked in favor of the United States by assuring that other countries that have devalued in the past have not diminished the value of their contributions. Thus, the burden-sharing principle is not diminished by currency devaluations. The maintenance-of-value provision also assures that our share in the assets and voting rights in these institutions is not impaired by our devaluation.

All other countries have fulfilled their maintenance-of-value obligations. In total, there have been over 200 par value modifications in the International Monetary Fund and in each case the country concerned has fulfilled its maintenance-of-value obligations in the international financial institutions. See annex C. Moreover, most countries, especially the large industrial countries, have fulfilled these obligations promptly. For example, France devalued in 1957, 1958, and 1969. In the first instance, maintenance of value was made on the date of devaluation; in the second, 2 days after, and, in the third, 3 days after. In the case of the United Kingdom's devaluation in 1967, maintenance of value was made 33 days after and in the case of Canada in 1962, 28 days after.

There are three different kinds of obligations to which maintenance of value applies. These obligations result from: First, participation in the International Monetary Fund; second, the callable capital of the international development banks; and, third, paid-in capital subscriptions to these institutions. See annex D.

INTERNATIONAL MONETARY FUND

Our financial relationships with the International Monetary Fund will result in a $50 million net increase in our assets. First, because the dollar portion of $5,025 million of our Fund subscription is denominated in dollars of a fixed weight and fineness of gold, this subscription will increase in current dollar value by 8.57 percent or $431 million. Against the increased value of this asset, the United States will incur an equal liability derived from the requirement of maintenance of value of the dollar portion of our subscripton in terms of gold. This will result in an exchange of assets, which will involve Treasury issuance of a letter of credit to the Fund in the amount of $431 million.

There will also be an 8.57 percent increase, equal to $144 million, in the United States gold tranche of $1,675 million in the International Monetary Fund. Because this asset represents gold paid to the Fund in partial fulfillment of U.S. subscription obligations, there is no offsetting maintenance of value obligation. However, the increase in value of this asset will be partially offset by the requirement that we maintain the value in terms of gold of a U.S. drawing from the Fund of $1,105 million, resulting in an increased obligation of $94 million. A letter of credit would be issued to the Fund in this amount as part of the normal process of issuing such letters of credit in connection with U.S. drawings.

Thus, in the Fund, as a result of the change in the par value of the dollar, the total increase in assets equals $575 million and the increase in liabilities amounts to $525 million. The $525 million in letters of credit that are to be issued to the Fund will not result in budgetary expenditures even when drawn upon, since transactions with the Fund represent exchanges of assets that are outside the budget. However, in order to issue these letters of credit an appropriation of approximately $525 million will be requested. The amount of appropriation to be requested can only be approximate since the exact amount of the Fund's holdings of dollars will vary by small amounts from day to day and the exact amount of the letters of credit to be issued to the Fund can only be determined as of the day when the U.S. par value is formally modified.

CALLABLE CAPITAL

In the World Bank, the Inter-American Development Bank, IDB, and the Asian Development Bank, ADB, our subscription of callable or "guarantee" capital is denominated in dollars of a fixed weight and fineness, and the change in the par value of the dollar will mean an increase of 8.57 percent in our callable capital obligation. The callable capital in the World Bank is $5,715 million, in the IDB it is $1,370 million, and in the ADB it is $100 million. The total increase in the current dollar amount of these callable capital subscriptions, plus those authorized by Congress but not yet subscribed, amounts to $663 million.

This callable capital is a highly contingent liability. It has never been called in the past and it is highly unlikely that these subscriptions will be called in the future, considering the size of already existing callable capital and the reserves which the international banks have built up. Therefore, no budgetary impact is anticipated. Nevertheless, funds must be available to meet these obligations if they are ever called, and an appropriation of $663 million will be requested.

PAID-IN SUBSCRIPTIONS

There is a substantial maintenance of value obligation with respect to the paid-in subscriptions to the development lending institutions—the multilateral banks mentioned above, plus the International Development Association. This will amount to an estimated $406 million on paid-in subscriptions, both those previously authorized and appropriated and those recently authorized but not yet appropriated; maintenance of value to be made, of course, only when and to the extent appropriations are enacted. The maintenance of value paid-in capital obligation in the World Bank is $51 million; in the Inter-American Development Bank $224 million; in the Asian Development Bank $9 million; and in the International Development Association $122 million. Only these obligations are expected to result eventually in budgetary outlays. The total obligation can only be definitely determined on the basis of dollar holdings as of the day on which the par value is changed and is therefore subject to some adjustment. In particular, the IDB is studying the appropriate application of maintenance of value to the pending subscription of $1 billion to the Fund for Special Operations.

The maintenance-of-value obligation on the paid-in subscriptions would be paid in the form of letters of credit, and an appropriation of $406 million will be sought as the basis for issuing these letters of credit. However, the letters of credit would be drawn down only after a period of several years as the development lending institutions need the funds for disbursements. No disbursements of these funds, and therefore no budgetary impact, is anticipated in fiscal years 1972 or 1973. It is expected that drawdowns of somewhat less than $350 million would be fairly evenly spread over fiscal years 1974–1976. Subsequently, the remaining drawdowns are expected in the fiscal years 1977 to 1986 as certain dollar loans of the World Bank and the IDB mature.

INCREASES IN ASSETS

Offsetting these increases in liabilities resulting from maintenance of value are increases in certain of our international reserve assets.

With respect to liquid assets, there is an increase of $828 million in the value of U.S. gold holdings; an increase of $155 million in U.S. holdings of special drawing rights; an increase of $144 million in the U.S. gold tranche in the International Monetary Fund; and, finally, an increase of $27 million in the value of U.S. foreign exchange holdings.[1] These increments in value total $1.1 billion.

The increment in value of gold will result in a direct cash inflow into the Treasury of $828 million as gold certificates equivalent to the increase in gold

[1] In addition to these adjustments in assets and liabilities, net losses on certain operational foreign exchange accounts, including both so-called swaps and foreign currency borrowing, maintained by the Exchange Stabilization Fund and the Federal Reserve will be absorbed by those institutions. These losses are presently estimated at about $145 million for the ESF and under $200 million for the Federal Reserve. These losses do not require appropriations.

value are issued to Federal Reserve banks. However, under unified budgetary accounting concepts, this increment in value will not be considered a budgetary receipt.

BUDGETARY IMPACT

The $525 million in letters of credit that are to be issued to the Fund will not result in budgetary expenditures even when drawn upon since transactions with the Fund represent exchanges of assets that are outside the budget.

The callable capital has never been called in the past and it is highly unlikely that it will be called in the future. It represents a remote contingent liability and is without budgetary or cash impact until it is actually called.

The maintenance of value on the $406 million of paid-in subscriptions will have eventual budgetary impact. However, this amount will be paid in the form of letters of credit and these letters of credit will have a cash impact only as they are drawn down.

No disbursements on these letters of credit, and therefore no budget impact, is anticipated in the fiscal years 1972 or 1973. It is expected that drawdown of somewhat less than $300 million will be fairly evenly spread over fiscal years 1974–76. Susbequently, the remaining drawdowns are expected in the fiscal years 1977 to 1986, as certain dollar loans of the World Bank and the IDB mature.

OVERALL IMPACT

The overall effect of both maintenance of value and the increases in the value of assets will be as follows:

In terms of its effects on Treasury cash, to increase our resources, through the writeup of our gold holdings.

In terms of budgetary expenditures, a probable rough balance between savings on interest expense—as a result of the added cash resources of the Treasury—and the additional paid-in capital subscription to the international development institutions.

In terms of our overall asset and liability position, an approximate offset between added contingent and deferred liabilities and the increased value of our gold and capital subscriptions.

REASON FOR INDEFINITE APPROPRIATION

The appropriation request does not contain a specific sum for the total amount of maintenance of value. It is difficult to state a specific sum since the maintenance of value obligation changes depending upon the amount of dollars which the international institutions have on hand at a particular time. In the International Monetary Fund there are drawings of dollars and repayment of dollars and in the other institutions dollars are continuously being drawn down. However, it is expected that maintenance of value will amount to no more than $1.6 billion.

Mr. Chairman, I submit additional material:

ANNEX A

PUBLIC LAW 92–268, 92D CONGRESS, S. 3160, MARCH 31, 1972

An act to provide for a modification in the par value of the dollar, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Par Value Modification Act".

SEC. 2. The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold. When established such par value shall be the legal standard for defining the relationship of the dollar to gold for the purpose of issuing gold certificates pursuant to section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).

SEC. 3. The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

SEC. 4. The increase in the value of the gold held by the United States (including the gold held as security for gold certificates) resulting from the change in the par value of the dollar authorized by section 2 of this Act shall be covered into the Treasury as a miscellaneous receipt.

Approved March 31, 1972.

ANNEX B

INTERNATIONAL MONETARY FUND—ARTICLE IV

Section 8. Maintenance of gold value of the Fund's assets

(*a*) The gold value of the Fund's assets shall be maintained notwithstanding changes in the par or foreign exchange value of the currency of any member.

(*b*) Whenever (i) the par value of a member's currency is reduced, or (ii) the foreign exchange value of a member's currency has, in the opinion of the Fund, depreciated to a significant extent within that member's territories, the member shall pay to the Fund within a reasonable time an amount of its own currency equal to the reduction in the gold value of its currency held by the Fund.

(*c*) Whenever the par value of a member's currency is increased, the Fund shall return to such member within a reasonable time an amount in its currency equal to the increase in the gold value of its currency held by the Fund.

(*d*) The provisions of this Section shall apply to a uniform proportionate change in the par values of the currencies of all members unless at the time when such a change is made the Fund decides otherwise by an eighty-five percent majority of the total voting power.

Act of July 31, 1945, P.L. 171, 59 Stat. 512, as amended.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT—ARTICLE II

Section 9, Maintenance of value certain currency holdings of the Bank

(a) Whenever (i) the par value of a member's currency is reduced, or (ii) the foreign exchange value of a member's currency has, in the opinion of the Bank, depreciated to a significant extent within that member's territories, the member shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value, as of the time of initial subscription, of the amount of currency of such member which is held by the Bank and derived from currency originally paid in to the Bank by the member under Article II, Section 7(i), from currency referred to in Article IV, Section 2(b), or from any additional currency furnished under the provisions of the present paragraph, and which has not been repurchased by the member for gold or for the currency of any member which is acceptable to the Bank.

(b) Whenever the par value of a member's currency is increased, the Bank shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency described in (a) above.

(c) The provisions of the preceding paragraphs may be waived by the Bank when a uniform proportionate change in the par values of the currencies of all its members is made by the International Monetary Fund.

Act of July 31, 1945, P.L. 171, 59 Stat. 512, as amended.

INTER-AMERICAN DEVELOPMENT BANK—ARTICLE V

Section 3. Maintenance of value of the currency holdings of the Bank

(a) Whenever the par value in the International Monetary Fund of a member's currency is reduced or the foreign exchange value of a member's currency has, in the opinion of the Bank, depreciated to a significant extent, the member shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value of all the currency of the member held by the Bank in its ordinary capital resources, or in the resources of the Fund, excepting currency derived from borrowings by the Bank. The standard of value for this purpose shall be the United States dollar of the weight and fineness in effect on January 1, 1959.

(b) Whenever the par value in the International Monetary Fund of a member's currency is increased or the foreign exchange value of such member's currency has, in the opinion of the Bank, appreciated to a significant extent, the Bank shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency which is held by the Bank in its ordinary capital resources or in the resources of the Fund, excepting currency derived from borrowings by the Bank. The standard of value for this purpose shall be the same as that established in the preceding paragraph.

(c) The provisions of this section may be waived by the Bank when a uniform proportionate change in the par value of the currencies of all the Bank's members is made by the International Monetary Fund.

Act of August 7, 1959, P.L. 86–147, 73 Stat. 299, as amended.

INTERNATIONAL DEVELOPMENT ASSOCIATION—ARTICLE IV

Section 2. Maintenance of value of currency holdings

(a) Whenever the par value of a member's currency is reduced or the foreign exchange value of a member's currency has, in the opinion of the Association, depreciated to a significant extent with that member's territories, the member shall pay to the Association within a reasonable time an additional amount of its own current sufficient to maintain the value, as of the time of subscription, of the amount of the currency of such member paid into the Association by the member under Article II, Section 2(d), and currency furnished under the provisions of the present paragraph, whether or not such currency is held in the form of notes accepted pursuant to Article II, Section 2(e), provided, however, that the foregoing shall apply only so long as and to the extent that such currency shall to have been initially disbursed or exchanged for the currency of another member.

(b) Whenever the par value of a member's currency is increased or the foreign exchange value of a member's currency has, in the opinion of the Association, appreciated to a significant extent within that member's territories, the Association shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of

such currency to which the provisions of paragraph (a) of this Section are applicable.

(c) The provisions of the preceding paragraphs may be waived by the Association when a uniform proportionate change in the part value of the currencies of all its members is made by the International Monetary Fund.

(d) Amounts furnished under the provisions of paragraph (a) of this Section to maintain the value of any currency shall be convertible and usable to the same extent as such currency.

Act of June 30, 1960, P.L. 86–565, 74 Stat. 293, as amended.

ASIAN DEVELOPMENT BANK—CHAPTER V

Article 25. Maintenance of value of the currency holdings of the bank

1. Whenever (a) the par value in the International Monetary Fund of the currency of a member is reduced in terms of the dollar defined in Article 4 of this Agreement, or (b) in the opinion of the Bank, after consultation with the International Monetary Fund, the foreign exchange value of a member's currency has depreciated to a significant extent, that member shall pay to the Bank within a reasonable time an additional amount of its currency required to maintain the value of all such currency held by the Bank, excepting (a) currency derived by the Bank from its borrowings, and (b) unless otherwise provided in the agreement establishing such Funds, Special Funds resources accepted by the Bank under paragraph 1(ii) of Article 19.

2. Whenever (a) the par value in the International Monetary Fund of the currency of a member is increased in terms of the said dollar, or (b) in the opinion of the Bank, after consultation with the International Monetary Fund, the foreign exchange value of a member's currency has appreciated to a significant extent, the Bank shall pay to that member within a reasonable time an amount of that currency required to adjust the value of all such currency held by the Bank excepting (a) currency derived by the Bank from its borrowings, and (b) unless otherwise provided in the agreement establishing such Funds, Special Funds, resources accepted by the Bank under a paragraph 1(ii) of Article 19.

3. The Bank may waive the provisions of this Article when a uniform proportionate change in the par value of the currencies of all its members takes place.

Act of March 16, 1966, P.L. 89–369, 80 Stat. 73.

ANNEX C, INTERNATIONAL MONETARY FUND, 201 DEVALUATIONS[1] REQUIRING ADDED NATIONAL CURRENCY CONTRIBUTIONS, INVOLVING 64 OUT OF 120 MEMBER COUNTRIES (DECEMBER 1946 THROUGH NOVEMBER 1971)

Countries	Number of instances	Aggregate percentage increase in national currency contributions due to devaluations[2]
Group of Ten:		
Belgium	1	14.1
Canada	[3] 38	.3
France	7	366.3
Netherlands	[4] 5	26.2
United Kingdom	2	67.9
Others:		
Afghanistan	1	125.0
Argentina	5	2,122.2
Australia	1	43.9
Bolivia	4	18,691.7
Brazil	11	28,278.4
Cameroon	1	12.5
Central African Republic	1	12.5
Ceylon	1	25.0
Chad	1	12.5
Chile	19	39,287.1
Colombia	6	957.2
Congo, People's Republic	1	12.5
Costa Rica	1	18.0
Cyprus	1	16.7
Dahomey	1	12.5
Denmark	2	56.3
Ecuador	3	85.2
Egypt	1	43.9
Ethiopia	1	.6
Finland	2	82.6
Gabon	1	12.5
Ghana	1	185.7
Guyana	1	16.7
Iceland	6	1,256.3
India	2	126.7
Indonesia	6	3,540.4
Iran	1	134.9
Iraq	1	43.9
Ireland	1	16.7
Israel	3	133.3
Ivory Coast	1	12.5
Jamaica	2	133.3
Korea	2	410.0
Luxembourg	1	14.1
Malagasy	1	12.5
Malawi	2	133.3
Mali	2	125.0
Mauritania	1	12.5
Mexico	2	157.5
Nepal	1	32.9
New Zealand	2	148.3
Nicaragua	1	40.0
Niger	1	12.5
Norway	1	43.9
Pakistan	1	43.9
Paraguay	7	3,977.7
Peru	[5] 16	312.5
Philippines	1	95.0
Sierra Leone	1	16.7
South Africa	1	43.9
Spain	1	16.7
Trinidad and Tobago	1	16.7
Tunisia	1	25.0
Turkey	2	435.7
Upper Volta	1	12.5
Venezuela	1	33.9
Vietnam	1	128.6
Yugoslavia	4	2,900.0
Zaire	1	233.3

[1] Include both formal changes in parity and changes in foreign exchange value determined by IMF.

[2] Percentage figures have been determined after eliminating effects which in a few cases would have been produced by introduction of a new monetary unit, exchanged for the old on the basis of 1 per 100 or 1 per 1,000, without change in the effective exchange rate. Figures in this column are comparable to the proposed 8.57 percent increase in contributions for the United States.

[3] Of which 36 instances involved valuing IMF holdings and transactions at market rates during periods of floating.

[4] Of which 4 instances involved valuing IMF holdings and transactions at market rates during periods of floating.

[5] Of which 14 instances involved valuing IMF holdings and transactions at market rates during periods of floating.

Source: International Monetary Fund.

ANNEX D

U.S. maintenance of value obligations

[In millions of dollars]

INTERNATIONAL MONETARY FUND	
Additional letters of credit will be issued in the following amounts representing the 8.57% increase in:	
(a) amount of U.S. dollar subscription (¾ of quota)	431
(b) outstanding drawings by U.S.	94
Total	525
INTERNATIONAL DEVELOPMENT LENDING INSTITUTIONS	
Callable:	
IBRD	509
IDB	146
ADB	9
Total	663
To be paid in:	
IBRD	51
IDA	122
IDB	224
ADB	9
Total	406
Grand total	1,069

Mr. RANDALL. Mr. Chairman, after listening to some of the comments, I quickly reached the conclusion that I could not support House Joint Resolution 1174.

I was impressed by the comments of the gentleman from Texas (Mr. GONZALEZ), who said there had been a doubt in his mind whether or not the 8-percent devaluation was good for this Nation and the implied promise that the devaluation would produce 500,000 jobs did not materialize. I noted that he said the price of gold had been speculated up to a point where yesterday it was $50.60 an ounce. If the figure is correct, then his conclusion was equally accurate when he predicted that when the London and Swiss bankers get through with the United States we will find that we have lost money a lot quicker with these bankers than we were spending it in Vietnam.

Quite a point has been made as to how much emphasis was placed on the cost or necessity for an appropriation of $1.6 billion at the time we debated the devaluation authorization bill back on March 21 of this year. Perhaps the strong vote of 342 to 43 can now be explained, because there was little or no reference at that time to the necessity for an appropriation of the size that is being asked for today. Bear in mind this $1.6 billion may be only the first installment, because it refers to an appropriation for special payments to international financial institutions for the fiscal year 1972, the end of which on June 30, is not too far away.

The chairman of our Appropriations Committee said on the floor today that the matter was very clearly explained on page 9 of the report of the Committee on Banking and Currency. He is right on that point so far as the International Monetary Fund is concerned, although the gentleman from Texas (Mr. GONZALEZ) is quite correct when he says there is not much emphasis in the debate on the authorization bill, and the Committee on Banking and Currency preferred to be rather quiet or remain rather silent about the necessity for an appropriation such as is being asked for today.

Now I suppose there is an obligation to maintain the value of gold holdings of the U.S. dollars by the International Monetary Fund but we should stop there. Why is the International Bank for Reconstruction and Development included? I note also included is the Inter-American Development Bank, but listen to this. They have the IDA in there, or the International Development Association, and for good measure add the Asian Development Bank. If we are required to maintain our dollar in the International Monetary Fund then surely we should not go to the lengths of House Joint Resolution 1174 to support all these other agencies which so freely dispense U.S. dollars all over the world. If we are really and truly in as serious shape as we are told in the area of adverse balance of payments and trade deficits then surely the time has come if not to suspend then to slow down such operations as IDA, the Inter-American Development Bank, and the Asian Development Bank.

Mr. Chairman, we were not told about all of this at the time of the devaluation authorization. Perhaps I should say we were not told all about it, but only just a little about it. If this resolution is not approved, another one can be brought out of the Appropriations Committee reduced in amount and omitting the support for such agencies as IDA, the Inter-American Development Bank, and the Asian Development Bank. Or would such a modified resolution so sorely disappoint the international bankers that we dare not follow such a course?

Mr. RARICK. Mr. Chairman, the legislation to appropriate for supplemental payments to international financial institutions certainly proves there can be nothing to give away that is not first taken away.

We now learn that our people are being charged $1,600,000,000 because their President and this Congress devalued their money by 8.57 percent. Again, the internationalists and our foreign friends who love us for all our charity and gifts are intended to be the recipients of this latest take away from the American people.

Why do the people who create all the wealth always end up owing all the debt?

Why do all the bankers who create all the debt always end up owning all the wealth?

It can well be said that this is another tax against our people, a tax for wanting to help—the desire to upgrade other nations by the use of our own foreign aid money.

I say to my fellow colleague from Iowa (Mr. GROSS) that I think I speak with confidence when I say that my people in Louisiana not only want nothing to do with the international banker featherbedding of this bill, but also that they have long grown disillusioned at the entire foreign aid fiasco. The idea that we continue to bankrupt our people and our country to help nonappreciative foreigners has grown threadbare.

The people are looking beyond the ribbons and window dressings, the fancy rhetoric and the nonending promises, and they do not like what they see. Bankruptcy is a disaster to any individual, but the contemplation of what bankruptcy would be to a country like ours is an indescribable horror.

I do not understand how a President of the United States could ever have been induced to make such recommendations in the first place, nor do I understand how any Member who is concerned with his country and the representation of the wants and needs of his people could vote for such a bill.

I represent Americans and my duty is to them, not to international banks nor foreign interests. I plan to vote no.

Mr. BOW. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1972, namely:

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

SPECIAL PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS

For payments by the Secretary of the Treasury to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank, to the extent provided in the articles of agreement of such institutions, as authorized by section 3 of the Par Value Modification Act (Public Law 92–268), such amounts as may be necessary (but not to exceed $1,600,000,000), to remain available until expended.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT: Page 2, line 14, strike out "$1,600,000,000" and insert in lieu thereof "$1,194,000,000".

Mr. ROUSSELOT. Mr. Chairman, I offer this particular amendment to basically followup on what is stated in the report itself as to the basis of what is actually needed. On page 5 of the report on the legislation before us; that is, "Supplemental Appropriation for Special Payments to International Financial Institutions," the following statement is made:

The maintenance of value obligation on the paid-in subscriptions will be paid in the form of letters of credit. However, the letters of credit would be drawn down only after a period of several years as the development lending institutions need the funds for disbursements.

The next part of the text I think is the most important part, and it relates to the amendment I have offered:

No disbursements of these funds, and therefore no budgetary impact, is anticipated in fiscal year 1972 or 1973. It is expected that draw-downs of somewhat less than $350 million would be fairly evenly spread over fiscal years 1974–1976. Subsequently, the remaining draw-downs are expected in the fiscal years 1977 to 1986 as certain dollar loans of the World Bank and the IDB mature.

Mr. Chairman, on most and on the overwhelming number of domestic programs in this country we demand that the various agencies involved come back to the Congress for appropriated dollars each year, even though there are long-range authorization programs. Why should it be any different for the international banks and organizations?

As my good friend, the gentleman from Ohio (Mr. Bow) has said many times on this floor, that the Appropriations Committee is very responsive to obligations that we have made. But why should the international funds be any different from our regular domestic programs?

I think it is true, as the gentleman from Ohio (Mr. Bow) has said, that the Appropriations Committee is responsive. Then why should these funds not have to come back to the Congress every year just as anybody else does? Why are they any different?

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. In just a minute I will yield, but I have one more point I wish to make, and then I will be glad to yield to the gentleman from Ohio since I have mentioned his name.

More important, we have a constitutional responsibility to appropriate money as it is needed. We are going, some say, $50 billion into debt this year. Why should we place any more obligations on the Treasury than we are already doing, and especially for the international funds that are being used against our best interests all over this world?

I say we should accept our constitutional responsibility and start acting as a good Congress that has the backbone to only obligate only what is needed instead of just yielding every time an international agency comes up here and says, "Give us long-range authority." Let us put our foot down now. The Members have all read the polls that are going on all over this country. Our taxpayers are sick and tired of being put upon constantly to pay taxes and throw their money all over this world, through these international funds that are doing it.

Let us stand up to our constitutional responsibility and say, no, we are not going to back up on our obligations, but as an appropriation body, we intend to review them every year.

Now do not say to me that this amendment is going to gut the bill. It is not going to gut it, and it is not a vote that calls for us to back up on our responsibilities.

Mr. BOW. Mr. Chairman, the gentleman said he would yield to me.

Mr. ROUSSELOT. If you will be kind enough to wait just a minute. I will yield to the gentleman from Ohio.

Let us cut back where we can cut back, because the committee report says so on page 5. They are not going to obligate this $406 million for another 2 or 3 or 4 years. Why not cut it back? That is all my amendment does.

Mr. Chairman, I yield now to my friend, the gentleman from Ohio (Mr. Bow).

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, I yield to my friend, the gentleman from Ohio (Mr. Bow).

Mr. BOW. Mr. Chairman, I am delighted the gentleman has yielded to me and has taken the time to do it. I will say to the gentleman from California the reason it must be done at this time is because the Congresses in the past have enacted laws which say it will be done. I am referring now to the act of 1959, the statute, Public Law 171 of 1945, and the same law on the International Bank of August 7, 1959, and June 30, 1960, and again in 1966, wherein the Congress has committed itself to these organizations, that upon revelation it will make these contributions.

Mr. ROUSSELOT. Mr. Chairman, to my good friend, the gentleman from Ohio (Mr. Bow) I will say that is exactly what I am saying. We are not backing up on our obligations. On the basis of the report itself, which is before the Members, it

says on page 5 they do not need the amount of money I am amending out of this bill for another 2 or 3 or 4 years.

I have many times supported the gentleman from Ohio when he has come before us as the ranking minority member of the Appropriations Committee and said, let us make sure the agencies, especially the domestic agencies come back to the Congress for appropriations each year. We have never held up the bills. Let us make sure the international banks and associations have to do the same thing. Why should we treat the international agencies differently?

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to my friend from Iowa.

Mr. GROSS. I should like to ask some of these people who are relying upon the law that was ill-advisedly and improvidently enacted what they are going to do when they come to that day—and it is on the way—when they cannot carry out these commitments? What then will they say to the people of this country? What then will they say?

Mr. ROUSSELOT. The gentleman from Iowa makes an excellent point. All we are saying by this amendment is that we reserve this right to review the appropriation each year. We are not "gutting" the whole thing, but only taking out $407 million, which the report itself admits is not needed now for 2 or 3 years.

I urge support of the amendment.

Mr. BOW. Mr. Chairman, I rise in opposition to the amendment.

This is a rather unusual position for me to be in, in opposition to an amendment which seeks to cut, but I do not believe we can cut on this, because we have, as I have tried to point out, given the solemn word of this Congress. It is not just the vote of March 21, but down over the years in respect to these international organizations.

I hold these laws in my hand. They say "We will," on devaluation. And we have insisted that other nations do the same.

Where would we be if other nations at time of devaluation, took the position the gentleman suggests we take, and held back?

I have before me a complete list of those who have had devaluation, some of them not only once but a number of times, and a list of the amounts they paid into these funds because of devaluation, to bring their gold to the right amount. I have mentioned that for some of them it is 20, 30, or 40 times. For some of them it is as much as 39,000 percent. This is 8.5 percent.

I think I shall put this list in the RECORD. It shows the countries that have kept their pledge, kept their word.

Are we here today going to say to Afghanistan, Bolivia, Cameroon, Ceylon, Chad, Chile, Colombia and on down the line, "Although you have kept your word and your bargain the Congress of the United States, although committed by acts of Congress to make these payments, is going to renege." That is exactly what the consideration would be if this amendment were adopted.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman from Iowa.

Mr. GROSS. The gentleman just mentioned Bolivia and so on down the line of other countries. How many of those countries have confiscated American investments?

Mr. BOW. The gentleman can phrase questions of that kind. I can tell him there are a number on here that have.

If the gentleman feels that way about it, I suggest he offer a bill to repeal the laws which put us into these organizations. Repeal them, if you will; but so long as we have them let us keep the word of this country. Let us not do anything to let the world think the United States reneges on its commitments.

If the gentleman will go out and write a bill, and put it in the hopper, to repeal this, then he can make the speeches about how they are making these confiscations.

Mr. GROSS. Will the gentleman support that kind of a bill?

Mr. BOW. If I am around here when it comes to the floor, I can say to the gentleman I will.

Mr. GROSS. On the business of spending billions around the world through the years I have not seen very much support from many Members of Congress for a reduction much less an end to those handouts.

Mr. BOW. I will say to the gentleman I do not know what particular bill he is talking about that he is offering to repeal. I have heard him many times get up and complain, but as long as we have an obligation of our country—and it is an obligation to pay it now and it probably will never go out of the Treasury, but it is an obligation which we have—then I say to you I think it would be a great mistake, with the problems we have in the world today, if this Congress goes on record as reneging on our previous commitments made by the Congress. Again I say, if you want to repeal it, go ahead.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. BOW. Yes. I yield to the gentleman.

Mr. ROUSSELOT. I know that the gentleman does not want to imply that by the passage of this amendment that we would be reneging on our commitment, because even the report says that the amount that is to be amended out will not be used for 2, 3 or 4 years.

Mr. BOW. The gentleman still has not gotten into the record——

Mr. ROUSSELOT. But what is important is that the amount to be reduced is not needed.

Mr. BOW. Just one minute. I do not yield any further to the gentleman.

Mr. ROUSSELOT. Fine.

Mr. BOW. Because I have said it time and time again here on the floor today. Under the laws previously passed by this Congress we are today making up our commitment. It says here that we shall do it. You are talking about 2 or 3 or 4 years from now. This would be reneging on the position of our country under the laws that have been passed. The gentleman may examine them here.

Mr. ROUSSELOT. I have examined them. I am very familiar with them. But I am also familiar with this report.

Mr. BOW. Just one minute. If the gentleman is familiar with the laws and obligations of our country——

Mr. ROUSSELOT. I am.

Mr. BOW. I cannot understand under any circumstances why the gentleman would offer this amendment, then, which would be to the discredit of our Nation in keeping its word and obligation to other nations.

Mr. ROUSSELOT. Because, as I said before, the report which you have helped issue, which you have participated in writing, says that you do not need these letters of credit for 2 or 3 or 4 years.

Mr. BOW. No. It does not say that.

Mr. ROUSSELOT. Yes, it does. On page 5.

Mr. BOW. No.

Mr. ROUSSELOT. On page 5.

Mr. BOW. No. It does not say that. Go ahead and read it.

Mr. ROUSSELOT. I just read it. I am very familiar with the text.

Mr. BOW. It says that it will not become a budget obligation until——

Mr. ROUSSELOT. It says in 1974, 1975, 1978.

Mr. BOW. The gentleman says that the report says we do not need it.

Mr. ROUSSELOT. That is right. The letters of credit.

Mr. BOW. What does the report say? "No disbursement of these funds and therefore no budgetary impact is anticipated," but to meet our commitments under the laws previously passed it is our responsibility to make funds available at this time.

Mr. ROUSSELOT. I appreciate the gentleman reading that portion of his report that I have already read, because I think it substantiates my point.

Mr. BOW. But the gentleman is not reading it properly.

Mr. ROUSSELOT. I believe I am. Therefore I urge support of this amendment on the basis of what he has just said.

Mr. BOW. And the gentleman has done it on my time.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Congress enacted into law a bill which provides for the taking of actions to maintain the value of our dollar in these international institutions. The approximate amount required for that purpose is $1.6 billion. This bill provides that appropriation.

Now, it is true that the bulk of this $1.6 billion is not estimated to be expended and be a charge against the Government from the standpoint of expenditure. The bulk of it is not expected to be actually expended. None of it is expected to show up as an expenditure at an early date. We make no distinction here between so-called callable capital and paid-up subscriptions.

The gentleman is seeking to strike out $406 million which is a part of the $1.6 billion. He has undertaken to strike it out on the ground that it will not be expended at an early date. The point is, however, that the authority to obligate the necessary amounts must be immedi-

ate. We appropriate the funds in order that the authority may be immediately available.

We appropriate funds every year for programs in which the funds are not actually expected to be spent for several years, that is, not actually paid out of of the Treasury. But we grant the authority to enter into the commitment, the obligation to spend at a later date. That is the situation as to the $406 million.

But, they have to be appropriated in accordance with the procedures of Congress and the requirements of the commitments which we make.

So, I see no point at all in striking this amount out of this resolution which the amendment offered by the gentleman from California would do by striking the figure $1.6 billion and inserting $1.194 billion and, therefore, we would have reneged to the extent of $406 million in meeting our commitments to these international funds.

No; the $406 million will not be spent immediately. But it has to be provided for and that is the reason it is contained in this resolution in order that we may fully meet our commitments under the agreements which we have made with the other countries of the world.

So, I would urge that we go ahead and follow through on our commitments which we have made when we devalued the dollar and when we passed the devaluation legislation and have this matter behind us

It is not that the $406 million is expected to be an immediate charge and increase the deficit. The $406 million will, it is estimated, increase our deficit over a period of years if we continue to have deficits, but we do have to meet this obligation and we do have to fulfill the agreements we have made with the other nations.

Mr. Chairman, I trust that this amendment will be voted down.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MAHON. Yes, I yield to the gentleman from California.

Mr. ROUSSELOT. I am sure the distinguished chairman of the committee, with whom I find myself in agreement on most issues, very much supports the report which the committee caused to have printed. It states on page 5 as follows:

> No disbursements of these funds, and therefore no budgetary impact, is anticipated in fiscal year 1972 or 1973.

And, I am sure the gentleman from Texas will agree that the Appropriations Committee is always very responsible in appropriating funds as they are needed. Since his own report says that this total is really not needed now, why since these appropriations are international funds why not trim according to need? We are very much concerned about spreading ourselves too thinly around the world. Why not make it clear by reducing this amount, as the amendment which I have offered proposes to do. Then when it is needed I know that the chairman will come back and ask for that appropriation when it is needed just as any domestic agency has to do.

Why should we treat these international agencies any differently than we treat our own domestic programs?

Mr. MAHON. The gentleman makes a good point with respect to page 5 of the report. However, the gentleman is discussing two different things. There is a difference between obligation and expenditures.

Mr. ROUSSELOT. I understand that.

Mr. MAHON. What is proposed by the committee is that $1.6 billion for obligation authority purposes be provided.

Mr. ROUSSELOT. In letters of credit. That is what we are talking about. This only relates to letters of credit and that is exactly the issue to which my amendment is directed.

Mr. MAHON. Yes; but the obligation will be in the form of letters of credit. However, you have to have the authority to obligate even though the funds will not necessarily be expended in fiscal years 1972 and 1973.

Mr. ROUSSELOT. That is my point.

Mr. MAHON. When we provide the funds, we provide the authority to obligate. That is required in this instance, under our international agreements.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. MAHON was allowed to proceed for 1 additional minute.)

Mr. MAHON. The point is that it is not expected that the $1.2 billion which the gentleman would leave in the bill would be expended. The $406 million for paid-in capital is expected to be spent, but not before 1974, and even then it is estimated to be spent over a period of years.

What the pending resolution does is to enable the Government to live up to our obligation in these multilateral programs. Not that the Government expects to spend all the funds, but the obligational authority must be provided if we are to meet our commitments.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, a question or two have occurred to me in connection with this bill that I hope either the gentleman from Texas or the gentleman from Ohio can answer.

Can the gentleman from Texas tell me what the Treasury has fixed as the par value of the dollar, whether it has so notified the International Monetary Fund, and if so when the International Monetary Fund was notified?

Mr. MAHON. If the gentleman will yield, the par value would be based upon the increase in the price of gold from $35 an ounce to $38 an ounce. Section 2 of the authorization legislation deals with that question. But I would assume that no notification would be made until after the appropriation is made and this Government has taken action to fulfill its commitments. This resolution when enacted would provide the basis for that. That is the best answer I can give to the question.

Mr. GROSS. Yes; the gentleman is I am sure exactly right, that the Treasury, even though gold was revalued, and the dollar devalued, has not formally notified the International Monetary Fund of the par value of the dollar. It has been waiting for this bill to be passed, evidence in my opinion of the fact that the Department is not so sure that Congress may one day wake up and break the shackles that bind us to improvident agreements around the world that are draining the very lifeblood out of this Nation.

Now tell me this, if you will, please: What kind of a contribution does this make to the 60 to 70 billion American dollars that are now floating around the world, and no one seems to know how to get them out of circulation?

What is the answer to this one? You are here about to vote $1.6 billion to be shipped out of this country. Now you tell me whether this will make a contribution to the already staggering $60 to $70 billion that no one knows how to handle? The foreigners do not want all those dollars and we have no way of getting them back that I know of.

No answer to this question?

Well, let me say this to you in answer to the remarks of the gentleman from Ohio about our obligations. Let me say to the gentleman from Ohio that my first obligation in the Congress of the United States is to the people whom I have the honor to represent. When you devalued the dollar you took 8.5 percent out of every dollar I have, and you took that from every constituent in the Third District of Iowa. I stand here today in defense of the people of my district, as well as the State of Iowa, and I hope somebody will speak up for those in Oklahoma and Texas. They are being had here today, and you know it, to the tune of $1.6 billion.

Now you go ahead and vote this business, but I am not going back to the Third District of Iowa and try to tell them, with or without an agreement, that I picked their pockets for 8.5 percent of their dollars the other day, and I am not going to vote to pick their pockets here today for another $1.6 billion to take care of these international lending agencies.

You can do this, and if you do I hope you are collared with it in the campaign this fall.

Mr. HALL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as the colloquy in general debate would show, I had the full intention of offering a similar amendment. In fact, I have in my hand one prepared last evening which would strike line 14 and insert in lieu thereof the words "may be necessary but not to exceed $937 million." This is indeed a coincidence, but in view of the gentleman from California's amendment and known expertise, I shall withhold.

This amendment would be a reduction in keeping with the committee report on page 5 of the entire $633 million to the World Bank, and others of that which was not expected to be called. The amendment before us would reduce the appropriation by $407 million.

All the words and the loud oratory to the contrary notwithstanding, the question here is not keeping full faith and

credit—not bowing to the legislating and authorizing act—not reneging on an obligation or an expenditure—but maintaining the cash-flow in the U.S. Treasury without usurious interest which we are paying to the tune of over $24 billion a year on the public debt at this time, until such time as it is truly needed. This amendment would with full faith and credit of the United States recognize the obligation of Public Law 92–268 as quoted, and it would recognize the necessity of supporting our commitments as made by the Congress and the executive branch, and I can full well understand why we need to do this, in keeping with the actions of other nations and to protect our own monetary exchange.

I am not approaching this from destruction of that point of view at all, but I simply believe it is not necessary at this time to appropriate funds for admittedly extremely unlikely callable capital portions of the authorization.

As the committee, by its diligent effort has noted in its report, this callable capital is a highly contingent liability. It has never been called in the past and it is highly unlikely that this "subscription" or underwriting will be called in the future.

Why take an unneeded $407 million out of our daily cash flow? Why borrow money to meet unneeded commitments? Why pay interest on it when on call in the future we may act immediately, and our Committee on Appropriations can and does act often on call to meet our obligations, which we have already recognized?

Considering the size of the already existing callable capital and the reserves which the international banks have built up, I think we can do no less.

If the need should arise, I repeat, the Congress could be called upon within 48 hours and could appropriate the necessary funds and deposit it in any of the international monetary funds as needed.

Until that time, the funds could and should remain in circulation, they could remain in our Treasury's cash flow. We would then be required to borrow that much less. The annual deficit this year would be that much less, and it would be of great benefit to our national economy, and would head off that much more inflation.

Now, Mr. Chairman, I am addressing myself to the real security of the faith and credit of the United States of America. It has been told to me that these international monetary funds would have to demand the cash or expenditure, if we did not make the appropriation.

Well, pish tosh. I can think of a time rapidly approaching indeed, as the man who has that extremely youthful picture in a magazine that we have seen only recently, has said himself—and I refer to the distinguished gentleman from Texas in a recent issue of Human Events:

The United States government is headed toward fiscal disaster.

The United States government is headed toward the fiscal shoals.

No government, not even the richest on earth, can continue to overspend, or undertax, by multibillions of dollars nearly every year and still not eventually plunge itself into financial disaster.

What I am trying to do is save the solvency, good faith, and credit of the United States and those who foot the bill—not the alleged credit of international lending agencies who would not exist without us in the first place.

Ladies and gentlemen of the Congress and of this committee in particular, that time of fiscal calamity is closer than you think. How many of you are hedging at this time in your personal economy and investments in order to avoid those "fiscal shoals," and another great depression effects which some of us are old enough to recall from the late twenties and early thirties?

I say what we need today is to secure the faith and credit by not overappropriating at this time. This amendment will do the job and I think it should be accepted.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

(Mr. HALL, at the request of Mr. GROSS was granted permission to proceed for 1 minute.)

Mr. GROSS. Mr. Chairman, will the gentleman yield to me to ask a question?

Mr. HALL. I yield to my friend the gentleman from Iowa.

Mr. GROSS. What information do the sponsors of this legislation have with respect to another devaluation next year? Reports are being circulated that within another year there will be another devaluation of the dollar. Did the hearings before the Appropriations Committee develop any information on that subject?

Mr. BOW. None at all.

Mr. GROSS. So we have no information on that subject. No one bothered to find out whether another devaluation was in the offing?

Mr. MAHON. Mr. Chairman, will the gentleman from Missouri yield to me?

Mr. HALL. I yield to the gentleman from Texas.

Mr. MAHON. The gentleman knows that the Committee on Appropriations did not devalue the dollar. The gentleman knows that the Congress did not initiate devaluation of the dollar. The gentleman knows that the dollar was devalued as a result of agreements entered into by the administration and then the Congress was called upon to take action ratifying the devaluation of the dollar, which Congress did in March. This is not the fault of the Committee on Appropriations or the fault of the Congress. As to whether further action may have to be taken toward devaluing the dollar more than it has already been devalued, I do not see how anyone can say at this time.

But I say this, that if we continue to have to borrow as we have this year, $40 billion or so, in order to pay our bills——

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(On request of Mr. MAHON, and by unanimous consent, Mr. HALL was allowed to proceed for 5 additional minutes.)

Mr. HALL. Mr. Chairman, I yield to the gentleman from Texas.

Mr. MAHON. If we continue to overspend and undertax, or at least fail to raise the necessary revenue, of course, I would think there could possibly be a devaluation of the dollar in the future. But we have no way of looking into a crystal ball to determine that. But the Congress can have considerable influence on the question by restraining its spending tendency and by trying harder to live within our revenues.

We cannot balance the budget next year, but we can reverse the trend, possibly, though the projections of the administration are, I feel sure, that the budget deficit for next year may be much higher than originally projected last January.

We are in a very critical fiscal situation, and I regret very much that we were required to bring in this legislation providing the $1.6 billion.

I will say this, that the $1.2 billion which the gentleman from California would leave in the bill is not estimated by the administration to be expended. It is intended only to support our position in accord with the commitments. According to the argument of the gentleman offering the amendment, there is less need for the $1.2 billion he leaves in the bill than the $406 million that he would take out. I am sorry there is apparently some misunderstanding with regard to the matter.

Mr. HALL. I will simply say that in the gentleman's own report there is a quotation on page 2 from Public Law 92–628, the second section, of which the first sentence reads—

SEC. 2. The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold.

This is now signed into law as an Act and is the law of the land. As I remember, the gentleman's Committee on Appropriations brought that proposal on the floor.

Mr. MAHON. If the gentleman will yield, that was a measure reported by the Committee on Banking and Currency.

Mr. HALL. I stand corrected. It was the Committee on Banking and Currency, and the other gentleman from Texas brought it on the floor. I am sorry if I misspoke.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Iowa.

Mr. GROSS. I wonder if the gentleman from Missouri has a crystal ball that is equal to that of the gentleman from Texas. The gentleman from Texas has said that the $1 billion is not going to be expended. Why, then, not give them a slip of paper saying that if sometime in the future they think they need a billion dollars to let us know and we will give it consideration? If they do not need the $1.6 billion, what are you here for with this kind of legislation?

The gentleman from Texas also speaks of restraints. That is exactly what the amendment offered by the gentleman from California purports to do. It provides some restraints on the outflow of $1,600,000,000. He wants to cut it to about $1.1 billion. That is the fiscal restraint he is asking for.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. HALL. I will be glad to yield once more to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, it is true that the billion-plus will not be expended this year and we hope it will never be expended, but it has to be provided in order to meet our commitments to these international funds. The $406 million which the gentleman wants to strike out would, it is estimated, eventually be expended. We can complain about it and regret it, but I do not see how we can do other than meet our commitments.

Mr. HALL. Mr. Chairman, I think we have argued the question of mandate and whether we shall or will do this or that, but those are not the ultimate or timely questions. The question is: When? And the point has been adequately made that under this amendment we recognize the obligation and that we will stand behind it with the good faith and credit of the government until it is needed or called. And the report itself says it is only a "highly contingent liability."

As I said in my opening statement, in support of the amendment offered by the gentleman from California (Mr. ROUSSELOT) my amendment would have reserved the entire $663 million. His strikes only the $407 million. It is a good step in the right direction, toward not increasing our deficit this year.

The distinguished gentleman from the Committee on Banking and Currency knows this is a good place to start. Again I say I think the amendment should be accepted.

Mr. GONZALEZ. Mr. Chairman, I rise only because, first, mention was made two Texans were involved. I want to point out that this Texan was one of those who argued against and voted against the bill that the Committee on Banking and Currency brought out and which this House adopted, as well as the Senate, in effect putting the imprimatur of congressional approval on what the President, in effect, had done on August 14 last year, and this is formally recognizing 8 percent devaluation.

I pointed out at that time, if anybody cares to look at the debate, the reasons why I was impelled to vote no. It was not an easy vote. I happen to be the chairman of the Subcommittee on International Finance, and it looked very unseemly for me to take that position, but I felt there was a clear mandate to be responsible and recognize the full implication of the act we were being asked to pass in giving congressional approval to something that had already been accomplished through Executive fiat.

I pointed out at that time that inevitably we would have to come in with this legislation in order to make up the 8 percent, not only in the proportional amount of the increase of our obligated contribution to these funds, but also the other funds the country finds itself obligated to.

This was the reason I challenged the spokesmen who advocated approval of the 8-percent devaluation when they pictured it as being beneficial, as being good for the Nation, as being something that would produce 500,000 jobs. I said this was not so, and I thought it would be best if the Congress recognized the full implications.

There is no question that at this time what we have done, wittingly or unwittingly, is to play into the hands of the gold speculators of the London and Zurich markets. There is no question about it. It looks as if we will continue to do that.

It is for this reason I have been attempting to get approval of the committee chairman so that the subcommittee can look into this question in a leisurely way and thereby discharge the congressional responsibility, so we do not have to wait and sit here until events catch up with us, until we have no alternatives but to rubberstamp executive actions. I am awaiting that approval from the committee chairman. I hope we can look into the matter, because I think there is a congressional responsibility to evolve and shape policy, because the country is in a bad position. It is not in a good position.

The price of gold has been speculated further just the day before yesterday, to $50 an ounce. It seems to me that inevitably we will have to go through the same motions again, and maybe a great deal quicker than I hope will be the case.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Iowa.

Mr. GROSS. I am glad the gentleman mentioned the almost steady increase in the price of gold. Yesterday it went to $50.60 an ounce. The price of United States gold is $35 an ounce. There is a question that will in the end demand another devaluation of the dollar in the not too distant future unless we do something to correct this situation and take drastic measures now.

Mr. GONZALEZ. The gentleman is right. We can lose the national interest a lot quicker at the money changers' tables in London and Zurich than we can in Vietnam. I want to point that out.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Louisiana.

Mr. PASSMAN. What I am going to say certainly is in the foreign aid area.

I had an anonymous call from someone downtown who said:

> I am connected with the Peace Corps. The budget requested $77 million, and we are going to try to get the committee to raise it to $88 million, so if you cut it $10 million we will still have the full amount of the budget.

I want to put that in the RECORD so that if they try to pull that there will be something to refer to.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Missouri.

Mr. RANDALL. Of course the gentleman was present and on the floor at the time of the authorization on devaluation was considered. Does the gentleman recall whether there was any lengthy discussion at that time for the necessity of an appropriation bill of the size we have here today?

Mr. GONZALEZ. I mentioned that.

Mr. RANDALL. There was not much, if any, talk about an appropriation bill at the time of the authorization?

Mr. GONZALEZ. No.

Mr. RANDALL. Everyone was sort of silent, sort of silent, on appropriations at that time?

Mr. GONZALEZ. There was not much emphasis on anything but passing out the bill. That is the reason why I took the position I took both in the committee and on the House floor.

Mr. RANDALL. What the gentleman is saying is that they wanted to hurry up and get the devaluation approved and say as little as possible about the cost.

Mr. GONZALEZ. That is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 21, noes 35.

Mr. ROUSSELOT. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

I wonder if some member of the Banking and Currency Committee can advise the House if we have ever been able to ascertain the kinds of trade agreements that have been promised our Government in exchange for the devaluation. I pointed out during the debate I felt we should support that legislation because as a matter of de facto Executive order it had actually been put into force. But part of the bargain was that we were to have strong trade agreements to correct our balance-of-trade and our balance-of-payments deficit. I have never yet been able to see the agreements we were supposed to have reached. The report did not contain them.

I understand there has been a little of trade agreement in the field of citrus fruits and some soybeans. If there has been more of a concrete nature I believe the American people are entitled to know what are the trade agreements.

I think that the American people are entitled to know what are the trade agreements. Will somebody comment on that?

Mr. GONZALEZ. Will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Texas.

Mr. GONZALEZ. I want to thank my distinguished colleague from Texas. He will recall during the debate on the authorization bill on the devaluation that he had raised this question and that I had joined with him in stating that there was in effect no written evidence of any agreement whatsoever. It was just some implications that agreements were being reached or had been promised, but in effect there were none. It was one of the significant reasons why I was constrained to vote and work against the devaluation.

Mr. HANNA. Will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. HANNA. Let me point out to the gentleman that although there is a very close relationship between trade and monetary matters, there is an entirely different set of operating factors in both of these fields. It is true that we have been extended promises of trade concessions in terms of making these new arrangements. I would bring to the gentleman's attention that the same promises have been made in terms of our moving toward a new international monetary situation with the rest of the countries, but based on my recent conversation with people abroad, I can assure the gentleman that we are not going to get the trade agreements as he would like them defined until we have disposed of the matter before us.

We are looking for some expansion of American product lines in GATT and some more enforcement of GATT. I may say that to develop and to protect the kind of trade we want in Europe it is as important to improve the enforcement of existing GATT agreements as it is to expand GATT. It is up to our executive department to bring that pressure. I do not think the Congress can do it.

Mr. PICKLE. I was not asking that the Congress do it, but I was asking that the Executive show us in black and white what the agreements are. Would the gentleman not say that the bargain for the devaluation was that we would get better trade agreements? We devalued because in effect the Executive did that. We ought to have these trade agreements, and the Executive ought to present them to the Congress and we ought to be able to see them.

Mr. HANNA. I can say to the gentleman, the executive department has not obtained them yet, from the countries involved in these agreements. The trade concessions which they are expected to furnish have not yet been furnished.

Mr. PICKLE. Then, most of us are really just whistling in the dark when we vote on these matters in the hope that we are doing the right thing, because we have to assume that sooner or later they will be given to us.

Mr. HANNA. I would say to the gentleman there is a good deal of good faith in it, but as far as the matter that we are voting on here is concerned there is no option available to this Congress. We have an obligation and we have to meet it in toto. We and other participating countries around the world pledged both credit and cash to these multilateral banking institutions. We demanded that they be prepared to maintain the value of their original commitment and of course pledged we would do likewise. As the gentleman from Ohio (Mr. Bow) has pointed out many, indeed, most of these participating countries have had to honor their commitment to maintain the values of their currency in both cash and credit. We are at last facing in this legislation the same unhappy task. It does no good to argue this matter, as the gentleman's amendment suggested in a piecemeal fashion by the normal appropriation patterns as cash is required. Our promise is to pass appropriation legislation sufficient to cover the total credit and cash obligation regardless of when or if it is required as on actual treasury expenditure.

Trade implications are important and may be even vital but they must be pursued independently of the matter here before us.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

I believe that the House is ready to vote on this measure, and I think a bit of clarification before we vote would be helpful. The issues were fully discussed in March when the dollar devaluation bill was before the House. In the House the measure was approved by a vote of 342 to 43 and it was approved in the Senate by a vote of 86 to 1. The decisive action was taken then which lays the predicate for the action which is required today.

The gentleman from California has just pointed out that we are obligated and that this Government is obligated, although not individual Members of Congress, to provide the $1.6 billion which this bill provides for.

Some reference was made to the fact that it was not known an appropriation would be required and that the authorization bill out of the Banking and Currency Committee would be not only an authorization but an appropriation. Of course, that is not correct.

With respect to the $406 million which the gentleman from California sought to strike from the bill, I would like to read from the report of the Committee on Banking and Currency on the devaluation bill, known as the Par Value Modification Act with respect to the $406 million which we discussed striking out from the bill. This is from page 10 of House Report 92–912 of March 13:

> The maintenance of value obligation on the paid-in subscriptions would be paid in the form of letters of credit, and an appropriation of $406 million will be sought as the basis for issuing these letters of credit.

So, everyone was on notice that an appropriation would have to be provided in order to validate the authorizing legislation which we passed in March.

Further, in other sections of the same report, on page 10, it makes reference to another portion of the funds involved here—the $663 million relating to callable capital. It reads:

> Nevertheless, funds must be available to meet these obligations if they are ever called, and an appropriation of $663 million will be requested.

Further, in reference to the amount for the International Monetary Fund, the necessity for an appropriation was further stated in the same report, as follows:

> However, in order to issue these letters of credit an appropriation of approximately $525 million will be requested.

What we are doing in this appropriation measure is just carrying out the law which Congress approved in March and Congress approved the law as a result of actions taken by the Executive initiating the devaluation of the dollar.

So, I hope this, to some extent, clears the atmosphere and that the Committee may rise and that in the circumstances we will approve this joint resolution.

Mr. GROSS. Mr. Chairman, will the gentleman yield to me before he moves that the Committee rise?

Mr. MAHON. Yes, I yield to the gentleman from Iowa.

Mr. GROSS. The gentleman comes before the House—and it is appreciated by the gentleman from Iowa and I am sure many others—and forewarns us of financial troubles to come under certain circumstances.

The gentleman from Missouri mentioned it a while ago and complimented the gentleman from Texas.

I do not recall, however, that the gentleman from Texas took the floor during debate on dollar devaluation to say, "If you vote for this revaluation of gold and devaluation of the dollar you are asking for a $1.6 billion punch in the nose."

I do not recall that he took the floor with any such warning.

I am going to run a little research on the RECORD of the debate on that bill and hope the gentleman will be on the floor Monday because I am going to report on what I find that warned of this business to come today.

Mr. MAHON. I will say that I do not recall just what the floor debate will show on that point, but the printed report of the Committee on Banking and Currency is very, very clear that this appropriation action would be required of the Congress.

It is well known that I consistently warn the House of the dangers of overspending, pointing out that over a period of years Congress has been dramatically reducing revenues and sharply increasing spending. All Members were certainly aware of the more obvious consequences of the measure ratifying the devaluation of the dollar which passed the House last March by an overwhelming vote. I earlier quoted, as the record will show, from the report of the Banking and Currency Committee as to the appropriation action which would be required. Moreover, the act of last March itself says:

> There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I am opposed to this bill which would appropriate $1.6 billion to maintain the gold value of U.S. dollar holdings in various international institutions.

When the legislation providing for the modification in the par value of the dollar came to the floor for a vote I opposed that action because it was not in the best economic interest of the United States. This devaluation of the dollar which amounted to an increase in the price of gold by over 8 percent did not strike at the more fundamental problems underlying our economic difficulties. Indeed, alterations in the monetary system will not solve our balance-of-payments problems without effective domestic economic performance. As long as the economy

does not recover sufficiently and continues to perform unsatisfactorily, we will not have world economic stability and will have continued assaults upon the value of the dollar.

In August of last year the Treasury predicted that a tide of dollars would flow back into this country as a result of the new economic policy. Thus far, however, we have not seen any concrete results from these lofty predictions. Indeed, the dollar was under attack in virtually every major capital of the world when the world monetary markets closed in March.

The prediction of the administration that the unemployment figures would drop has yet to be seen. This has resulted in a loss of confidence in the new economic policy among Americans as well as speculators overseas.

Moreover, the administration's trade-monetary package is incomplete. Thus far, very little in the way of successful trade agreements—other than the wheat and citrus arrangement—with the Common Market—have been completed. As a result of this hesitation, the balance of trade will not be affected as much by devaluation as it should be.

In other words, the problems which initiated the new economic policy last August are still with us. Our trade deficit is extremely high and continues to escalate, the economic situation at home is far from satisfactory and the people have lost confidence in the administration's policies.

Mr. Chairman, we are now asked to spend $1.6 billion of the taxpayers' hard-earned money to support the devaluation of the U.S. dollar. I do not believe that this policy will work. The modification of the par value of the dollar and the funds we are being asked to provide today to support this maneuver, is only a stop-gap measure which does nothing to avoid future crises.

I, therefore, ask my colleagues to join with me in voting against this measure. Until the administration gets our domestic economy moving again and our foreign friends open their doors to U.S. imports, we will not see our economic posture improved.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise and report the joint resolution back to the House with the recommendation that the joint resolution do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ABERNETHY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 1174) making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes, had directed him to report the joint resolution back to the House with the recommendation that the joint resolution do pass.

The SPEAKER. Without objection, the previous question is ordered on the joint resolution.

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

Mr. MAHON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 291, nays 62, not voting 79, as follows:

[Roll No. 136]

YEAS—291

Abourezk	Edwards, Calif.	Mann
Adams	Eilberg	Martin
Addabbo	Erlenborn	Mathias, Calif.
Alexander	Esch	Mathis, Ga.
Anderson, Ill.	Fascell	Matsunaga
Anderson, Tenn.	Findley	Mayne
Andrews, Ala.	Fisher	Mazzoli
Andrews, N. Dak.	Flood	Melcher
Arends	Flowers	Michel
Ashley	Flynt	Mikva
Aspin	Foley	Miller, Calif.
Aspinall	Ford, Gerald R.	Miller, Ohio
Badillo	Ford, William D.	Mills, Ark.
Barrett	Forsythe	Minish
Begich	Fraser	Mink
Bell	Frelinghuysen	Minshall
Bergland	Frenzel	Mitchell
Betts	Garmatz	Mizell
Bingham	Giaimo	Mollohan
Blackburn	Gibbons	Monagan
Blatnik	Grasso	Moorhead
Boggs	Gray	Morgan
Boland	Green, Oreg.	Mosher
Bolling	Green, Pa.	Moss
Bow	Griffin	Murphy, Ill.
Brademas	Gubser	Murphy, N.Y.
Brasco	Halpern	Myers
Brooks	Hamilton	Natcher
Broomfield	Hanley	Nedzi
Brotzman	Hanna	Nelsen
Brown, Mich.	Hansen, Idaho	Nichols
Brown, Ohio	Hansen, Wash.	Obey
Broyhill, N.C.	Harrington	O'Hara
Broyhill, Va.	Harsha	O'Neill
Buchanan	Harvey	Patten
Burke, Fla.	Hathaway	Pelly
Burke, Mass.	Hawkins	Pepper
Burlison, Mo.	Hechler, W. Va.	Perkins
Burton	Heckler, Mass.	Pettis
Byrnes, Wis.	Heinz	Peyser
Cabell	Helstoski	Pickle
Carey, N.Y.	Hicks, Mass.	Pike
Carlson	Hicks, Wash.	Pirnie
Casey, Tex.	Hillis	Podell
Cederberg	Hogan	Poff
Chamberlain	Holifield	Powell
Chappell	Horton	Preyer, N.C.
Clancy	Hosmer	Price, Ill.
Clark	Howard	Pucinski
Clausen, Don H.	Hull	Purcell
Clawson, Del	Jacobs	Quie
Collier	Johnson, Calif.	Railsback
Conable	Johnson, Pa.	Rangel
Conte	Jonas	Rees
Conyers	Jones, N.C.	Reid
Corman	Karth	Reuss
Cotter	Kastenmeier	Rhodes
Coughlin	Keating	Riegle
Culver	Keith	Robinson, Va.
Daniels, N.J.	Kluczynski	Robison, N.Y.
Danielson	Koch	Roe
Davis, Ga.	Kuykendall	Roncalio
Davis, S.C.	Kyl	Rooney, N.Y.
Davis, Wis.	Landrum	Rooney, Pa.
Delaney	Latta	Rosenthal
Dellenback	Leggett	Rostenkowski
Dellums	Lent	Roush
Dennis	Lloyd	Roybal
Derwinski	Long, Md.	Ruppe
Devine	McClory	Ryan
Dingell	McCollister	St Germain
Donohue	McCulloch	Sandman
Dow	McDade	Sarbanes
Downing	McEwen	Saylor
Drinan	McFall	Schneebeli
Dulski	McKay	Schwengel
du Pont	McKevitt	Scott
Dwyer	McMillan	Sebelius
Edwards, Ala.	Mahon	Seiberling
	Mailliard	Shipley
	Mallary	Shoup
		Shriver
Sisk	Teague, Calif.	Whitten
Skubitz	Teague, Tex.	Widnall
Smith, Iowa	Thompson, N.J.	Wiggins
Smith, N.Y.	Thomson, Wis.	Williams
Snyder	Thone	Wilson, Bob
Staggers	Tiernan	Winn
Stanton, J. William	Udall	Wolff
Steed	Ullman	Wyatt
Steele	Van Deerlin	Wydler
Steiger, Ariz.	Vander Jagt	Wylie
Steiger, Wis.	Vanik	Wyman
Stratton	Veysey	Yates
Sullivan	Vigorito	Yatron
Symington	Wampler	Zablocki
Talcott	Ware	Zion
Taylor	Whalley	Zwach
	Whitehurst	

NAYS—62

Abbitt	Duncan	King
Abernethy	Frey	Landgrebe
Anderson, Calif.	Fuqua	Link
Archer	Gaydos	McClure
Baker	Goldwater	Mills, Md.
Baring	Gonzalez	Montgomery
Bennett	Goodling	Nix
Bevill	Gross	O'Konski
Biaggi	Grover	Passman
Brinkley	Hagan	Quillen
Burleson, Tex.	Haley	Randall
Byron	Hall	Rarick
Carter	Hammer-schmidt	Rousselot
Cleveland	Hastings	Ruth
Collins, Ill.	Hays	Satterfield
Colmer	Hungate	Scherle
Crane	Hunt	Schmitz
Daniel, Va.	Hutchinson	Spence
Denholm	Ichord	Waggonner
Dent	Jones, Tenn.	Young, Fla.
Dorn	Kemp	

NOT VOTING—79

Abzug	Fulton	Price, Tex.
Annunzio	Galifianakis	Pryor, Ark.
Ashbrook	Gallagher	Roberts
Belcher	Gettys	Rodino
Biester	Griffiths	Rogers
Blanton	Gude	Roy
Bray	Hébert	Runnels
Byrne, Pa.	Henderson	Scheuer
Caffery	Jarman	Sikes
Camp	Jones, Ala.	Slack
Carney	Kazen	Smith, Calif.
Celler	Kee	Springer
Chisholm	Kyros	Stanton, James V.
Clay	Lennon	Stephens
Collins, Tex.	Long, La.	Stokes
Curlin	Lujan	Stubblefield
de la Garza	McCloskey	Stuckey
Dickinson	McCormack	Terry
Diggs	McDonald, Mich.	Thompson, Ga.
Dowdy	McKinney	Waldie
Eckhardt	Macdonald, Mass.	Whalen
Edmondson	Madden	White
Edwards, La.	Meeds	Wilson, Charles H.
Eshleman	Metcalfe	Wright
Evans, Colo.	Patman	Young, Tex.
Evins, Tenn.	Poage	
Fish		
Fountain		

So the joint resolution was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Hébert against.

Mr. Celler for, with Mr. Runnels against.

Until further notice:

Mr. Rogers with Mr. Belcher.

Mr. Rodino with Mr. McDonald of Michigan.

Mr. Evins of Tennessee with Mr. Price of Texas.

Mr. Byrne of Pennsylvania with Mr. Springer.

Mr. Henderson with Mr. Eshleman.

Mr. Sikes with Mr. Gude.

Mr. Charles H. Wilson with Mr. Biester.

Mr. Roberts with Mr. McKinney.

Mr. Fulton with Mr. Lujan.

Mr. Gettys with Mr. Smith of California.

Mr. Carney with Mr. Dickinson.

Mr. Jones of Alabama with Mr. Bray.

Mr. Kyros with Mr. Terry.

Mr. Lennon with Mr. Whalen.

Mr. Macdonald of Massachusetts with Mr. McCloskey.

Mr. Blanton with Mr. Ashbrook.
Mr. James V. Stanton with Mr. Camp.
Mr. Meeds with Mr. Collins of Texas.
Mr. Fountain with Mr. Thompson of Georgia.
Mr. Wright with Mr. Fish.
Mr. Young of Texas with Mr. Long of Louisiana.
Mr. Waldie with Mr. Scheuer.
Mr. Stubblefield with Mr. Curlin.
Mrs. Abzug with Mr. Diggs.
Mr. Caffery with Mrs. Griffiths.
Mr. Roy with Mr. Clay.
Mr. McCormack with Mr. Stokes.
Mr. Eckhardt with Mr. Patman.
Mrs. Chisholm with Mr. Gallagher.
Mr. de la Garza with Mr. Metcalfe.
Mr. Stephens with Mr. White.
Mr. Stuckey with Mr. Kazen.
Mr. Slack with Mr. Madden.
Mr. Jarman with Mr. Edmondson.
Mr. Evans of Colorado with Mr. Pryor of Arkansas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include extraneous material and certain tables on the joint resolution just passed and that all Members speaking on the joint resolution be permitted to revise and extend their remarks and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 9212, AMENDMENTS TO THE FEDERAL COAL MINE HEALTH AND SAFETY ACT

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 9212, the so-called black lung bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT (H. REPT No. 92-1048)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 8, 30, 32, 33, 41, 48, and 49.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, 7, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 36, 37, 38, 42, 44, 45, and 47, and agree to the same.

Amendment number 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(5) In the case of the dependent parent or parents of a miner whose death is due to pneumoconiosis, or of a miner who is receiving benefits under this part at the time of his death, or of a miner who was totally disabled by pneumoconiosis at the time of death, and who is not survived at the time of his death by a widow or a child, or in the case of the dependent surviving brother(s) or sister(s) of such a miner who is not survived at the time of his death by a widow, child, or parent, benefits shall be paid under this part to such parent(s), or to such brother(s), or sister(s), at the rate specified in paragraph (3) (as if such parent(s) or such brother(s) or sister(s), were the children of such miner). In determining for purposes of this paragraph whether a claimant bears the relationship as the miner's parent, brother, or sister, the Secretary shall apply legal standards consistent with those applicable to relationship determination under Title II of the Social Security Act. No benefits to a sister or brother shall be payable under this paragraph for any month beginning with the month in which he or she receives support from his or her spouse, or marries. Benefits shall be payable under this paragraph to a brother only if he is

"(1)(A) under eighteen years of ago, or

"(B) under a disability as defined in section 223(d) of the Social Security Act which began before the age specified in section 202(d)(1)(B)(ii) of such Act, or in the case of a student, before he ceased to be a student, or

"(C) a student as defined in section 402(g); or

"(2) who is, at the time of the miner's death, disabled as determined in accordance with section 223(d) of the Social Security Act, during such disability. Any benefit under this paragraph for a month prior to the month in which a claim for such benefit is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior months. As used in this paragraph, 'dependent' means that during the one year period prior to and ending with such miner's death, such parent, brother, or sister was living in the miner's household, and was, during such period, totally dependent on the miner for support. Proof of such support shall be filed by such claimant within two years after the month in which this amendment is enacted, or within two years after the miner's death, whichever is the later. Any such proof which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof within such period. The determination of what constitutes 'living in the miner's household', 'totally dependent upon the miner for support,' and 'good cause,' shall for purposes of this paragraph be made in accordance with regulations of the Secretary. Benefit payments under this paragraph to a parent, brother, or sister, shall be reduced by the amount by which such payments would be reduced on account of excess earnings of such parent, brother, or sister, respectively, under section 203(b)-(l) of the Social Security Act, as if the benefit under this paragraph were a benefit under section 202 of such Act."

And the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement with the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

On page 4, line 14, of the Senate engrossed amendments strike out "child" and insert ", child".

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement with the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

On page 7, line 1, of the Senate engrossed amendments, strike out "(3)" and insert "(C)".

And the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement with the amendment of the Senate numbered 34, and agree to the same with amendments, as follows:

On page 9 of the Senate engrossed amendments, beginning with line 21, strike out all through line 4 on page 10.

On page 10 of the Senate engrossed amendments, strike out line 5 and insert:

"SEC. 4. (a) Section 402(f) of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:".

On page 10, line 17, of the Senate engrossed amendments, strike out "(c)" and insert "(b)".

On page 11, line 1, of the Senate engrossed amendments, strike out "(d)" and insert "(c)".

On page 12, line 6, of the Senate engrossed amendments, strike out "(e)" and insert "(d)".

On page 12, line 14, of the Senate engrossed amendments, strike out "(f)" and insert "(e)".

On page 12, line 19, of the Senate engrossed amendments, strike out "(g)" and insert "(f)".

On page 13, line 7, of the Senate engrossed amendments, strike out "(h)" and insert "(g)".

On page 7, line 18, of the House engrossed bill, strike "4" and insert in lieu thereof "5".

And the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement with the amendment of the Senate numbered 35, and agree to the same with amendments, as follows:

On page 7, line 20, of the House engrossed bill, strike out "'1971'" and insert "December 31, 1971". In lieu of the matter proposed to be inserted by such amendment insert "June 30, 1973",.

And the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment and—

On page 8, line 4, of the House engrossed bill, delete "'nine'." and insert in lieu thereof "twelve",.

And the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with amendments as follows:

On page 13, line 19, of the Senate engrossed amendments, strike out "(4)" and insert in lieu thereof "(5)".

On page 14, line 3, of the Senate engrossed amendments, strike out "fourth" and insert in lieu thereof "sixth".

And the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement with the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

On page 16 of the Senate engrossed amendments, strike lines 4 and 5 and insert in lieu thereof "pneumoconiosis. No person shall cause or attempt to cause an operator".

And the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows:

On page 18, line 12, of the Senate engrossed amendments strike the period and insert in lieu thereof a colon and the following: *"Provided,* That for the purpose of determining the applicability of the presumption established by section 411 (c) (4) to claims filed under Part C of this title, no period of employment after June 30, 1971, shall be considered in determining whether a miner was employed at least fifteen years in one or more underground mines."

And the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement with the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

On page 19, line 8, of the Senate engrossed amendments, strike out "7" and insert "6".

And the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement with the amendment of the Senate numbered 51, and agree to the same with amendments, as follows:

On page 19, line 21, of the Senate engrossed amendments, strike out "8" and insert "7".

On page 20, line 7, of the Senate engrossed amendments, strike out "January" and insert "July."

And the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement with the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

On page 21, line 22, of the Senate engrossed amendments, strike out "9" and insert "8".

And the Senate agree to the same.

CARL D. PERKINS,
JOHN H. DENT,
ROMAN C. PUCINSKI,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
Managers on the Part of the House.

HARRISON A. WILLIAMS,
JENNINGS RANDOLPH,
CLAIRBORNE PELL,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ADLAI E. STEVENSON III,
HAROLD E. HUGHES,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
BOB PACKWOOD,
ROBERT TAFT, JR.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The following Senate amendments made technical, clerical, clarifying or conforming changes: 1, 3, 4, 6, 7, 9, 10, 11, 12 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 31, 33, 38, 41, 47, 48, and 49.

With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature; or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

Amendment No. 2: Both the House bill and the Senate amendments provided benefits for orphaned children of miners who died from pneumoconiosis or who were receiving benefits at the time of death.

The Senate amendment added orphaned children of miners who were totally disabled by pneumoconiosis, permitted such children to take benefits where the miner's widow survives him and then dies, and limited the child's entitlement to benefits in such cases to months in which the widow's entitlement is not established. The House recedes.

The Senate amendment permitted dependent parents of a deceased eligible miner to succeed to such miner's benefits if there is no surviving widow or child. If there is no surviving dependent parent, surviving dependent brothers and sisters may succeed to such miner's benefits. Under the Senate amendment, dependent parents, brothers or sisters must have received at least one half of their support from the miner for at least one year prior to his death. The House bill contained no such provision.

The House receded with an amendment that provided that in order to qualify for benefits, parents, brothers and sisters must have been wholly dependent on the miner and must have resided in the miner's household for one year prior to the miner's death. The amendment provided further that in the case of a surviving brother, he would not receive benefits after the age of 18, or if a student, after age 22, unless the surviving brother became disabled before the age of 18 or was disabled at the time of the miner's death. In the case of a surviving sister or brother, the amendment provided that no benefits would be paid to her or him if he or she married or received support from his or her spouse.

The House amendment also removed language in the Senate version specifically requiring the Secretary to apply the relevant State or District of Columbia interstate succession law in determining whether a claimant is a parent, brother, or sister of a miner. The conferees concluded that the Social Security Administration generally refers to such intestacy laws in making such determinations.

Amendment No. 8: The Senate amendment permitted dependent children to file claims for augmented benefits in their own right where necessary. The House bill did not contain such a provision. The Senate recedes. The conferees concluded that the objective of the Senate amendment could be achieved through regulations issued by the Secretary of Health, Education, and Welfare.

Amendment No. 27: Both the House bill and the Senate amendments limited the time for filing by a child. The House bill limited such time to six months after the death of the surviving parent or December 31, 1972, whichever is later. The Senate amendment extended the date certain to December 31, 1973. The House recedes.

Amendment No. 30: The Senate amendments made the provisions of section 1 of the bill retroactive to December 30, 1969, except as otherwise provided therein. The House bill contained no such provision. The Senate recedes.

Amendment No. 32: The House bill required the elimination of the practice of offsetting social security disability insurance benefits of certain miners where the claimant also receives black lung benefits. The Senate amendments limited such offsetting to 100 percent of former earnings. The Senate recedes.

Amendment No. 34: The Senate amendments:

(1) altered the definition of "pneumoconiosis" to include the sequelae of the disease. The Senate recedes. The conferees understand that in the administration of the program benefits are now provided for total disability due to the sequelae of pneumoconiosis, such as cor pulmonalae.

(2) altered the definition of "total disability" to provide that a miner is totally disabled when pneumoconiosis prevents him from engaging in gainful employment requiring skills comparable to his regular work in a mine. The House bill contained no such provision. The House recedes.

Questions were raised during the conference regarding the Senate language on total disability and whether it expanded the definition so as to include any miner who could no longer perform work in the coal mines. The House receded on the understanding that under the Senate language it is not intended that a miner be found to be totally disabled if he is in fact engaging in substantial work involving skills and abilities closely comparable to those of any mine employment in which he previously engaged with some regularity and over a substantial period of time, or if it is clearly demonstrated that he is capable of performing such work and such work is available to him in the immediate area of his residence.

Once a claimant qualifies as totally disabled, any money he earns at gainful employment will be subject to the excess earnings test in section 412(b) of this Act.

(3) Added to the benefit criteria of section 411(a) to permit payment of benefits where a miner was totally disabled by pneumoconiosis at the time of his death. The House bill contained no such provision. The House recedes.

(4) Added a new paragraph (4) to section 411(c) which established a rebuttable presumption of pneumoconiosis where a miner was employed fifteen or more years in a mine, where a chest roentgenogram is interpreted as negative but where such miner has or had a totally disabling respiratory or pulmonary impairment. The Secretary may rebut such presumption by establishing the absence of pneumoconiosis or by establishing that such impairment did not arise out of, or in connection with, employment in a coal mine. A miner who was in whole or in part employed in other than an underground mine may establish this presumption if his employment were substantially similar to conditions in an underground mine.

The House bill did not contain such a provision.

The House recedes. See Amendment No. 46 concerning the application of these provisions under Part C.

(5) Required final regulations with respect to implementation of amendments to title IV to be promulgated by the Secretary of HEW by the end of the fourth month after enactment. The House bill contained no such provision. The House recedes.

(6) Required compensation laws on the Secretary of Labor's list to have standards for determining death or total disability due to pneumoconiosis which are substantially similar to those in section 402(f) and others under part B. The House bill contained no such provision. The House recedes.

(7) Contained a provision prohibiting the denial of a claim solely on the basis of the results of a chest roentegenogram and also required the consideration of all relevant evidence, including tests, history and affidavits, in establishing the validity of a claim.

The House bill also contained a provision prohibiting the denial of a claim solely on the basis of a chest roentgenogram, but did not contain the other provisions. The House recedes.

Amendments No. 35, 36, and 37: The House bill extended full Federal financial responsibility under part B for two years, while the Senate amendments extended such responsibility for one year. The conferees agreed to extend full Federal financial responsibility for new claims for eighteen months. Temporary financial responsibility of the Federal government has been shifted from the year 1972, as provided in existing law, to the six-

month period beginning July 1, 1973, and ending December 31, 1973.

Amendment No. 39: The House bill extended the termination date of part C for two years. The Senate amendment made the program permanent. The Senate recedes with an amendment terminating responsibility for new claims under part C of the program as of December 30, 1981, or an extension of five years beyond existing law. For claims filed on or before December 30, 1981, responsibility under part C will continue beyond that date.

Amendment No. 40: The Senate amendments required that final regulations under part C to implement any amendments thereunder be promulgated and published no later than the end of the fourth month following enactment. The House bill contained no such provision. The Senate recedes with an amendment requiring publication no later than the end of the sixth month following enactment.

Amendment No. 42: The Senate amendments authorized the construction, purchase, and operation of clinical facilities for the analysis, examination, and research related treatment of miner's occupational respiratory and pulmonary impairments. The new section required research to be initiated within the National Institute of Occupational Safety and Health to devise tests to measure, detect and treat miner's respiratory and pulmonary impairments. Appropriations for clinical facilities were authorized at $10 million for each of the three fiscal years 1973, 1974, and 1975, and such sums as are necessary for research. The House bill contained no such provision. The House recedes.

Amendment No. 43: The Senate amendments added a new section 428 to title IV which prohibits discrimination by an operator against any miner employed by him solely by reason of the fact that such miner has pneumoconiosis or other respiratory or pulmonary impairment. Investigation, hearing and enforcement procedures by the Secretary of the Interior, were included. The section also contained a provision requiring compensation of hearing examiners at a rate not less than GS–16.

The House recedes with an amendment which omits the reference to other respiratory or pulmonary impairments.

The conferees note the appropriate jurisdictional concerns of the Post Office and Civil Service Committees of both Houses in this matter, and reluctantly adopted the provision only out of a desire to avert an imminent personnel crisis arising from the existing disparity in the compensation of hearing examiners at the Department of Interior and other Federal agencies. This provision will eliminate the disparity.

Amendment No. 44: The Senate amendments added a new section 429 to authorize appropriations in such sums as are necessary to enable the Secretary of Labor to carry out his responsibilities under title IV. The House bill contained no such provision. The House recedes.

Amendment No. 45: The Senate amendments included an amendment to section 422 (a) which requires employers to provide medical benefits to employees under part C. It also required State compensation laws to include such a requirement in order to qualify as adequate under part C. The House bill contained no comparable provisions. The House recedes.

Amendment No. 46: The Senate amendments added a new section 430 to apply all appropriate amendments in part B to part C. The House bill contained no such provision. The House recedes with an amendment which provides that with respect to the rebuttable presumption of section 411(c)(4), such presumption shall only apply for purposes of part C, where the fifteen years employment in a coal mine occurred entirely before July 1, 1971.

The conferees further agree that the elimination of the social security disability insurance offset provision shall not apply to part C.

The conferees note specifically that the provision relating to the prohibition against the denial of a claim solely on the basis of the results of a chest roentgenogram, among other amendments made to part B, applies to part C.

Amendment No. 50: The Senate amendments required the Secretary of HEW to inform claimants under title IV of the changes in the law made by the Black Lung Benefits Act of 1972 and to advise them that their claims will be reviewed. The House bill contained no such provision. The House recedes.

Amendment No. 51: The Senate amendments added a new provision to part B under which the Secretary of Labor is to pay benefits and process claims during the period from July 1, 1973 to December 31, 1973, utilizing the procedures of Section 19 of the Longshoremen's and Harbor Worker's Compensation Act. In processing such claims, potentially liable operators are to be notified and allowed to participate. Operators will be bound under part C on any claim determined under this section. The House bill contained no such provision. The House recedes. It is noted that Section 21 of the Longshoremen's and Harbor Worker's Compensation Act provides for judicial review of awards rendered pursuant to Section 19 of the Act.

Amendment No. 52: The Senate amendments added a limitation on claims filed under part C where eligibility of such claims is based on the rebuttable presumption of section 411 (c) (4). A living miner must in such cases file within three years after last exposed employment and in the case of a deceased miner such claims must be filed within fifteen years after last exposed employment in a coal mine. The House bill contained no such provision. The House recedes.

CARL D. PERKINS,
JOHN H. DENT,
ROMAN C. PUCINSKI,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
Managers on the Part of the House.
HARRISON A. WILLIAMS,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ADLAI E. STEVENSON III,
HAROLD E. HUGHES,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
BOB PACKWOOD,
ROBERT TAFT, Jr.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT ON H.R. 14146, LAND AND WATER RESOURCES OF THE NATION'S COASTAL ZONE, UNTIL MIDNIGHT FRIDAY

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight Friday, May 5, to file a certain report on the bill H.R. 14146, to establish a national policy on the Nation's coastal zone.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, I have requested this time for the purpose of asking the distinguished majority leader the program for the rest of the week, if any, and the schedule for next week.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, in response to my friend, the distinguished minority leader, we have completed the program for this week.

It is my intention to ask to go over until Monday when the House adjourns today.

The program for next week is as follows:

Monday is District day and there are two bills scheduled for consideration.

H.R. 9769, medical records studies and research; and

H.R. 14718, public mass transit bus companies.

For Tuesday there will be for the consideration of the House, House Joint Resolution 55, Seabees Monument; and

H.R. 4383, Federal Advisory Committee Standards Act, under an open rule with 1 hour of debate.

For Wednesday and the balance of the week—and we hope to conclude on Thursday—H.R. 7130, the fair labor standards amendments, subject to a rule being granted. We expect to get that rule, hopefully, on Tuesday.

Of course, conference reports may be brought up at any time and any further program will be announced later.

Mr. GERALD R. FORD. I thank the distinguished majority leader.

ADJOURNMENT TO MONDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ADEQUATE TELEVISION TIME FOR CANDIDATES

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. O'NEILL. Mr. Speaker, primaries and polls show confusion about candidates and misunderstanding and disappointment about the political process.

Just because of these factors the 1972 presidential election undoubtedly is the most important in many years in which the public should be given adequate opportunity to understand the issues of the presidential race. This requires at least adequate television time for all ultimate candidates to present their case.

With obvious inequality of resources, what matters most in the coming election is that each party or candidate shall have enough facility to present its television case regardless of whether opponents have more. Furthermore, with the danger of splinter parties proliferating here, with catastrophic results as they did in the democracies of Europe, every effort should be made to preserve in this election the two-party system under which we have prospered.

The bill here presented attempts to meet these needs. It has been reviewed by the Legislative Drafting Service of the Houses. It follows the unanimous recommendations of the most thorough study ever made of the U.S. political use of electronic campaigning. That study—a copy of which entitled "Voters' Time" I am inserting in the RECORD—has been made under a grant from the Twentieth Century Fund of New York City.

The participants in the study, a distinguished, nonpartisan group whose recommendations are unanimous, are particularly informed about the use of television and radio in political campaigns. They include, most importantly, Dean Burch now Chairman of the Federal Communications Commission and one-time head of the Republican National Committee. Other members are Newton Minow Chairman of the Federal Communications Commission in the Kennedy administration, Robert Price, first deputy to Mayor John Lindsay of New York, Alexander Heard, chancellor of Vanderbilt University; the acknowledged outstanding student of political contributions, and Thomas Corcoran who participated in the campaigns of President Franklin Roosevelt in the era of radio before television.

In substance this bill provides that the voters themselves, through congressional appropriations, shall purchase—purchase arrangement discussed below—from the television and radio companies prime simultaneous time on television and radio for the candidate of each political party on the ballot in 39 States whose combined electoral votes are sufficient to elect a President, according to the following categories:

Category I—Any political party whose presidential candidacy finished first or second in popular votes in at least two of the three most recent presidential elections.

Category II—Any political party—other than a category I party—whose presidential candidacy received at least one-eighth of the popular votes cast in the most recent presidential election.

Category III—Any political party on the 1972 ballot other than a category I or a category II party.

The time—Called voters' time because it was paid for by appropriations and not asked for free from the networks—would be allocated in periods within such categories as follows:

Each such period shall be a half-hour period and shall be within the 35-day period ending on the day preceding the presidential election and within the hours of 7 p.m. to 11 p.m., local time.

Each qualifying presidential candidacy of a category I political party shall receive six one-half-hour periods of voters' time.

Each qualifying presidential candidacy of a category II political party shall receive two one-half-hour periods of voters' time.

Each qualifying presidential candidacy of a category III political party shall receive two one-half-hour periods of voters' time.

No more than one one-half-hour period of voters' time shall be allocated to the same presidential candidacy within any 5-day period.

No limits are put upon the use of this time except that it must be used, as is desperately needed today, for rational discussion of issues rather than emotional spots—a condition required because the time is provided for by the public purse which is paying to become informed and not by the political parties themselves. Nor does the bill prohibit in any way the use of additional time purchased by private or party funds.

The purchase of the time through the Controller General of the United States is provided for in this bill as follows:

FINANCING OF VOTER'S TIME

"(e)(1) Licensees of broadcast stations (other than non-commercial educational broadcast stations, as defined in section 397(7) of this Act) and CATV systems may charge the United States for voters' time used by any qualifying Presidential candidacy entitled thereto under this section. Such charge may not exceed the lesser of (A) the lowest unit charge of the broadcast station or CATV system for the same class and amount of time for the same period; or (B) 50 percent of the lowest published rate of the station or system applicable to a commercial advertiser for such time. Licensees of non-commercial educational broadcast stations may charge the United States with the direct costs incurred in providing voters' time. No additional charges shall be made by broadcast station licensees or CATV systems for the provision of voters' time. (Funds to be provided by an appropriations supplement to the attached bill). No matter how a broadcasting company carries its accounting the compensation herein provided will cost the broadcaster nothing out of pocket and is designed to show him a profit.

The key to the value of voters' time so purchased and allocated is twofold:

First. The time provided is to be prime time—7 p.m. to 11 p.m. local time.

Second. Programs on such time are to be carried at the same time on all important communications networks—as was the case for instance with the Kennedy-Nixon debates or with the recent televised depictions of the President's trip to China—as for that matter all broadcasts of the President in his Presidential capacity may be expected to be so simultaneously carried so there will be no available competition to "turn off to" at such time.

Voters' time is therefore and hereinafter referred to as "simultaneous time."

This bill will therefore accomplish three important things: First, it provides "significant" presidential and vice presidential candidates a guaranteed basic access to the immensely influential broadcast media.

Regardless of his success in attracting news coverage or his ability to buy time, an important candidate will be assured of meaningful exposure to the voters. To achieve this goal, the bill provides that candidates be given time on all television stations, radio stations, and CATV systems simultaneously. A candidate's appearance would be broadcast over every television and radio facility in the United States, including network outlets, independent and noncommercial stations, and CATV systems at the same time in each community. Candidates of the two major parties would receive six one-half-hour segments of this time; candidates of smaller parties would receive lesser periods of time.

Any presidential candidate supported by a meaningful segment of the population would have access to every television and radio household. His potential audience will be every American home. During the broadcast periods devoted to the candidates, any television and radio set turned on anywhere in a given time zone would bring a potential President or Vice President to his constituency, without competition from standard programing. Together, Americans could make judgments about the men who would lead them.

The simultaneous carriage of a presidential candidate's appearance is appropriate in view of the seriousness of the presidential race. Moreover, in recent years politicians and media experts have noted that when Democratic candidates appear on the screen, Democratic voters watch, while Republicans switch to an entertainment program on another channel; when Republicans appear, the Democrats switch channels. Many voters, whatever their affiliation, switch to another channel when any candidate appears because they assume they will be uninterested in what follows. Simultaneous carriage, however, will increase the voter's exposure to new views and new positions he might otherwise unconsciously avoid. In 1960, for example, when Kennedy and Nixon debated on all three networks and many independent stations simultaneously, the average audience was estimated at 71 million. The direct and regular confrontation with the candidates will give voters a sense of direct participation in presidential policies which most will welcome.

Second, the bill will provide basic media access with none of the financial pressure on a candidate ordinarily associated with the purchase of large amounts of broadcast time. The candidate's exposure will be paid for by the Federal Government, not the candidate or his supporters. Since this time was for the public's benefit, the public should bear the cost. At the same time, the broadcast licensee who utilizes a public resource has at the very least an obligation not to profit from the candidate's exposure. Thus, broadcasters and cable operators would be paid for the time at

a rate not to exceed 50 percent of their commercial rate card. The cost of this basic access is estimated to be about $4 to $5 million for presidential and vice-presidential candidates every 4 years. This is less than the cost to send a postcard to everyone who voted in the 1968 election.

Third, the bill does much to insure that television and radio will be used to promote public understanding of important campaign issues. The time given candidates is "voters' time" because it belongs not to the candidates, the parties or the broadcasters, but to the public. So that the public time will not be wasted with flashy films or candidate-produced variety shows, the bill requires that its use substantially involve the live appearance of the candidates and that formats be utilized which will promote rational political discussion, illuminate campaign issues, and give the audience insight into the abilities and personal qualities of the candidates.

Voters' time will not enable a candidate to engage in a mass media charade, but instead will provide the public with a more accurate view of his qualifications for office. The provision of simultaneous access to all of the broadcast media for important presidential and vice presidential candidates without a corresponding financial burden and in a format intended to encourage rational discussion of important issues will bring the democratic election process up-to-date with the electronic era.

The description of the bill and of the operations of its carefully and thoughtfully drafted provisions is inadequate to convey the supreme importance of the bill and the urgent need of its passage to preserve the integrity of the electoral process in a nationwide presidential election. In the opinion of the sponsors of this bill, no law enacted by or presented to the Congress in recent years is likely to have a greater influence on the future of democracy in this country.

The advent of electronic communications making possible mass appeals to the voters has brought for good or ill revolutionary effects on the operation of the electoral process particularly in nationwide elections akin to the effects of the advent of gun powder in the 12th century and of the atomic bomb in the 20th century on the waging of war. Telecommunication has not only enormously increased the costs of nationwide campaigning but unregulated, threatens to degrade the electoral process, distort the issues, deny equal opportunity to the candidates and to make the results dependent not on the issues and the merits of the candidates but the size of their purse. Television and radio can have a clout and an impact of the electorate unmatched by the aggregate impact of any other available means.

The assurance of free and fair time at a minimum cost to the government to all qualified presidential candidates for rational discussion and debate as provided by this bill, preserves and safeguards the integrity of our democratic electoral process. It not only goes far to curb the abuse and inequitable use of telecommunication in Presidential elections, but gives promise of making telecommunication an aid and not a threat to the future of our democracy. It will protect the democratic electoral process from falling prey to the awesome power of the purse.

If this Congress performs only this one service to the continuation of democratic government, it will have justified itself in history.

ALLEY CAT BAND

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, those in attendance at this morning's session of the annual meeting of the President's Committee on Employment of the Handicapped had a very special treat which made me extremely proud. They heard a program played by the Alley Cat Band. The Alley Cat Band from Birmingham, Ala., Adult Extension Workshop of Workshops, Inc., is made up of trainable mentally retarded people from my Birmingham area. They played a wonderful program this morning.

I am extremely proud of their performance and what they are proving concerning the ability of handicapped people to perform in our society.

Mr. Speaker, I include at this point in the RECORD a copy of the material included in the President's Committee program this morning concerning the Alley Cat Band, together with a list of its members.

The program follows:

THE ALLEY CAT BAND

The Alley Cat Band was founded as an experiment with the trainable mentally retarded. It was the outgrowth of a desire to provide a socially stimulating activity that all who wanted could participate in and at the same time disprove a concept that certain categories of the trainable mentally retarded could not be trained mentally. To the best of our knowledge, this is the first Band of its kind in the Country.

The Band was organized in April, 1967 with Retarded Children Association performance homemade instruments for a single Aid for in May of the same year. The Band was a success and was well received and did so much for the Band members and parents that it was continued.

Since that time, as the members developed in ability, more sophisticated instruments were added as replacements for some of the homemade percussions. As the clients in the Adult Extension Center change, the structure of the membership also changes. Seventeen of the original members are still in the Band. The majority of the band members are still the trainable retardates, but now all handicaps are represented from all departments of the Workshop.

One highlight of the Band's performances has been a trip to Charleston, South Carolina to play in the Charleston Municipal Auditorium for the Trident Club of Charleston.

The success of the Band has been made possible through the cooperation and interest of the parents, its Director, Mrs. Margaret Williams, and her Assistants, Mrs. Miriam Weinstein and Miss Dianne Richardson.

The Band is an activity of the Workshops, Incorporated, Birmingham, Alabama, a facility for the rehabilitation, training and employment of the physically, mentally and emotionally handicapped.

ALLEY CAT BAND

Maestro: Bobby Strong.
Fiddles (tubs): Pat Baker, Sid Thomas.
Banjos (rub boards): Rickey Parker, Billy Pierce, Norman Staab.
Strings (ironing board): Judy Hunnicutt, Joy Loerch.
Bass fiddle: Ernestine Holtsford.
Tambourine: Marvin Coplon.
Tone bells: Kathy Lay.
Organists: Beverly Ivey, Jessie Holt.
Kazoos: Juanita Lewis, Pam Wilson.
Vocalists: Juanita Lewis, Pam Wilson, Teresa Glasscock, Norman Staab.
Drums: Freddie Watson, Kenneth Vickers.
Bongos: James Doyle, Kathy Lay, Judy Weinstein.
Claves: Lee Davis, Marvin Coplon, Pam Wilson, Juanita Lewis.

SOVIET MISSILE SUB IN CUBA

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, the Defense Department has just announced that a Soviet missile carrying submarine, conventionally powered, is now visiting Nipe Bay in Cuba. This is not the first time a missile carrying submarine has called at a Cuban port but up until today, the Soviet submarines have not carried strategic missiles. The G–II class submarine now in Cuba carries three missiles which can be launched while submerged and which can carry nuclear weapons for a distance of 650 miles.

The fact that the Soviet Union is upping the ante in its continuing penetration of the Caribbean area is especially disturbing since it comes on the eve of the President's trip to Moscow. Since the 1962 Cuban missile crisis the American people have felt safer because they have believed there were no offensive strategic weapons systems in Cuba. This notion was reenforced following the secrecy cloaked crisis of 1970 over the possible construction of a strategically significant Soviet submarine base in Cuba. Following that crisis the Foreign Affairs Committee, the Congress, and the American people were reassured that there was "understanding" between the United States and the Soviet Union over the introduction of offensive strategic weapons into Cuba.

Mr. Speaker, In the light of today's announcement I believe the President owes Congress and the American people a fuller explanation of what such "understanding" means, if anything.

TAX RELIEF FOR THE VICTIMS OF CRIME AND FOR CRIME PREVENTION

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, today Congressman LESTER L. WOLFF and I are introducing a bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for theft losses sustained by individuals, for amounts paid to protect against theft, and for medical expenses caused by criminal conduct.

Under present tax law, theft losses

are deductible only to the extent that the loss from each theft exceeds $100. H.R. 14805 would permit the taxpayer to aggregate and deduct theft losses of more than $100 a year if these losses are reported to the police. This provision is designed to assist low- and middle-income taxpayers who are repeatedly victims of crime but who do not have valuables of significant worth so that the financial loss incurred in any single incident would be valued in excess of $100. Studies have shown that the highest rate of crime victimization occurs in the lower income groups. Under this bill, theft losses in excess of $100 a theft would, of course, continue to be deductible.

H.R. 14805 also provides for a deduction of amounts paid during the taxable year for locks, burglar alarms or other warning devices, or similar items for protection against theft, to the extent such amounts do not exceed $300—$150 in the case of a married couple filing separate returns.

There is an old maxim "to prevent a theft is easier than to catch a thief." Most crimes occur where police patrols are not located; namely, indoors. Burglary is America's most common crime. Nationally, some 2.2 million residential and business burglaries occur a year. The deduction allowed by this proposal will provide an incentive to homeowners to equip homes with protective burglar alarms, warning devices and locks which will help reduce the number of burglaries in homes.

Although it has been said that no lock will stop a thief determined to get into your home, it is also true that the more difficult you make their efforts to enter, the less likely they are to try. Good quality locks should be installed on all entrance doors and windows. The cheapest kinds of locks can be released by inserting a piece of celluloid or other thin material between the edge of the door and the jamb. A low quality chain lock will give way easily to the force of a man's body applied against the door. The typical fastener on a sash window can be easily opened with a knife. It behooves all of us to take the necessary steps to replace these devices which are an open invitation to even the most unskilled burglar.

Mortise locks, cylinder locks, and vertical bolt locks for doors and key locks for windows are the kinds of devices we should install. Even the professional thief who is skilled at jimmying and picking a lock would probably move on to another easier target if these quality devices are used, unless the stakes were extremely high. These devices should certainly be proof against the unskilled novice.

More sophisticated protection is provided by burglar alarm devices or systems. These would certainly be worth the investment if your possessions are valuable. As in the case of locks, these devices vary in quality and type. The simplest detect an intruder trying to enter a home through a door or window and sound an alarm. Others feature motion detectors of various types which use electric eyes, laser beams and the like and give warning even before a burglar attempts to enter a home. This bill will enable the taxpayer who has paid several hundred dollars for such a system, perhaps in lieu of a television set or a vacation, to deduct up to $300 of its cost in computing his income tax.

No deduction will be allowed under this bill for any amounts paid for weapons or for hiring of protective personnel, such as detective agencies and professional guards. Unless you know exactly what you are doing, weapons used for defense can be wrested away and used against you. Also, we are all keenly aware of the numerous tragic accidents which have occurred in homes where members of families and friends have been killed or injured because weapons are available. The thrust of this bill is primarily aimed at low and middle-income homeowners who would be unable financially to hire professional protective personnel.

To further assist low- and middle-income taxpayers the deductions permitted by this bill will be available whether the taxpayer itemizes deductions or uses the standard deduction. The standard deduction has been increased for 1972 and subsequent years to 15 percent of adjusted gross income with a ceiling of $2,000. As a result the number of taxpayers using the standard deduction is expected to increase.

Finally, H.R. 14805 provides that the full cost of medical expenses resulting from a criminal assault be allowed as a deduction. This provision would also allow a deduction for funeral expenses if the criminal assault should cause the death of the victim.

Under present tax law medical and dental expenses are deductible only to the extent they exceed 3 percent of the taxpayer's adjusted gross income. Funeral expenses may not be deducted at all.

The medical costs to the innocent victim of violent crime can be staggering. This financial burden plus the mental anguish and physical pain suffered by the individual can be truly unbearable. Simple compassion dictates that we at least take steps to remedy that part of the suffering we can. So often the victims of criminal violence are those who are without resources and insurance. Even when the victim has insurance it is often insufficient to cover full medical costs.

Too often the victim of crime is overlooked or forgotten. It is ironic that our society has shown more concern for the criminals than to their victims. The only recourse the victim has is to sue the criminal for his medical expenses. This procedure is usually futile because most criminals do not have the financial resources required to compensate a victim. This bill provides a meaningful method of alleviating the burden of the innocent victim of crime. To prevent abuse, this provision is applicable only if the medical expenses attributable to crime are verified by records of the law enforcement agencies involved.

We are suddenly hearing rosy statistics about the decline in crime and certainly this is welcome news. But what has really happened is that crime is increasing at a lower rate. For example, crime rose by 6 percent in 1971 which is the lowest annual rise in 6 years. Violent crimes as a group, however, were up 9 percent in 1971. Murder, forcible rape, and robbery were up 10 percent, and aggravated assault increased 8 percent. Burglary showed an overall increase of 8 percent, but was up 11 percent in the suburbs and 10 percent in rural areas. These statistics are not likely to induce complacency.

On every side we have seen the quality of our lives downgraded by crime. Everyone of us has changed his regular habits because of the fear of crime. Examples of crime's impact are everywhere. Exact change is required on public transportation and at some gas stations. Cab drivers refuse to enter certain neighborhoods. Merchants admit customers from behind locked doors. Churches must lock their doors even during Sunday morning services and have had to reschedule or cancel activities formerly held at night. Employees hasten home after the workday ends and are afraid to go downtown at night. The list could go on. Hopefully, in the near future we will see this situation turn around.

In the meantime, the very least we can do is to provide financial relief for those of us who become crime's victims or who are making earnest efforts toward crime prevention. We believe that enactment of this bill would go a long way in accomplishing this objective.

THE CRATERING OF INDOCHINA

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. RYAN) is recognized for 60 minutes.

Mr. RYAN. Mr. Speaker, the ravaging of Southeast Asia by American war planes, whose indiscriminate bombing is causing the needless slaughter of thousands of innocent civilians, has brought a new edge to the immorality of the war in Indochina.

Yet, while the killing continues, while the devastation goes on, this House still attempts to close its eyes to its responsibilities to the Constitution and the American people.

Just outside this very Chamber, congressional staff members, and concerned citizens are peacefully demonstrating their steadfast opposition to this tragic war. Likewise, in community after community across this Nation, millions of Americans are engaged in nonviolent demonstrations with one purpose in mind: To end the war and to end it now.

The House must heed their voices.

On April 20 the House Democratic caucus adopted a resolution calling for the prompt setting of a date to terminate all U.S. involvement in and over Indochina, and directing the House Foreign Affairs Committee to prepare and report within 30 days legislation designed to accomplish this objective. Yet the days pass, the war drags on. Another day is one too much. Another death is one too many. I beseech the members of the House Foreign Affairs Committee to abide by the resolution of the caucus and to bring to the floor immediately legislation which would finally give peace a chance.

No Member of the House can be unaware of the staggering costs of our Na-

tion's involvement in Southeast Asia. To date, several hundred thousand human beings have died and countless more have suffered as a result of the hostilities in Indochina. We count our dead and wounded in the hundreds and thousands; we count our dollar outlays in the billions.

The Indochinese countryside has been ravaged. The countries of the area are now pitted with an estimated 26 million bomb and shell craters. Millions of acres of fertile land have been defoliated with herbicides and anticrop agents.

From a comfortable distance of 30,000 feet, saturation bombing has led to countless deaths, millions of refugees, and has left some portions of Southeast Asia as barren as the surface of the moon.

Indeed, a bloodbath has not been prevented—it has been created.

The self-determination of the South Vietnamese people has not been promoted, rather they have been subjected to a corrupt military dictatorship that wants war.

Think of the toll of the war upon our belief in ourselves and our fellow Americans.

Think of the opportunities lost for our Nation.

We cannot let this policy continue. If as the Representatives of the American people we do not put all our energies to the task of bringing peace, surely this House must ask itself if it is equipped to lead—for certainly no group of leaders, no Congress, no nation has the right to lead the world to a trough of slaughter and then make it drink.

At this point in the RECORD I include an article from the May 1972 Scientific American by Arthur Westing and E. W. Pfeiffer regarding the bombing of Indochina:

THE CRATERING OF INDOCHINA

(By Arthur H. Westing and E. W. Pfeiffer)

The unprecedented use of herbicides on a massive scale as an instrument of war in Vietnam has prompted several studies of the probable long-term effects of these chemical agents on the land of Indochina. Much less attention has been paid to the effects of the tearing up of the land by bombing and shelling. Yet the released tonnage statistics alone suggest that these effects must be sizable. In the seven-year period from 1965 to 1971 the area of Indochina, a region slightly larger than Texas, was bombarded by a tonnage of munitions amounting to approximately twice the total used by the U.S. in all the theaters of World War II.

During three tours of war zones of Indochina to assess damage done to the environment by herbicides, we became increasingly conscious of the ubiquitous scarring of the landscape by bomb and shell craters. From the air some areas in Vietnam looked like photographs of the moon. How would this cratering of the land affect life and the ecology in Indochina when its people attempted to pick up normal living after the war? It seemed that the physical alteration of the terrain by bombing might have created long-range problems fully as serious as those produced by the defoliation campaign (which had attacked more than five million acres of forest and cropland in Vietnam). In order to initiate investigation of the crater problems, the two of us went to Vietnam for a preliminary study in behalf of the Scientists' Institute for Public Information in August, 1971. From the U.S. Department of Defense we collected the limited information that was available to the public about the expenditures of munitions in Indochina. Then in the field we surveyed bombed areas on the ground and from the air (in helicopters) and interviewed many people, including farmers, lumbermen and other persons who had observed various effects of the bombing on the land, the economy and various occupations.

In the seven years between 1965 and 1971 the U.S. military forces exploded 26 billion pounds (13 million tons) of munitions in Indochina, half from the air and half from weapons on the ground. This staggering weight of ordnance amounts to the energy of 450 Hiroshima nuclear bombs. For the area and people of Indochina as a whole it represents an average of 142 pounds of explosive per acre of land and 584 pounds per person. It means that over the seven-year period the average rate of detonation was 118 pounds per second. These average figures, however, give no indication of the actual concentration; most of the bombardment was concentrated in time (within the years from 1967 on) and in area. Of the 26 billion pounds, 21 billion were exploded within South Vietnam, one billion in North Vietnam and 2.6 billion in southern Laos. The bombardment in South Vietnam represented an overall average of 497 pounds per acre and 1,215 pounds per person; the major part, however, was focused on two regions; the five northern provinces and the region around Saigon.

Craters pock every area of South Vietnam: forests, swamps, fields, paddings, roadsides. Certain areas, notably zones "free fire," or "specified strike," zones, show severe cratering. We personally observed large areas that had been subject to intensive transformation of the landscape in Tay Ninh, Long Khanh, Gia Dinh, Hua Nghia and Binh Duong provinces around Saigon and Quang Ngai, Quang Tin and Quang Nam provinces of the northern part of the country. And of course the concentration of craters is particularly marked in areas such as the demilitarized zone (DMZ) between North Vietnam and South Vietnam and the supply trails in southern Laos.

We were able to visit on foot an area in the Mekong Delta that had been until recently a free-fire zone. The area was near the hamlet of Hoi Son about 30 miles south of My Tho. Farmers were being resettled there on their previously fought-over land because senior officials considered the region fairly secure. (The degree of security became evident during our stay when U.S. aircraft were observed rocketing and strafing only a few miles away.) Several families that had left the area a decade earlier because of fighting were interviewed, and they took us to three craters that they said had been made in 1967. The craters had probably been produced by 500-pound bombs dropped by fighter-bombers. Each crater was about 30 feet in diameter, filled with water, and at the time of our visit was about five feet deep in the center. The entire immediate area had been a rice paddy, but during the years when no cultivation had occurred, the rice had been replaced by a very tall reed, genus *Phragmites*, which surrounded the crater at a distance of 10 to 20 feet. Growing from the rim of the craters and into the reeds was a species of relatively short grass, *Brachiaria*, and a taller grass, *Scirpus*. The farmers were growing seed and rice near the craters and were plowing under the reeds and grasses in preparation for planting rice. It was obvious that they could not use the cratered areas for rice cultivation because the water was much to deep. The only apparent solution was to bring in soil from elsewhere, but this was obviously not practical.

We also observed at close hand many craters on the flat terrace lands northwest of Saigon that had previously suported an evergreen hardwood forest. In this area the craters generally contain no water during the dry season, so that their natural history is considerably different from the history of the craters of the Delta region that are permanently filled with water. The craters were very numerous in this area; there was at least one every 100 feet. Each crater was 20 to 40 feet across and five to 20 feet deep. There were many generations of craters from different air strikes. The most recent ones were bare of vegeation but contained some rainwater. (We observed these craters in the wet season.) In the older craters a few sprigs of grass, probably *Imperata*, were sprouting in the center. As the craters age grass grows radially, eventually covering the bottom to meet vines trailing down from the peripheral vegetation. There is some filling of old craters with soil washed down from the sides, but this is limited because old craters almost completely covered with grass were still five to 10 feet deep. They thus became permanent features of the landscape.

From the data available to us on the quantity of munitions expended we calculated tentative estimates of the total area affected by cratering and other damage to the land. For these estimates we had to make some very free and general assumptions. For example, we assume that about half (by weight) of the total amount of munitions employed in Indochina consisted of bombs, shells and other missiles that would produce craters. We assume further that on the average each of the crater-producing missiles was equivalent to a 500-pound bomb and formed a crater 30 feet in diameter and 15 feet deep, displacing 131 cubic yards of earth. (A large proportion of the cratering has been produced by B–52 bomber raids; each of these big planes typically carries 108 500-pound bombs.) We also estimate that the fragments from each crater-producing missile were spread over an area of 1.25 acres.

On the basis of these assumptions (some of which are supported by actual measurements) we estimate that the number of craters produced in Indochina by the bombardments from 1965 to 1971 totaled some 26 million, covering a total area of 423,000 acres and representing a total displacement of about 3.4 billion cubic yards of earth. The area of missile-fragment spread totals 23.6 million acres, if we disregard overlap. Again we note that South Vietnam has borne the brunt of this damage. In the period mentioned (through 1971) South Vietnam is estimated to have received about 21 million craters, covering all together about 345,000 acres, and to have had millions of acres contaminated by missile fragments, even allowing for overlap. The total area of the country is 42.8 million acres.

Let us now examine some specific effects, for the present and for the future, of this massive application of "landscape management" by high explosives. There is evidence from previous wars that the effects will be long-lasting. A decade after the end of World War II the craters of heavily shelled areas on Okinawa were still barren of vegetation and reddened by rusting shell fragments. On Eniwetok craters were clearly in evidence two decades after the war. Four decades after World War I vegetation in the Negev desert of Israel outlined the craters from that war, and even in France's Verdun area many of the World War I craters are still clearly visible and in some cases to this day are devoid of vegetation.

To begin with, we can see that the displacement and scattering of soil and subsoil from the craters in Indochina have given rise to harmful physical consequences. (Over the seven years the displacement of soil by bombardment in Indochina proceeded at a rate of nearly 1,000 cubic yards of soil per minute.) In hilly terrain the tearing up of the soil promotes erosion. In Indochina, where some of the soil is vulnerable to later-

ization (hardening to a bricklike state), the removal of vegetation and humus may make the area in and around craters permanently barren. At the least it has resulted in colonization of cratered regions by weedy, worthless grasses and shrubs. Furthermore, the deep craters have made many areas almost impassable for travel.

Many of the craters, particularly in the Delta and coastal regions, have penetrated the water table and remain filled with water during much or all of the year. They have thereby probably become breeding grounds for mosquitoes, greatly increasing the hazards of malaria and dengue fever for the population. Reports by military authorities indeed confirm that "malaria has been causing increasing concern in Vietnam" and has spread to previously unafflicted areas.

The impact of cratering on agriculture has been substantial. Farmers in South Vietnam, notably in the Mekong Delta, have been reluctant or unable to attempt to reclaim rice paddies or other farmlands that have been pocked by craters. One of the important deterrents is the presence of unexploded munitions buried in the ground. A number of farmers have been killed by the detonation of such shells or bombs by their plows. Moreover, the ubiquitous missile fragments in the ground cut the hooves of the water buffaloes used as draft animals, causing infection and death of the animals. The unexploded bombs and shells lying about in the soil of Indochina are known to number several hundred thousand. Bombing has also disrupted rice-growing in Indochina by breaking up many of the intricate irrigation systems, and in some areas near the seacoast it has opened the land to encroachment by salt water.

The timber industry of South Vietnam, potentially one of the most important elements in the region's predominantly agricultural economy, has been particularly hard hit by the bombing. It has catastrophically slashed the values of the once prime timberlands northwest and northeast of Saigon, for example. The heavy shelling and bombing have damaged the trees in three ways: outright destruction, riddling of the timber by missile fragments and subsequent weakening of the trees through infection by wood-rotting fungi.

The forests have been bombarded by ordnance so intensively that the trees are filled with metal shards; one mill-owner told us that four out of five logs he receives have metal in them. Although the sawmill operators make laborious efforts to chop out the pieces of metal, they are only partly successful, with the result that they have a high rate of destruction of their saw blades by still embedded metal. In trees left standing the missile-fragment wounds provide ready entry for fungal rot. In some tree species the rot progresses so rapidly that if they are not harvested immediately after the metal attack they soon become almost worthless. Apparently the main South Vietnamese timber trees lose about 50 percent of their value in two or three years from this cause. Rubber trees are particularly susceptible to the fungal rot initiated by missile-fragment wounds; they become so weakened that they are felled by any high wind. A French official of a rubber plantation told us he had lost 80 percent of his trees within two years after a bombardment of his plantation.

Loggers in the battle zones of South Vietnam find that the damaging of timber by munitions is causing them a loss of more than 30 percent in the price received for the logs (although the severance tax remains the same). In addition the profusion of craters impedes the hauling of their logs to the mill. Often they must cut the logs to a short length (instead of the desirable 90 feet that is possible under normal circumstances) to allow sufficient maneuverability to skid them around the craters. During a survey in a high-flying helicopter of a mountain forest near Da Nang we saw many craters on the mountainside and along the ridges with severe accompanying erosion; they had been produced by a single B–52 raid about a year and a half earlier. We also observed another significant type of damage: large areas of the forest had been burned out, apparently by incendiary attacks with napalm, white phosphorus and flares.

Bombardment and defoliation are by no means the only methods used by the U.S. military in its struggle with vegetation in Indochina. Beginning in the mid-1960's a vast program of systematic forest bulldozing has been developed. The employment of massed tractors organized into companies for extensive forest clearing had apparently replaced the use of herbicides to deny forest cover and sanctuary to the other side. The effectiveness of the tractors, called Rome plows, is in some ways clearly superior to that of chemicals and is probably more destructive to the environment. When we visited a land-clearing operation in August, 1971, we watched about 30 such plows (20-ton Caterpillar tractors fitted with massive 11-foot-wide, 2.5-ton plow blades and with 14 tons of armor plate) scrape clean the remaining few areas of the Boi Loi Woods northwest of Saigon. We learned that in the 26 days prior to our visit the company had cleared 6,037 acres. Four other companies were also in operation and these five units had cleared a total of 750,000 acres as of August, 1971. We visited an area that had been plowed several years previously and it had regrown to cogon grass (*Imperata*), making further successional stages to the original hardwood forest very unlikely.

A study by U.S. agents has determined that about 10 percent of the agricultural land of South Vietnam has had to be abandoned because of the destruction wrought by bombardment and other weapons used in this war. It has been a war against the land as much as against armies. Indeed, it appears that one of the main strategies of our military effort has been to disrupt and destroy the social and economic fabric of rural, agricultural Vietnam in order to drive the peasant population into areas under central control and to deprive the guerrilla enemy of a power base.

Only about 5 to 8 percent of the U.S. bombing missions in Indochina have been directed at tactical military targets, that is, in direct support of troops. The rest of the bombing missions are described as "harassing" or "interdiction" attacks. They are also referred to as strategic bombing missions. Whereas the targets of strategic bombing in World War II were the factories, port cities, railroads and so forth of the enemy, in the Indochina war the strategic targets are the land and forests of Indochina because they give cover and sanctuary to the other side. It is important to note here that whereas factories, ports and other man-made sources of production can be rapidly rebuilt, as demonstrated in Europe and Japan, it is doubtful that many of the forests and lands of Indochina can be rehabilitated in the foreseeable future.

From 1966 on the B–52's carried out incessant attacks on a schedule of almost daily missions. From an altitude of 30,000 feet, where they are usually unheard and unseen from the ground, they have been sowing systematic destruction. A typical B–52 mission, comprising seven planes on the average, delivers 756 500-pound bombs in a pattern that saturates an area about half a mile wide and three miles long, that is, nearly 1,000 acres. Thus on a schedule of four or five missions per day of seven sorties each, such as was followed during 1971, the B–52's alone were creating about 100,000 new craters each month. Unfortunately the release of air-war data is now severely restricted.

The cumulative impact of the munitions attack on the land has to be seen to be grasped fully. Reports by military observers speak of the landscape's being "torn as if by an angry giant," and of areas of the green delta land's being pulverized into a "gray porridge." Our brief survey has only suggested some of the grim consequences for the present and future life of the inhabitants of Indochina. Still to be assessed are the effects of the persisting bombardment on the people's habitations, on the animal life and general ecology of the region. The damage caused by the large-scale disorganization of the environment may be felt for centuries.

Meanwhile the steady bombardment and shattering of the land, shielded from the Western world's view and concern by the whole Pacific Ocean and the supposed "winding down" of the war, goes on with no end in sight.

Senator Gaylord Nelson of Wisconsin has introduced in the Senate a bill to provide for a study by the National Academy of Sciences "to assess the extent of the damage done to the environment of South Vietnam, Laos and Cambodia as the result of the operations of the Armed Forces of the United States . . . and to consider plans for effectively rectifying such damage."

Senator Nelson declared:

"There is nothing in the history of warfare to compare with [what we have done in Indochina]. A 'scorched earth' policy has been a tactic of warfare throughout history, but never before has a land been so massively altered and multilated that vast areas can never be used again or even inhabited by man or animal. . . . These programs should be halted immediately before further permanent damage is done to the landscape.

"Our program of defoliation, carpet bombing with B–52's and bulldozing . . . did not protect our soldiers or defeat the enemy, and it has done far greater damage to our ally than to the enemy.

"The cold, hard and cruel irony of it all is that South Vietnam would have been better off losing to Hanoi than winning with us. Now she faces the worst of all possible worlds with much of her land destroyed and her chances of independent survival after we leave in grave doubt at best."

POLISH CONSTITUTION DAY

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, perhaps the most singularly important fact about the Constitution of 1791 was that it provided the instrument through which Poland hoped to raise herself from humiliation to a condition of independence and security. By instituting much needed reforms, this Constitution, despite its defects, did as Lord observed:

> Afford the possibility of a new, sound, and progressive national life.

And, in the end, he concluded:

> This heroic breach with the past, this abjuration of the ancient sins, this renunciation of the idolized "golden liberty" throws an immortal gleam over the last dark years of the Republic.

Mr. Speaker, this week marks the 181st anniversary of the Polish Constitution. Last August I was in Poland and I know the spirit of this Constitution still lives after 181 years. It will live as long as men strive for liberty anywhere in the world.

At this point I think it is appropriate to include a historical background study of the Constitution prepared by Joseph G. Whelan of the Library of Congress,

Foreign Affairs Division. The study follows:

THE POLISH CONSTITUTION OF 1791: A BRIEF HISTORICAL BACKGROUND STUDY

EUROPE IN 1791

Factors influencing the Polish Constitutional Movement

Some major external factors which contributed to the trend toward orderly and stable constitutional government in Poland were the death of Frederick the Great of Prussia, the French Revolution of 1789, and the Turkish war.

In 1786, Frederick the Great of Prussia who shared with Russia and Austria in the first partition of Poland died. As a result of his death, the alliance between Prussia and Russia was loosened; and Prussia, effecting a change in policy, concluded an alliance with England and Holland against Russia. At the same time Russia encouraged the Poles to adopt pro-Russian policy and to forsake their alliance with Russia. Moreover, Poland was given temporary security by the distraction from Europe of Russia and Austria by virtue of their war against Turkey. Thus, with Russia and Austria preoccupied in other quarters and a friendly disposed Prussia on its western border, both of Poland's flanks, heretofore exceedingly vulnerable, were momentarily secure. Because of this fortuitous set of circumstances, the Poles were able to press on with long expected constitutional reforms virtually unmolested.[1]

Moreover, the French Revolution of 1789 had in an ideological way an appreciable effect upon the Polish trend toward constitutional reform. The French Declaration of the Rights of Man and many other ideological conceptions that underlay the Revolution had taken root in the minds of many Poles, some of whom were anxious to see the same principles put into effect in Poland. The Polish Constitution was by and large, however, just an adaptation of English and French constitutional principles and practice—and whether consciously or not, the American Constitution as well—to the realities of Polish life. Be that as it may, the Polish Constitution was in the end, as Robert Howard Lord wrote, a "happy blend of liberalism and conservatism." [2]

THE CONSTITUTION OF 1791

Steps leading to its adoption

In 1788, the so-called Four Years Diet convened under the leadership of Stanislaw Malachowski, Hugo Kollantaj, and Ignacy Potocki. Once assembled, the Diet, among other things, set out to reform the constitution along more modern lines. A commission was formed for this purpose on September 7, 1789. However, procrastination, a notable characteristic of the Polish Diet, resulted in a three years delay before action was finally taken, and, according to Lord, these Polish leaders only at the eleventh hour nerved themselves to put through—by revolutionary means, as if in desperation—a great and sweeping act of reform.[3]

Unfortunately, the Polish leaders did not fully capitalize upon the opportunity given them by the Russian engagement in the East.

One of the fundamental causes for the delay in effecting constitutional reform was the great diversity of principles and interests within the Diet itself, and only after three years of heated political argument, prolonged debates in the Diet, and a deluge of propaganda advancing one point a view or another did the reforms become a reality. Among the contesting forces in the Diet were the *szlachta*, the military land-owning class, which jealously guarded its inherited privileges. This group held the view that Poland's difficulty lay in excessive despotism and not anarchy, and many in this faction advocated their "aristocratic republicanism" to such an extent as to favor complete suppression of the King. There was also a group which favored the English system of government, and another favoring the French. Finally, there were those who being more extreme reformers advocated the principles of the French radical revolutionaries; that is to say, emphasis upon "equality," denunciation of the *szlachta*, and the demand for political and economic freedom for the townsmen and peasantry.[4]

Delay in drafting the new constitution was thus in many respects unavoidable. But, as Lord observed:

"The wonder is rather that they at last adopted a plan of constitutional reform which contained so happy a blend of liberalism and conservatism, which ran so contrary to many of their instincts and prejudices, and which contained so many things of a kind which it is not easy or popular for statesmen to propose. Adherents as they were of "the French principles," they still refused to apply them in blind doctrinaire fashion. Aristocrats, they demanded heavy sacrifices from their own class, while championing, as far as was prudent, the interests of the other classes. Republicans by inheritance and education, they made the central point in their program the establishment of a strong royal power. In an age marked by its passion for 'freedom' and hatred of 'despots,' they undertook a reform quite opposite in character to the one then proceeding in France—a monarchial revolution. To a nation extraordinarily attached to its 'liberties,' they preached 'national existence first, and liberties afterwards.' " [5]

The tempo of the movement toward constitutional reform was increased by the conclusion of the Convention of Reichenbach in September 1790. As a consequence of this Congress with Prussia, Austria agreed to withdraw from the Turkish war on the basis of *status quo ante bellum*. Russia was then alone in its war against the Turks. With Russia thus deserted by its ally, Poland was compelled to face the possibility of a Russian withdrawal from the war. In such a case, Russia's hand would be free in Eastern Europe, an eventuality which quite conceivably was contrary to Polish best interests.

In the new Polish Diet of November 1790 which was made up of an equal number of old and new members the reactionaries, or Opposition, were reduced to a small minority. Finally, in December the so-called Patriot leaders were reconciled with the King. The way was prepared, therefore, for the reformers to press more rapidly their plans. Regular secret meetings were held in the early part of 1791 in which the King, Stanislas Augustus, Piattoli, Potocki, Malachowski, and others worked out the draft plan for the new constitution. Stanislas drew up the working paper for preliminary discussions using the English system as a model. When the King presented his draft to his "fellow conspirators", the proposed changes were so radical that he remarked, somewhat apologetically, "these were only the dreams of a good citizen." [6] The reformers, however, enthusiastically acclaimed the draft as an excellent consttiution, which they believed could be easily adopted.

Events developing abroad made speed the most important consideration. The Russo-Turkish war was coming to a close, and one this issue was resolved Russia would again have a free hand in Eastern Europe. Significantly, this factor greatly accelerated the movement toward constitutional reform, because the Patriots were determined to have a stable and well organized government when that turn of events came about.[7]

Knowing that regular proceedings of the Diet would require years to pass the constitution, the Patriots decided to push adoption through in a most extraordinary way. Toward the end of April 1791 the stage was set. The support of a majority of the Diet appeared to be assured. The public mind seemed to be in a receptive mood, and most important, since the intention of the reformers was divulged to Bulgakov, the Russian Minister at Warsaw, immediate action was necessary.

On May 2, 1791, the Diet reconvened after its Easter recess. Steps were taken to make sure supporters of the scheme were present. And although Bulgakov had dispatched word of the impending coup to the Opposition members, only a few had returned. On the evening of May 2, a meeting was held at Radziwill Palace where the new constitution was read and loudly acclaimed. Of the events taking place the next day, Lord wrote:

"Early on the morning of the 3rd the streets of the capital and the approaches to the castle were crowded with expectant and agitated throngs. The galleries of the hall of the Diet were packed, and the session began amid tense excitement. First on the order of the day came a report from the Deputation of Foreign Interests. In its name the eloquent Matuszewicz read a number of dispatches from the envoys at Vienna, Paris, Dresden, the Hague, and St. Petersburg, showing various ominous developments in the general situation of Europe, the menacing designs of Russia, and the danger of a new partition unless before the end of the Eastern war Poland had given herself a strong government. The effect was all that could have been hoped for. After some moments of silence, the Marshal Potocki called upon the King to suggest the means of saving the country. Stanislas produced the draft of the new constitution, which was read aloud. Cries of *"zgoda! zgoda!"* (agreed! agreed!) resounded from all sides. But here the handful of reactionaries broke out into wild obstruction. For hours there were storms of eloquence and also tragi-comic scenes—as, for instance, when one republican fanatic raised his young son in his arms and threatened to stab him on the spot, in order that he might not live to see the despotism which this constitution was preparing for Poland. At last a happy interposition of the King saved the situation; the question was put, and with hardly a dozen dissenting voices, amid tumultuous enthusiasm, the great project was passed *en bloc*. Rising on his throne Stanislas at once took the oath to the new constitution, and then King, senators, deputies, and people went in joyful procession to the nearby Church of St. John, to sing the Te Deum. That night all Warsaw illuminated and celebrated. Thus ended the bloodless "revolution" of the Third of May, the one altogether glorious and splendid day in the life of Stanislas Augustus, the last great day of radiant joy and hope that Old Poland was to know." [8]

Opinion at home and abroad

The Constitution of 1791 was enthusiastically acclaimed by the Poles. For weeks after the May 3 proclamation expressions of approval and gratitude flowed in from the provinces. Celebrations were held throughout the cities and towns, each trying to outdo Warsaw. All Poland, wrote Lord, "seemed intoxicated with joy." [9]

Nor were the tributes abroad any less enthusiastic. Edmund Burke, the English statesman, declared that Stanislas was worthy to be immortalized by Reynolds, for he "had achieved a great work." [10] And, again he wrote, "Humanity must rejoice and glory when it considers the change in Poland." [11] Writing in his Reflections on the Revolution in France, Burke later expressed the view that the Polish constitution "contained seeds of continuous improvement, being built on the same principles which make our British constitution so excellent." [12] Commenting

Footnotes at end of article.

upon the Polish Constitution Baron d'Escare wrote:

"In France, to gain liberty, they began with anarchy; in Poland, the nation was given liberty and independence, the respect for the law, for person and property was assured, and all this without violence, without murder solely through the virtue of the courage of the nation, which, realizing her misfortune and her error, knew how to heal her wounds." [13]

In America, George Washington, the first President of the newly formed Republic of the United States, wrote to David Humphreys in Philadelphia two months after the May Third Constitution was proclaimed:

"Poland, by the public papers, appears to have made large and unexpected strides toward liberty, which, if true, reflects great honor on the present King, who seems to have been the principal promoter of the business." [14]

Finally, the Cambridge History of Poland in a recent evaluation of the Polish Constitution concluded:

"Posterity . . . joins with the best contemporary opinion in deeming the Constitution of the Third of May one of the greatest achievements in Polish history." [15]

Provisions of the Constitution

Fundamentally, the Constitution of 1791 was an attempt to do away with the medieval and outmoded system of government in Poland and replace it with a modern constitutional monarchy and parliamentary type of government somewhat akin to the system existing in England. The Constitution discarded those aspects of the old system which contributed to the constitutional and political weakness of Poland. The Liberum Veto, a device by which a single dissenting vote in the Diet was sufficient to prevent passage of legislation, was abolished. The procedure determining succession to the throne was made more stable, and the power of the executive, heretofore restricted, was increased.

In an analysis of the provision of the Constitution, Lord wrote:

"The succession was assured to the Elector of Saxony and to his male heirs, or in case he should leave no sons, to his daughter (proclaimed "the Infanta of Poland") and her heirs. The prerogatives of the monarch were largely extended. The executive power was lodged in his hands, to be exercised through a council of ministers (the *Straz*), resembling a modern cabinet. If the principle of ministerial responsibility was not clearly asserted, it was approximated by the provisions that every act of the King must be countersigned by a minister, and that ministers were not only criminally but also politically responsible to the Diet, since they might be removed at any time by a two-thirds vote of that body. The administration was to be carried on through four Commissions (Army, Finance, Police, and Education), acting under the direction of the King and Council, but elected by and responsible to the Diet (a rather unfortunate concession to the old fear of despotism). As regards the legislative power, the chief innovations were these: that the Chamber of Deputies, as the direct representative of the nation, was given a decided preponderance over the Senate, which was confined to the advisory and moderating role proper to an appointive Upper House; and, secondly, that the Lower Chamber, which had hitherto been essentially a federal congress of ambassadors from the various provinces, received an entirely new character through the declaration that each deputy was the representative of the whole country and was thus—by implication—not to be bound by imperative mandates from his local constituents. While a thoroughgoing social and economic reform would have been at that moment quite impracticable, the constitution went as far in that direction as was prudent; and it held up a program, an ideal for the future. The economic barriers between nobles and bourgeoisie were broken down; the townsmen recovered their judicial autonomy, and received a number of political rights, especially that of admission to many of the higher offices and magistracies (such as the four great administrative commissions). Above all, the gates to the Diet were once more opened—after two centuries—to the deputies of the Polish cities, although this representation, unfortunately, was still confined within modest limits. Finally, the peasantry, so long left without any recourse against the arbitrary will of their masters, were now taken under the protection of the law." [16]

DESTRUCTION OF THE MAY THIRD CONSTITUTION

Russia intervenes

An important concept in Russian foreign policy was to have a weak Poland on its western border. Thus, it is not surprising that Catherine the Great, ruler of Imperial Russia, looked upon constitutional developments in Poland with great misgivings. Relieved of war with the Turks, the Russian sovereign, who regarded the Polish reformers as "the Jacobins of Warsaw" and looked upon the Constitution of 1791 as producing "disorders analogous to those of France", set out, as she said, "to fight the enemy in Poland and in so doing I shall not the less occupy myself with the affairs of France." [17]

Ostensibly to destroy the Polish Constitution of 1791 but in reality to annex part of Poland for herself, to present Prussia with another part, and to reduce the remainder to a vassal state, Catherine ordered her Russian armies to invade Poland on April 8, 1792. Entering Poland with the Russian forces were three Polish magnates, Felix Potocki, Severin Rzewuski, and Xavier Branicki, who, having conspired with the Russian Empress to destroy the new constitution which they opposed and re-establish the old constitutional system by force, set up a Confederation, that is another government, at Targowica on May 14, 1792.

Deserted by the Prussians who in violation of their promises to the Poles refused to render them aid, Poland was left to fend for itself against the invading Russian armies. Efforts by the Polish Army under Prince Joseph Poniatowski and Thaddeus Kosciuszko failed to halt the Russian columns, although it won three pitched battles. After three months of fighting, the war finally came to an end in a Polish defeat. The King was forced by circumstances to abandon the Constitution to which he had sworn allegiance. Forthwith the Constitution was abolished as a "dangerous novelty" [18] by the men of Targowica who eventually extended their Confederation over all Poland. Through this Confederation, Catherine of Russia ruled the conquered Poles.[19] Finally, on September 23, 1793, Poland was partitioned for a second time. Reduced to one third its original dimensions, with a population of approximately 3,500,000, Poland lost all its eastern provinces to Russia, while Prussia received the greater part of what was termed Great Poland.

Thus came an end to the Polish Constitution of May 3, 1791.

FOOTNOTES

[1] Encyclopaedia Britannica: A Survey of Universal Knowledge, Chicago, Encyclopaedia Britannica, Inc., 1951, v. 18, p. 139.

[2] Lord, Robert Howard. The Second Partition of Poland: A Study in Diplomatic History. Cambridge, Harvard University Press, 1915, p. 194.

[3] *Ibid.*, p. 192.

[4] *Ibid.*, p. 193.

[5] *Ibid.*, p. 194.

[6] *Ibid.*, p. 196.

[7] Reddaway, W. F., *and others, ed.* The Cambridge History of Poland. London, Cambridge University Press, 1941, v. II, p. 13.

[8] Lord. *Op. cit.*, p. 198–199.

[9] *Ibid.*, p. 199.

[10] Cambridge History of Poland. p. 135.

[11] *In* Zielinski, Anthony J. Poland in the World of Democracy. St. Louis, 1918. p. 203.

[12] Cambridge History of Poland. p. 135.

[13] *In* Zielinski. *Op. cit.*, p. 170.

[14] Washington to David Humphreys, July 20, 1791. Writings of Washington. *Ed.* John C. Fitzpatrick, Washington, Govt. Print. Off., 1939, v. 31. p. 320–321.

[15] Cambridge History of Poland. p. 147.

[16] Lord. *Op. cit.*, p. 200–201.

[17] Eversley, Lord. The Partitions of Poland. London, T. Fisher Unwin, Ltd., 1915. p. 107.

[18] Encyclopaedia Britannica, p. 139.

[19] Cambridge History of Poland, p. 151.

STATE-LOCAL TAXATION, AN OVERVIEW

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, as a result of the Serrano decision in California, the property tax—our oldest revenue raising instrument—has come under increasing public scrutiny and criticism, much of it, I might add, fully merited. However, most of the attention involved in this new reappraisal of the tax has centered on the incidence or equity side of the question. While I would certainly not deny that these are very important considerations in evaluating any tax system, I think it should also be remembered that there is a second, equally important area of concern; namely, the economic impact of a tax and the effect it has on economic growth, resource allocation, and capital formation.

I have recently had the pleasure of reading an article by one of the Nation's leading experts in public finance, Prof. C. Lowell Harriss, of Columbia University, which cogently focuses on this often neglected aspect of the property tax. I think it provides a much needed additional perspective to the current debate on the property tax and would commend it to my colleagues for their consideration.

Mr. Speaker, in addition Professor Harriss' article deals with the broader matter of incentives for capital formation and the effect that overly heavy taxation of business income may have on that crucial component of economic growth. In this time in which we are hearing so much about tax reform and the need to eliminate so-called loopholes and windfalls to business, I think Professor Harriss' article provides a much needed antidote to some of the current reckless rhetoric emanating from the other side of the aisle:

STATE-LOCAL TAXATION

(By C. Lowell Harriss*)

By what criteria does one judge a tax system? Three may serve: revenue adequacy, equity in distribution of the costs of government, and "efficiency" in the sense of conformity with (or least obstruction to) economic and social progress. Each of these, however, has many aspects. Just think of the meanings of "equity" as applied to taxation. Or the host of elements which combine to make up "progress" and the countless ways

Footnotes at end of article.

in which taxes influence producers and consumers (beyond the obvious extraction of dollars).

Additional complications arise from the fact that each of 50 states has devised its own tax system, and Congress has developed a 51st for the District of Columbia. Within the states, around 70,000 local governments impose taxes in variety beyond any possibility of examination here.

So I shall be selective. Doing so enables me to touch a bit on each of the criteria—revenue adequacy, equity and efficiency.

"ENOUGH" REVENUE? PERHAPS

You might almost jump in startled disbelief if I were to say "State-local tax systems will yield adequate revenue." Such would be too sweeping. But the facts are more than impressive.

State-local tax systems now yield revenue on a scale which only a few years ago would have seemed beyond belief—five times as much as 20 years ago, with annual rates of expansion of about 9 per cent. New accounts highlight "gaps" and "shortfalls" and "unmet needs." But what is news can give an erroneous impression of more typical cases. A more comprehensive overview is now possible.

Dr. Elsie Watters of the Tax Foundation will soon present new projections of state-local expenditures and revenues. She has made her preliminary figures available, subject to revision.[1] In summary, they leave no doubt that *existing* state-local tax systems (plus federal grants *already* on the books and various charges and other nontax sources) will finance expenditure growth at a rapid rate. On assumptions which seem to me reasonable, revenues will "rise enough to meet foreseeable needs"—by a definition of the term which is more generous than strict. This concept of need allows an "improvement" factor equal to that of the 1960s.

State-local tax systems now have more automatic upward elasticity than is often recognized. If property value increases were reflected more promptly in assessments, the revenue responses would be even prompter and larger. In three years through 1970 *per capita* state-local taxes rose by nearly $100 to $427. Making rough allowance for tax changes voted in 1971, I see Dr. Watters' 1975 projection as over $600 *per person* ($3,000 for a family of 5) in 1975.

The state-local tax systems now on the statute books will finance a rising level of performance of functions including improvement of quality (after allowing for inflation). Adequate? A few comments later.

These conclusions apply to the country as a whole. Exceptions will exist, and some will stand out. Some large cities, for one reason or another, will depart from the general average. The amounts can present difficult strains in individual cases.

But for state-local government as a whole the actions of recent years in adding new taxes, and in raising the rates of old ones, plus the increase in federal aids (over 10 per cent a year projected to 1975 without new programs), assure revenue increases which can pay for the existing quality of state-local services supplied to a rising population and also permit continuing improvement.

These projections, let me emphasize, build *cumulatively* upon more than two decades of high rates of expansion of state-local taxes and spending. Year after year annual growth rates—*without* federal grants—have been nearly 10 per cent. This rate is much above the rate of rise in personal income or in federal spending (or revenues) or in corporate earnings or in gross private domestic investment.

State-local government (excluding federal aid) has been *the* growth sector of economy. Taking into account the $25 billion increase (1972 fiscal year over 1950) in federal grants, one finds even greater evidence of the expansion of state-local spending.

In other words, and in addition to high federal taxes which finance growing grants in aid, the American people have already subjected themselves to state-local taxes at levels far higher than ever before. Some states and communities, of course, impose much heavier taxes than others. By the standards of say, the top quarter in providing services and taxing to pay for them, some are much below.

Unquestionably, many advocates of greater spending will find the growth rates of the projections "inadequate." Present taxes, and even higher ones, can never meet "desires"—and, as seen by some persons, "needs"—for more government spending.

PROPERTY TAXATION: MORE PROGRESS, LESS POVERTY, GREATER EQUITY

The largest revenue producer deserves more citizen and business attention—and in much of the country more intensive use. It has faults galore. As it exists in practice one place or another it can be justly criticized by every criterion relevant for judging a tax. Yet property taxation can be made into one which by every criterion is a good tax—and by some seems to me to be the best of all taxes for a large fraction of local expenditures.

Property taxation will be with us, as a major element of the economy, for as long as we can see. But gross inequities exist because of poor assessment. High rates on buildings impair economic progress. Low rates on land discourage best use. Increases in value created by society which seem to me the most equitable basis for financing (local) government are taxed only slightly. The opportunities, and therefore the challenges, for improvement are huge. They ought to get the best efforts of which we are able.

The general outlines of reform seem to me clear. Much agreement will be found, some disagreement—and a lot of opposition. As I have studied property taxation over the years, here and abroad, I have become increasingly convinced that feasible improvements offer tremendous hope for bettering our communities, our businesses, our homes, our whole economy—while distributing the costs of government more equitably.

Better Administration.—Some of what needs to be done should be obvious—improve administration. One can pick almost any adjective of opprobium, and it would properly apply to property tax administration in more than one community. The defects *can* be reduced. They should be. The methods have been formulated. Many have been tried, and tried with considerable success, in more than one place.

One would hope that civic organizations, business and professional associations, and other groups seeking to advance the public interest would give active support to property tax reform. The recommendations made years ago by the Advisory Commission on Intergovernmental Relations provide a solid basis. The Federation of Tax Administrators and the International Association of Assessing Officers among professional organizations have continuing interest and exert leadership for improving administration. Within some states and localities there have been constructive effort, as well as obscurantist opposition. State governments have a potential role of major importance. But the lags are distressingly long and numerous.

Hardship Relief and Exemption.—Another area of property tax improvement is, in the words of the Advisory Commission on Intergovernmental Relations, removal of the "equity stingers." Relief can be granted to older persons and families of low income without undue cost. The issue of the erosion of the property tax base through exemptions calls for effort in much of the country.

Rational Recognition of Economic Reality: Site Values as the Base for More Revenue.—A more fundamental reform rests upon a basic economic principle. In an inherent economic sense "the" property tax is two basically different levies. One rests upon land as the product of nature and society. The second is the tax on buildings, machinery and other manmade property.

Reform of the property tax offers an opportunity for a change which *can* be achieved and which will alter the incentive system so that men will then modify their private behavior in ways more conducive to community well being.[2]

The basic idea is old—but largely untried: Reduce tax rates on buildings and machinery, substantially, and boost the rates on land values. The use of land values to finance local government offers attractive opportunities. High and rising land prices could provide more funds than they yet do for much needed services of local government.

In many localities the property tax now exceeds $220 a year per capita—over $1,100 for a family of five. At such levels it exerts powerful effects, not merely the taking of money but also the influencing of investment and land use. Nonrevenue results are substantial.

The tax on buildings (and on machinery, inventory, and other tangible personal property) can have the most undesirable nonrevenue effects. The quality and quantity of improvements including housing, suffer. The tax on land, however, can be one of the best to get funds for local government. In fact, the tax on land value can be the most nearly painless way to raise large revenues—and to raise them equitably—while exerting desirable nonrevenue results.

Urbanization—Costs of Space and Land Prices.—The quality of life for the tens of millions who live in cities suffers because funds are not adequate for the facilities which governments are expected to provide. Yet, people pay "heavily" for living and working space in the city. Their demand for room sends land prices up and up. And most of the increasing amounts which urban residents pay for the use of city land go primarily to private owners. The issue is not whether the user must pay but how much will go to government, how much to the owner of land at purchase or by annual rental.

The congestion in cities which multiplies the need for governmental services also creates a potential source of funds for meeting some of the costs (1) without making the user of land as such the worse off and (2) without endangering the supply of land. Moreover, the tax which brings about this result can also exert pressure to put land to better use.

Land—Location—as a Product of Nature and of Society.—Urban land as a productive resource resembles labor and capital in some respects but differs crucially in others. The similarities include the fact that parcels of land, especially the desirability of location, vary greatly, as do human skills and machines. An outstanding difference is the way they come into existence. Labor and capital are manmade. The quantity and quality of training, the vigor of human endeavor, the amount of machinery and structures—all these depend in part upon what individuals expect to get in compensation and the payments they actually do receive. To get such productive capacity, society must pay. Moreover, attempts of society to take back through taxes what customers have paid for the services of capital and labor will affect the future supply.

Not so, land. Nature created it in the physical sense—and society has created much of the demand which makes some location highly desirable. The amount of land in existence will depend scarcely at all upon the amount paid to use it. The payment, how-

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ever, does make a difference in what becomes available for active use, and the particular use to be made of a parcel, its allocation among alternative uses.

Because parcels of land, especially in their characteristics as space and location, do differ immensely, something to help allocate use efficiently is of utmost importance. Payments for use of land do perform a function of outstanding significance—allocation—but not, as for man-made productive capacity, also the function of inducing the creation of the productive resource.

Except, and this exception is important: costs borne by private developers, and even more so the costs incurred by the community, do affect the desirability of locations. Around large American cities from $15,000 to $20,000 of government spending on streets, schools, water and sewage, and othe facilities is often needed for each new dwelling. As such facilities are built, as population grows and incomes rise, land prices go up. The National (Douglas) Commission on Urban Problems estimated that in the 10 years to 1966 (and despite rising tax and interest rates), land prices rose by over $5,000 per family. Even a modest fraction of the $250,000 million if used for financing local government would have permitted a welcome reduction of burden on buildings.

Criticisms of property taxation as seriously regressive fail to recognize that the tax on land is "capitalized"; prior owners have, in effect, paid the tax in perpetuity; present owners or users do not bear the burden whatever they may believe. Moreover, a part of the tax on buildings and machinery is a general tax on capital. The owners of capital cannot, in fact, shift all of this tax to users (consumers or tenants) or to owners of land. The results are more complex than can be examined here. But the analysis casts much doubt upon the regressivity conclusion. Certainly, owners of large amounts of property will often bear large amounts of the tax. And low income and wealth groups owning little or no property will bear little or none of the property tax as it falls upon suppliers of capital.

Land cannot move. Its quantity—space in its basic nature—is fixed. Tax it heavily, and it will not move to some other place, or decide to take a vacation, or leave the inventory of productive resources by going out of existence. Tax land lightly, and the favorable tax situation will not create more space on the surface of the earth. Rarely will the amount of space or surface in an area be subject to more than a little change by actions under the control of man. The value of location does depend in part upon what is done, especially by society, to make the area attractive. Prices of land, often "high," result to a considerable extent from investments by the general body of taxpayers. A heavy tax on land will not reduce the supply of space. And it can recapture, to pay some of the costs of local government, much of the annual rental value or worth of what the public itself has created.

Private Ownership of Land.—Does the ethos which ties equity (economic justice) to rewards based on accomplishment lead to justification for large rewards because of ownership of land? Differences, perhaps big ones, in payments for human services or for the use of capital can rest on what the recipient has done, his accomplishments as valued by consumers in the market. But the owner of urban, and suburban, land has difficulty showing any comparable justification.

The "moral" justification for reward related to creativity gets a bit thin and tenuous when related to many of the increments in land prices. The owner's contribution to production may have been nil or slightly positive in getting land into better use from time to time. But he may have kept it in a use much below the true potential worth to the community. Compared with labor and capital, land offers much greater possibilities of enhancement of private wealth without regard to the productive contribution of the person benefiting. The owner, however, does have incentive to allocate and to direct use into better rather than poorer alternatives. The scarcer the land and the greater the price it can command, then the more important for the community that it be used well. Private ownership presumably tends to bring about this result.

Urban sprawl is familiar. A drive in or around a large, or not so large, city leaves no doubt that failures to make best use of land do occur. They are most likely to result when the owner is free from great pressure to search out the best opportunity and then to exploit it. If he is ignorant of the possibilities, he will not get land into best use. Or he may be well enough supplied with income to be able to indulge his preferences for some suboptimal use. Out-of-pocket costs (after taking account of income tax deductibility) may be relatively small. Perhaps he may delay change in land use because sale of his land would bring a heavy tax on capital gain.

Property Tax Effects on Structures.—The supply of buildings presents a striking contrast to land. Heavy taxes on buildings produce several nonrevenue results. These taxes help to account for some of the deplorable features of our cities. There is merit in reducing the tax rate on structures.

The property tax on buildings hits well-constructed, high-quality, structures far more heavily per unit of floor space or cubic contents than it does slums and "junk." The element of property taxation which falls on buildings creates an incentive against upgrading of quality, especially in those parts of older cities with most urgent needs but also with high tax rates. Such unintended and undesirable discouraging of private effort to raise quality does not come from the tax on land.

When his tax bill goes up because an owner has constructed a better building, he does not get correspondingly more or better government services. But his investment will usually have produced advantages for others around. As compared with the old, deteriorated, property on which tax was low, the new, high-quality building will bring the general public positive "neighborhood benefits."

Would not wise public policy encourage better structures? Without deliberate design, the present tax favors buildings which produce bad neighborhood effects. The owner of dilapidated structures—residential, commercial, industrial—will be freer from economic pressure to replace with something better if his tax goes down because the building gets worse. Any individual or business wishing to shift to use of a higher quality structure must also pay more toward the costs of government—$1 more of taxes for each $3 (or even $2) of annual payment for the better facilities themselves.

Cities which urgently need to replace obsolete buildings must now rely heavily on a tax which creates a bias against replacement.

Taxes and Maintenance.—The quality of space within buildings available for work and living will depend greatly upon the *maintenance* of the stock of older buildings. Undermaintenance forms one way by which an owner can reduce his net investment in a building. His actions in letting a building run down will affect others, the larger neighborhood. Deterioration of a minority of buildings can hurt a considerable area. Good maintenance can be combined with spending for improvements which have "spillover" benefits for the whole neighborhood.

Though often overshadowed by income tax and other considerations, property taxation has some influence on maintenance, adverse influence. The tax reduces the net return from the structures and thus the attractiveness of putting more dollars into such properties. Dollars paid to the local treasury are not available to finance maintenance. And with or without good reason, the owner may fear that a "repair and maintenance" job having visible results will bring an assessment increase.

Effect on Price—Building and Land.—The property tax on buildings adds to the cost of supplying them and to the price which must be charged.[3] The tax on buildings, but not the tax on land, deprives the consumer of more real benefit than the dollars paid to government. For example, within considerable limits, the cost per cubic foot of construction declines as the size of the house, apartment, office, or other unit increases. The tax on structures, however, creates pressure for building smaller units, with less of what we really want in living room and amenities per unit of labor materials used in construction. By indirectly altering the type of construction, the tax on buildings thus deprives the occupant of potential benefits for which government treasuries get no dollars.

The tax on land, however, makes for a lower price. If tax is increased, the amount remaining for the owner drops. The price a buyer will pay goes down. Government taxes more. The user pays no less for each year's use, but government through taxes preempts more.

In this way property taxes on land are "capitalized." They reduce the price which a buyer will pay. Thereafter, the user (buyer) of the land turns over, in effect, a part of the yield or produce to government. But the person who has purchased after the tax became effective does not suffer from it. The owner of land at the time "paid" the tax increase in perpetuity. In practice, what he fails to get may be only a portion of what would be a rise due to social change. Land prices will vary inversely with taxes, other things being the same. But higher land taxes may provide better services of local government and permit lower taxes on buildings and by encouraging construction raise demand for land. The actual decline in land prices may over a period of time be less than originally expected—or in some cases not actually develop at all.

Other Undesirable Effects of High Taxes on Improvements.—High tax rates on buildings (and little reliance on land value) will reinforce incentives for creating "islands" of relatively low tax rates. A few localities in the metropolitan area will have tax resources which are above average in relation to service obligations. With lower tax rates they can have above average quality of services, attracting still more investment.

Some communities use zoning power to exclude types of property associated with high governmental expense—the high-density housing which requires heavy school costs. Other parts of the metropolitan area, however, must pay higher taxes; elements of a vicious circle gain strength.

"Lower" taxes on buildings in the fringes encourage dispersal and the development "far out" of activities (including housing) which "ought not" to be so distant. Each increase in tax rate near the center will reduce the value of the property and the tax base. Many buildings in the older section will have deteriorated but yet have some "useful" life and a potential of prolonged decline before replacement. Owners of land with obsolete buildings delay replacement, in part because the speculative holdings of the land can involve little out-of-pocket tax costs. The tax base tends to go down, aggravating the need for higher tax rates. Businesses become vulnerable to competition from outlying neighborhoods.

People who wish to escape the urban center must leapfrog over the "islands." Such land

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use imposes higher costs than if population were spread more in accord with factors free from the influence of tax on buildings. The disadvantages take the form of (1) costs in time and money of traveling greater distances from home to work; (2) higher expense of supplying water, sewer, and utility services over the far larger area; and (3) reduction in economic and social benefits with concentration of population facilities.

Basic Reform.—A change in the economic framework would permit raising the same amount of revenue but with significantly different, and better, nonrevenue results.

Progress will come from redesigning property taxation, not to reduce total revenue yield (for needs of local treasuries seem too great). The change would recognize and build upon the essential difference between land and buildings (as well as tangible personal property). Both the legal (constitutional) and the administrative conditions would differ widely from one state to another—and among localities within each state. In effect, the tax rate on buildings and other improvements would go down and the rate on land would go up. Perhaps a 1 to 3 rate relation would be a reasonable goal, but even bigger differentials would seem to me desirable if quality of administration would permit. Substantial cuts in burdens on structures could be financed by higher taxes on land—with large benefits to the community.

BUSINESS TAXES

State-local use of "business" taxes is overshadowed by federal income and payroll taxation. The temptations to tax "business" are understandably attractive. Where revenue pressures are great, lawmakers may be inclined to tax people indirectly through business, rather than directly through consumption and income taxes.

People, Not Things, Bear the Burden of Taxation.—Taxes are paid by people. One may speak of taxes falling on business, corporations, cigarettes, property, inheritances, income, or some other tax base. Yet it is not things, but people, who are deprived. Failure to recognize this fundamental lies at the base of much avoidable error in making tax policy.

Hidden Versus Evident Burdens.—In some cases it is much easier than in others to judge which individuals will be affected by a tax—and by how much.[4] In choosing to use hidden taxes, those which "conceal" the costs of government from the persons who pay, society sacrifices one instrument for helping to make better, rather than poorer, decisions on government spending. True, something can be said in favor of arrangements which free us from worry about taxes. Yet is there not more to be said for the principle of selecting taxes which are sufficiently evident to the taxpayer to enable, or force, him to relate them to the expenditures of government? Another, and perhaps more serious, indictment of indirect taxation is that one form consists of heavy burdens on businesses whose operations suffer as a result.

Justice in the Distribution of Tax Burdens.—Taxes, whether borne directly or indirectly, will be not only *heavy* but also *unequal*. Some people must pay much more than others. Being heavy, unequal, and the result of the use of government's power of coercion, taxes should be generally *fair, just, equitable*. Notions of what is fair in taxation differ considerably and always lack precision.

Two conclusions, however, seem clear: (1) Taxes on business income are *inequitable* by *any* reasonable standard, but on this score they compare moderately well with taxes on consumption and property (wealth). (2) One basis for condemning American taxes on business as they actually exist is that these levies run counter to reasonable standards of fairness. The public, however, seems sufficiently misguided to support the continuation of these taxes whose real burdens fall in ways which hardly conform to ideas of justice.

Role of Business.—Businesses are the organizations upon which Americans rely for most of what is produced. Although valuable results come from the efforts of teachers, judges, military personnel, and other employees of government—as well as from the efforts of those who work for private universities, hospitals, and other organizations not seeking profit—most real income consists of what people accomplish through business firms. Employment expansion depends overwhelmingly on business.

Business is the public's major agency for organizing labor and capital to produce—and to produce more, rather than less, efficiently. Businesses are *groups of people* seeking to benefit themselves by serving others. It is this service, whether in producing and distributing *things* or in rendering *services directly*, which the public wants. The process of meeting the desires of consumers can be more or less *efficient* in terms of inputs per unit of output. A market economy relies primarily upon *competition* in markets to induce efficiency—and to stimulate growth. For it is in business organizations that we find not only the source of more of the old, but also most of the venturesomeness which leads to the innovations that contribute much to rising living standards.

The public interest calls for each business: (1) To turn out products or services which are wanted more than something else, as reflected in freely made consumer decisions expressed in the market, or through government agencies. Part of this task of business is to anticipate, identifying wants which can be satisfied by new types of goods and services. (2) To produce by methods which economize on labor, materials, capital, and other "inputs" according to their relative scarcity and productivity.

The total accomplishment of people working as business organizations will depend upon many things: the training, inherent ability, and acquired skill of workers; their willingness to exert effort; the amount of capital—in the physical sense of buildings, equipment, and inventory, and also in the financial sense of money, without which transactions as we know them would rarely be possible; the degree of competition; present and expected demand; the state of technology and speed of scientific advance; the competence of management; and other things. Among the "other things" are some for which government is responsible—the system of law and order is one, and the tax structure another.

Taxes are *obstacles* in the sense that they take from the taxpayer without directly giving him an equivalent. Do taxes on business firms help the community to get the output most desired? Such taxes do not improve the process by which consumers indicate the relative importance of their many desires. Nor do taxes on business income help managers learn about the relative scarcities and productivities of inputs. But taxes *do* affect the alternatives which a business manager must consider the incentives open to him when acting for the company. One incentive is to reduce taxes. In adopting methods which cut the tax bill, however, a business does not economize on the "input" of government or reduce in any perceptible way government's use of resources. Nor in selecting a tax-saving alternative does the firm increase its operating efficiency in the sense of using fewer real inputs per unit of output.

A business, in fact, may wisely adopt methods which are "second-best" as regards the use of resources. The tax factor makes some methods financially the best when in a more real sense they are inferior. Taxes thus give rise to an element of conflict between private and public interest. They induce the manager to redirect the firm's activities, away from what is fundamentally most efficient. Taxes lead to results which are less than optimal when judged on the basis of economic productivity and the allocation of resources.

Productive capacity is not allocated to the uses, and in the proportions, which are fundamentally best. Too much investment goes into forms with less burdensome tax consequences; too little then goes where taxes will be high. The economy loses some real income. The loss is a burden—but one which is largely concealed, which cannot be measured. As taxes on business operations have gone up, the effects of distortions have certainly increased.

Looking ahead, I am convinced that our economy "needs"—expects—more capital than is likely to be available. Federal tax policy bears upon this problem more than state-local taxation. Nevertheless, the state (or locality) which wants to benefit itself (its people) most should refrain from business taxation to the extent practically possible. In the competition for capital, taxes do make a difference, albeit one which can be overshadowed by other forces.

A business must have equity capital, and supplying it costs something. The stockholder sacrifices the opportunity to use his wealth in some other way—lending or buying power. Such sacrifice is an economic cost. Although income tax law and traditional accounting do not recognize this cost as a deductible expense of doing business, consumers will not get equity capital to work *for* them—and employees will not get equity capital to work *with*—unless the people who can provide ownership capital expect to receive total net benefits which will equal those obtainable elsewhere.

In other words, suppliers of capital, whether in debt or equity (ownership) form, expect to be rewarded. What counts are the rewards *after tax*. A "normal" after-tax return on equity capital is an *essential economic cost*. The net after-tax yield which a supplier of equity capital will insist upon, in expectation, will be as high a yield (conceived broadly as a total net benefit, including growth in value perhaps as a share in economic growth) as he could obtain from any alternative use of his funds.

Expansion calls for new capital, and in the modern world mere survival often requires growth. To get new capital, the business must offer attractions which are equal to those otherwise available to the suppliers of funds. Where can the company, in turn, get funds to compensate the persons supplying capital? It must look to customers for dollars. The lower its taxes, the better its competitive position in offering adequate after-tax yields and in attracting customers.

Space limits prevent more discussion of the many aspects of state-local taxation of business. Two topics which would warrant considerable discussion are (1) taxation of interstate business and (2) various tax incentives. And each industry group will have its own state-local, as well as federal, tax concerns.

PERSONAL INCOME TAXES

State—and local—use of personal income taxes has risen markedly. With the recent entry of Illinois, Ohio, Pennsylvania and other "holdouts," and with rate increases in state after state, total yields will go up even more than in the past (relative to national income). An element of upward revenue elasticity will now play a greater role in financing expenditure increases without going to legislatures for action needed to boost taxpayer obligations. Of course, the elasticity differs considerably from one state to another and does not approximate that of the federal tax.

Among states the weight of the tax (relative to personal income or when compared with federal adjusted gross income) varies widely. At the high end are, among others, Alaska, Delaware, Hawaii, New York, Oregon and Wisconsin. To identify those which are low might find disbelief on the part of

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readers living in such states. Clearly, however, several states using personal income taxes do so with moderation compared with others.

The tendency to pattern state taxes on federal—"conforming"—has simplified compliance for taxpayers and administration for governments. Some states, however, have sought to utilize a broader base, much closer to AGI as reported for federal tax purposes. A major objective is greater revenue per percentage point of rate imposed.

Space limits preclude further discussion of the present and possible future use of personal income taxation at the state level—and the use of earnings or personal income taxes at the local level.

The heavy reliance of the federal government on income taxation does, it seems to me, lend force to the arguments that this base is not so overwhelmingly the best for state-local use as academic writings tend to assume. The issues call for discussion which is not possible here—except to say that in fact defects of income taxation as it exists in practice destroy some of the theoretical luster of more intensive use.

CONSUMPTION TAXES

States have come to rely very heavily upon consumption taxes.[5] More and more local governments also tax retails sales and several specific products and services.

Much criticism of general sales and other consumption taxes rests upon their regressivity. The more valid basis for condemnation seems to me to be the burdening of the lowest income groups. Is this not, really, the chief reason why men of goodwill oppose regressivity? I believe that it is. Therefore, I welcome the moves of 8 states to eliminate the burdens of retail sales taxes by tax credits for the lowest income groups. Above what is thus in effect a personal or low-income exemption, the tax as it applies will be, year in and year out, roughly proportional with consumption and almost with income through a range of income which includes most Americans. Consumption taxes do not burden saving, but they do reach spending out of income which escapes (full) income taxation as well as spending out of capital. The exemption of new saving, i.e., income which is not used for consumption, gives some albeit small, encouragement to captial formation. Looking to the future needs of our economy for capital, I see reason to applaud such an offset to the general anticapital bias of our tax system.

Another point is to note the extension of coverage from durable goods to a wider range of services. This trend has much in equity and economic efficiency to commend it.

Finally, but less welcome, too many of the "retail" sales taxes still apply, too broadly, to producer goods. As the tax rates move upward, so do the economic disadvantages of what is in effect a double tax. The tax applies to producer goods and then to the value of what they produce.

GROWTH OF SPENDING

State-local taxation will depend so heavily on the growth of spending that some explicit discussion belongs here.

Wants Exceed Economic Capacities.—*Scarcity*, this is what economics is about. Not enough to go around. Governments, like families and businesses, face this basic reality. But "claimants" on funds of government seem to hope to overlook it, i.e., too often advocates of spending programs underestimate the persistence of scarcity. Almost anything which can be done by using money could probably be done by government in this country. But *not everything*. Does not the source of much current disappointment lie in failure to recognize the distinction between the "somethings" that *are* possible and the "many things added on each other" that are *not* possible?

Marvels of science and of economic organization which we take for granted do serve us well. But to anyone tempted by the vision of "plenty for all" or that old assertion, "the problems of production have been solved so that inadequacies result from maldistribution," to anyone so attracted, the economist must say, "Don't hold your breath." Wants exceed our ability to satisfy them. Thus we have problems of economizing. So will our grandchildren.

Not long ago we heard of *affluence*. The achieved levels of living of most Americans do vastly exceed anything ever realized, any time, any place, except by a small minority. Obviously, however, many wants which we feel today are not all satisfied.

Some of the shortfall applies to goals through government—security in a restless world or on the streets nearby, education, decent provision for all the needy. Some shortfalls are of things which we feel that we ought to get from the results of our work; the income we earn ought to buy more in the market place.

A sizable chunk of the disappointment with what we can get in our private buying power results from the *tax bill* needed to pay for (1) schools and defense and other governmental services plus (2) transfer payments for welfare and Social Security. *Per capita* taxes, including those more or less hidden, have risen (1971 dollars) from under $1,000 in 1961 to around $1,500 in 1971. *This rise of $2,500 for a family of five must certainly help to explain some current lack of satisfaction.* Do we sense improvements in the governmental sector worth this cost?

Aspirations and expectations have risen. For some of us they seem to have gone up more rapidly than our ability and willingness to work, to save, and to raise efficiency in production.

The ballot box has not yet become an Aladdin's lamp. Electoral campaigns spawn promises. They raise expectations. Voting, a rather easy hour's "work," decides elections. But elections do not teach children mathematics, make two blades of grass grow where one grew before, or fill the winter's potholes. "Urban Edens" will not emerge easily or quickly.

The scarcity which underlies life must inevitably affect what we can do through government. In producing goods and services, the political process is no substitute for working. Nevertheless, political oratory—and extravagant talk is not limited to election time—may give the impression that through government "we" can get something for nothing. Congressional opponents of revenue sharing see realities which governors and mayors are hoping to escape.

Hope for Benefits Obtained Cheaply.—Some of the public, however, *can* get benefits paid for largely, or entirely, by others. Here there is a real possibility—but for a minority. This dream, however, has come, both subtly and blatantly, to influence general attitudes toward the use of government. This hope has effects on the financial relations among governments which now haunt the corridors of every legislative body, from small school boards to Congress.

The Santa Claus hope does exert a pervasive influence on the debates about local and state need for dollars. The members of a small group, of a locality or even an entire state, can try to escape the full force of economic scarcity by putting costs on others. The advocate may believe that his goals are the praiseworthy desire to get funds for eminently desirable purposes or persons.

But just as "pure hearts do not make pure air," generosity and compassion do not pay the bills. They do not do the work that creates real income. Is it not human, however, to feel impatient with the constraints of scarcity? "Instant solutions," however, have solved rather little, despite costs which are at times heavy. The typical response to disappointment seems to be to ask for more dollars. To get them, advocates fill the air with more strident insistence that things are wrong, and in crisis proportions. And, of course, someone else ought to be able to meet the cost.

Governmental Boundaries in an Open Economy.—Some disappointment in using state and local governments as instruments for meeting needs arises because intuitively we expect the units to which we attribute the designation "government" to have more *economic reality* than in fact is the case. Wide differences in levels of production (per capita) and of living have been due chiefly to factors other than the differences in things which state governments do. As a result, state lawmakers in imposing taxes have been limited in their ability to "latch on" to valuable differences in services which are provided by state governments. (A few states do finance themselves in part from differences created by *nature*, e.g., severance taxes on natural resources.) Income and wealth are mobile. When a state government does not actively contribute to the creation of income, then taxing the process of income generation has only limited potential unless others are generally doing so.

Much the same may be said of local governments. As areas or regions, the differing relative economic strengths of localities have resulted to limited extent only from government services.

With heavy reliance on local government to provide education and other services, America has developed different levels of local expenditures. Some inequalities became disturbing, then unsatisfactory, then even obnoxious. And they would have become more striking if local governments had been fully autonomous. Terms such as "imbalance" and "mismatch" convey some of the recognition that economic and political (governmental) areas do not coincide.

Political boundaries in an essentially open economy have had only limited economic effect. The results of this separation of economic development from political influence have been immensely valuable as compared with what would probably have resulted if Americans had been freerer to use political power to bolster "protectionist" and other restrictive economic practices in state and local areas. But the general economic benefits of rising income have not been expressed so fully in governmental services in some areas as many people have hoped.

Capital "Shortage."—A feeling that this country is amply able to supply new capital facilities seems to have crept into much thinking. Compared with "needs," present and future, conditions are less satisfactory. Americans in recent years have saved on the average (net) around 6 per cent of their after-tax income. These amounts along with corporation earnings kept in the business are too low to satisfy prevailing and developing aspirations.

Some of the strains and difficulties that state and local governments are seeking to deal with reflect the "low" level of saving relative to the "high" level of aspirations for capital goods. State and local governments need funds to finance capital improvements. To get the dollars necessary from the limited supply of funds available in capital markets, governments must compete with others—with electric and other utilities, the housing market, and industrial needs. The amounts, however, will not be adequate to meet the expectations of Americans.

Any *one* individual program (housing, hospitals, schools, utilities, environmental betterment), or any *one* community or state, can hope to escape the limitations set by the supply of new savings. Getting outside assistance offers the possibility. *But not the government sector as a whole!* "Rearranging priorities" can be highly praised. It will not, however, increase total availability.

Population Changes.—Today's stresses and strains in government finance owe much to population changes. Since World War II

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our population has grown by more than the total of Italy plus Scandinavia.

Imagine what public finances would have been over the last 20 years if school population had not risen by around 25 million!

Children are expensive. Just when family finances are heavily strained, families are expected to pay taxes for a governmentally provided function, schooling, which is expensive. And it is one which most parents hope to have performed on a rising level. Each child is young only once. *His* or *her* chance for good schooling cannot be paid for out of his, the family's, or the country's income a decade later. How natural for parents to press for better schools now!

School outlays (including nongovernmental) have soared. From around 3.4 per cent of Gross National Product in 1950, they more than doubled—to 7.1 per cent—by 1970. This financing represents an enormous achievement. With the lower level of births of recent years, "solution," though unattainable in an ideal sense, ought to be approximated more closely.

Aging also proves expensive. A generation badly hurt by the Great Depression included a large number who had not provided adequately for their retirement. Inflation, of course, has magnified the dollar need.

Movement from country to city reduced the ability of the family to provide for older persons in the form natural through most of history—life on the farm supported by some contribution of effort. Earlier retirement, some quite involuntarily, reduced the productive capacity of persons who would continue to consume. Their ability to pay taxes has often been slight. Traditional arrangements would not support the larger numbers in the newer conditions, including inflation. "Government" was to be given key responsibility. Today, much of the largest means, of course, is Social Security (Old-Age and Survivors' Insurance). The financing is by federally imposed taxes. But in fact all levels of government are affected by this rapidly rising use of taxpaying capacity. A significant fraction of our taxpaying capacity goes to pay benefits to persons retired. The employer's portion we can think of as either adding to the prices we pay or reducing income; in either case, the taxes paid are not available for schools or policing or airports or eliminating governmental sources of pollution. Per capita over all our population (not per employee), the *payroll* taxes in 1972 will be around $250 (including Medicare) compared with $70 in 1961. A basic economic fact recurs: Resources (taxpaying ability) used for one purpose cannot be used for another. Higher burdens portend more trouble for state-local ability to tax.

Mobility influences government finances. The nation-wide total of state-local spending in this land of diversity will depend upon *where* the people live. Each year many move. High service levels will *attract "users"*; high tax levels will *deter taxpayers*. How much in each case? No good measures are available; the amounts must vary significantly from place to place and time to time. But the basic tendencies will be clear. Competition among communities and states will exert restraining influences—against higher spending and heavier taxes.[6]

Freedom and Spearheads of Progress.—The amount for which people will pay in taxes will depend more than a little upon the benefits they expect to get. Grudgingly, reluctantly, often with vigorous dissent and objection, voters *will* tax themselves and their children. If the issue is one of paying for services in distant communities or across the nation, will not the enthusiasm be somewhat less?

Does it not stand to reason that the amount of tax money spent, and the quality of services financed, will be greater when the people paying do so for themselves than when their taxes are spread over a whole state or a whole nation of which the particular group is a small percentage? The correct answer to this question is probably nearer to "yes" than to "no." Compared with a uniform average over a large area, more points of progress, more cases of pressing ahead, of initiative and payment for better services, are likely to develop when communities (and states) are able to use their own economic resources for themselves and their children.

Let no one romanticize the virtues of local government. (Nor the federal accomplishment.) Things in many communities are less than ideal as regards public services relative to ability to pay (or poor relative to the amounts actually paid). Voters may be misguided. Many of us would like our neighbors—and people elsewhere in state and nation—to spend differently. But are the things which are financed through state capitols or Washington better per dollar spent than those from local outlays? Sometimes yes, sometimes no. Nothing approaching "proof" can be cited to resolve doubts beyond question.

Where things are *best*, however, local freedom and decision will probably be playing a part. The *best* Getting voters to submit themselves to taxes is no easy matter, but result must count in the long run. Not everything that someone of goodwill believes to be desirable—not even every added outlay for schools or hospitals—"ought" to be approved in a world of scarcity. Nevertheless, decisions reflecting local choices will lead to examples of good quality which are not to be expected of a more centralized regime with its pressure for uniformity of results.[7]

Welfare Costs.—A big, and unpleasant, surprise of recent government finance has been the growth of welfare costs. The post-World War II growth of personal income (after full allowance for price-level changes) has been widely diffused. Despite the increase in population, one would have expected a drop in the need for welfare aid. The fact that outlays have multiplied testifies, among other things, to the low levels of aid traditionally provided in much of the country. Hopefully, we ought soon to be within sight of "solution" in the sense that legitimate needs would be satisfied without growing outlays. Yet optimism gets little foundation in the record. Five points deserve comment.

(1) The "tax" of 100 per cent (or nearly that much) on welfare recipients' earnings above some point defies rational economics. To have *created* an *obstacle* to what is obviously so desirable—incentive for the needy to try to contribute to support for self and family—scarely testifies to "our" foresight. To have continued such stupidity is even less easily condoned. Awareness of the need for reform leads to hope for better rules.

(2) Equally silly, and inexcusably inhumane, is the incentive for family break-up. Fathers are pushed out of the home. In the 1930s there may have been good reason to design a program specifically for mothers having no support from an "inhouse" father. Yet we still suffer from a monstrously deforming incubus. Once again, recognition of need seems likely to lead to new rules which will reduce the pressure on fathers to separate from mother and children.

(3) Federal farm programs have done a good deal to shift the residence of the poor—and into areas of more costly welfare aid. Who gave much thought to what would happen to welfare budgets in northern cities as governmental farm programs forced land out of use and encouraged mechanization? Hopefully, what lies ahead in the further displacement of human beings will be less in numbers. The strain on the finances of state-local governments will probably not be accentuated on a scale anything like that due to displacement of humans over the last 20 years.

(4) An underlying economic fact complicates "solutions" of welfare problems. Many people are not very productive. By and large, the American economy pays workers about what their output is worth. Of course, each of us could cite exceptions; some people do get more than the value of what they produce, some less. In general, however, the cost to the employer (fringes included) will be about the worth of what employees produce as reflected in what consumers are able and willing to pay.

Anyone looking at his paycheck, however, sees that as a worker he does not get all that the employer (or the consumer) incurs in cost. Taxes take a chunk. And there are other deductions. For persons who do not produce "much"—because of low skills or poor motivation, inadequacy of tools and other cooperating capital, instability and irregularity of employment, poor management—the net cash will not finance a "comfortable" living. A person's production minus taxes and other deductions may be little over what is needed for a humane standard of living. If he has others to support, a tragically large shortfall may remain.

Our instincts press us to try to finance a level of aid which in terms of the long-run health of the economy will permit conditions for children that are conducive to more nearly satisfactory development of their potential. The nearer we do so, however, the more we encounter a disturbing result: The aid may then approximate as much as many persons can get, and keep after tax, by working. In some cases, e.g., where several members of a family group are dependent, the relief aid may exceed the worth of the output of the head even when he (or she) is working at his (or her) best. When one takes account of the costs of travel and other matters associated with holding a job, and the trouble in getting back on welfare if one leaves, then inherently unwelcome elements must frustrate policy actions; the economic reality of low productivity conflicts with human needs.

No quick "solution" is in sight. But over a not-so-very-long run, helpful progress on the productivity aspect can come from a combination of such factors as more and better training, larger amounts of capital per worker, better management, higher total demand for labor, child care facilities, improved health. (One general economic benefit from Medicaid ought to be better health for some of the working population.)

(5) "Man is the source of many of his own worst difficulties." This sad truth helps to account for another part of the welfare problem. Federal and state minimum wage laws condemn persons of low skills to unemployment and penury. The laws dictate that many persons of low productivity cannot be employed. (Union pressure for higher wages exerts similar forces, but government is not so clearly responsible for the employment-hampering results.) The structure of the economy is not permitted to adjust and adapt to employ productively one kind of labor which is relatively plentiful. Entrepreneurs who might create employment opportunities are in fact forbidden by law from doing so.[8]

Measuring Results Relative to Costs.—Obviously, much of the frustrating uncertainty and complexity of government spending and taxes would melt away if results could be measured. Comparison of benefits with direct and indirect costs of taxes would then show the courses of wisdom. Unfortunately, no hope of large and quick progress can be justified. Inherently, some things we seek through government spending defy measurement.

The large element of personal services in the provision of governmental output involves a type of expense which raises more, apparently, than can be offset by improvements in productivity. Unionization of state-local employees adds to the upward pressure of costs. Assertions that productivity in government does not improve probably oversimplify. Nevertheless, the opportunities for the substitution of capital for labor, and

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for the utilization of facilities which embody advancing technology, do seem to be lower than in many parts of the economy. But we can keep an open eye for ways to take advantage of the improvements which someone succeeds in making available.

When campaigning for election, a state or local political leader will deplore the inadequacy of the accomplishments of the group in power, He will promise more. But to actually deliver more, he must have more to deliver. And the public must deliver more to him—in taxes—for him to spend. Here are elements of *crisis*—disappointment fostered by the political process. The real crisis reflects, more than we wish to admit, a failure to make explicit what is true in government as in the market place—not everything is worth its cost. Truly responsive government, however, must be built upon this reality, *not* upon "desires," "needs," or "requirements" separated from the costs. The alternative which *must* be sacrificed to pay for results must be put into the balance. And taxes have effects, adverse effects, which call for more inquiry.

To improve government, with all its vast significance for life, we need better means of relating benefits and costs. Can we not do more to improve the "controls" on the growth of spending? As higher taxes and larger federal grants shift more of the economy to the state-local sector, what are the results? Is the state-local sector, on the whole, the one that is most productive and most efficient and most humane? Though many exceptions will be found to any generalization, I suggest that there is a presumption against such a shift.

CONCERN FOR THE ECONOMIC BASE

As already mentioned, *mobility of capital* has become a concern affecting governments. The base of economic life has become less tied to specific locations than in the past. In an economy consisting largely of agriculture and extraction (mining and forestry), natural conditions go far to determine basic locations of production. Then, following the choices made for them, satellite and related servicing activities settle nearby.

Manufacturing, however, has an element of freedom. Its growth has reduced the force of land characteristics in determining location. The beginning of this emancipation was not in our generation, not by any means. But since World War II, much of the *growing* elements of the American economy, much of the element of dynamism, has consisted of enterprises which can hope to do about as well in any one of several locations.

Differences in the "packages" of taxes and governmental services can influence decisions about where to locate initially and where to expand or contract. Whatever the magnitude of state-local taxes as a cost element, government officials act with this sort of competition in mind. Concern for their economic base affects what localities and states do. Here lies a reason which is frequently cited for broader-area financing of government, i.e., for taxes which apply over a large area so that localities (or states) cannot compete on a basis of tax differences.

Time limits prevent adequate development of my general conclusions. Competition in government, as I noted earlier, has merits as well as limitations. Transfers, redistributive spending and taxes, must generally apply over broad areas. This function belongs predominantly to the national government, not to states and localities.

CONCLUDING COMMENTS

State-local tax systems differ so much that I hesitate to venture "conclusions." Compared with federal taxes, the better of existing state-local systems rank high, it seems to me, as *regards marginal amounts of tax*. In comparing greater use of state-local taxes with federal (as for financing larger grants), the potentials of state-local sources as they could be developed lead to a considerably more favorable picture than is usually painted. In any case, however, the need for improvement of state-local tax systems deserves intelligent, objective and sustained support.

FOOTNOTES

*Views expressed are the author's and not necessarily those of any organization with which he is associated. Assistance from the John C. Lincoln Institute of the University of Hartford is acknowledged with thanks. These remarks represent a modification of a paper Professor Harriss gave at the last Tax Executives Institute Conference in San Francisco.

[1] Dr. Watters, Director of State-Local Research of the Tax Foundation, Inc., presented preliminary projections at the September 1971, conference of the National Tax Association. More recent revisions will be published in 1972.

[2] This section draws heavily upon material I have presented on other occasions. Fuller analyses of some points appear in C. Lowell Harriss and W. J. Shultz, *American Public Finance*, 8th ed. (1965); *The American Economy*, 6th ed. (1968). In *Property Tax Reform: More Progress, Less Poverty*, Paul L. Morrison lecture at De Pauw University, I deal more fully with the basic rationale. "Property Taxation: Modernizing the Basic Structure," *The Bond Buyer*, June 1, 1971, sumarizes the major points. Equity aspects are the subject of "Equity of Heavier Reliance on Land Taxation (Location Value) and Less on Improvements," in *Tax Policy*, Tax Institute of America, Sept.-Dec. 1970. The Tax Foundation, Inc., has scheduled publication of a revision of my Government Finance Brief, *Property Taxation: Economic Aspects*, for 1972.

[3] The extent to which the tax falls on consumption rather than on suppliers of capital cannot be determined clearly. In cities with property tax rates on true value which are above the general average new capital will not enter unless investors believe that users of the new structures will pay.

[4] Debates over tax shifting continue with enough vigor to demonstrate that doubt about the eventual resting place of some business taxes remains.

[5] Inheritance, estate and gift taxes might well receive more attention than has recently been the case. When Congress gets to reexamination of federal taxation of transfers at death, states will probably wish to revise their death taxes.

[6] Comments about such competition come from people who are dissatisfied with this condition of American public life. (The movement of people in response to welfare aid presents a problem which needs to be distinguished from those for service, such as education.) Is it not bad, critics seem to ask, that people can be free to move in response to service levels and tax costs? One suspects impatience with freedom. Do we not wish, really, to see many others better off than they are able and willing to pay for freely? If so, cannot "we" force everyone to support a higher level of taxes and spending? The "correct" answers are not so simple as may be implied. One suggestion, however, does deserve thought: Perhaps real progress can get some aid from the search for communities with a spending-taxing balance which reflects choice among alternative opportunities. Making government more responsive to the demands of the people, by the very nature of the process of choice, will reveal that probable benefits are not always worth tax costs to everyone. The ability to move either a business operation or a family constitutes one source of freedom; some people benefit from the opportunity to choose a more attractive set of conditions.

[7] The person who is strongly egalitarian may dispute the conclusion. Or he may believe that an average level of X is to be preferred to one of X plus Δ X as some cases are quite a good deal better than the general run. Matters of magnitude and degree must, of course, be considered. But is there not convincing reason to support local opportunity to get significantly above the average? Moves to make education (almost) entirely a state responsibility, with more financing from Washington, would likely hamper the development of more of the best.

[8] The problems of federal, state, and local finance which result to some extent from teen-age (and other) unemployment, and from property and welfare costs—these problems are exacerbated by minimum wage laws. No overnight but over time, man by modifying statutes could undo some of the damage that he now does to his fellowmen (and women). This conclusion would receive widespread agreement among professional economists. Jobs would be created as entrepreneurs saw profit potentials.

Lest a valid point of importance be caricatured, and then rejected in a form which is not intended, the true position ought to be stated. Not *all* results of minimum wage laws are bad. Not *all* teen-age unemployment results from minimum wage laws. General relaxation of state and federal laws would not at once double the jobs available. But some difficult problems of public finance *are* made worse by laws which could be modified and humanized. The problems will be accentuated if the minima are pushed higher.

PETER RODINO—AN OUTSTANDING URBAN CONGRESSMAN

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 10 minutes.

Mr. MINISH. Mr. Speaker, for the past 10 years it has been my honor to represent the fine residents of the central and west wards of Newark and of the city of East Orange in the Congress. It is a source of profound regret to me that the redistricting plan ordered by the court transfer these constituents to the 10th congressional district represented by the Honorable PETER W. RODINO. I shall always treasure my association with, and retain my interest and pride in, the people of Newark and East Orange.

As residents of the 10th Congressional District, my friends in Newark and East Orange will have as their Congressman one of the senior Members of the House whose 24 years of service have been marked with numerous achievements in the public interest. A lifelong resident of Newark, PETE RODINO has been a truly urban Congressman with an intimate awareness of the massive problems that confront the cities throughout our Nation. New Jersey and the Nation have been fortunate that Congressman RODINO, with his ability, compassion and dedication, has been in a position of leadership in the enactment of legislation dealing with urban social problems. Foremost among these are the crime and drug problems that engulf our major cities and are directly related. It is an established fact that over 50 percent of all major crimes are committed by drug addicted or drug depenent persons in an effort to support their habit. Moreover, it was recently indicated that over 30 percent of all individuals who are committed to Federal penal institutions suffer from drug addiction, or are convicted of drug-related crimes.

As ranking Democratic member of the

Judiciary Committee, which is responsible for hanling legislation for the prevention of crime and the control of drug abuse, Mr. RODINO has been instrumental in the formulation of the programs enacted in recent years to coordinate and strengthen the fight against these evils.

In declaring his own personal war on drug abuse, PETER RODINO has demonstrated his deep dedication to promoting the interest of his constituents in the 10th Congressional District of New Jersey. For example, he was the first Member of Congress to introduce legislation to cut off foreign aid to those countries which fail to cooperate with the United States in stemming the flow of hard drugs to this country. He also proposed legislation to provide financial assistance to countries which eliminate opium production or otherwise cooperate with our efforts to curb the international traffic in narcotics. It was certainly a great tribute to the Congressman when his international narcotics control program was signed into law in February of this year.

He has also played a primary role in convincing our NATO allies of the need for immediate and effective action to eliminate the plague of heroin addiction. As the U.S. Representative to the Biannual meetings of NATO's North Atlantic Assembly, and as the Chairman of the last meeting of the Assembly's Scientific Committee, he has repeatedly urged that domestic efforts to control drug abuse cannot succeed unless the problem is also attacked on an international plane.

Furthermore, during his 24 years in Congress, our colleague has consistently sponsored and supported legislation to reduce crime in our streets. His committee has passed the Law Enforcement Assistance Act of 1965 and the Omnibus Crime Control Acts of 1968 and 1970. In fact, the Congressman was one of the authors of the Omnibus Crime Control and Safe Streets Act of 1968, which greatly expanded the Federal role in crime control programs. Under this act, New Jersey has been the recipient of substantial grants to improve and upgrade law enforcement at the local level. In addition to his earnest concern for the problems confronting law enforcement officers, Congressman RODINO has continuously endeavored to safeguard the constitutional rights of the accused. He is currently engaged with the question of our correctional systems and rehabilitation procedures with the aim of equipping ex-offenders to become productive, self-supporting members of society for their own benefit and for the good of the community. Extensive hearings on this subject of so great importance to all citizens are being held by his committee.

His membership on the Judiciary Committee, particularly as chairman of its Subcommittee on Immigration and Naturalization, has involved Congressman RODINO in international problems dealing with refugees, narcotics, exchange visitors, and related matters. He has been senior adviser to the U.S. delegation at meetings of the Intergovernmental Committee for European Migration and, as previously noted, is a delegate to the NATO North Atlantic Assembly and Vice Chairman of its Scientific and Technical Committee.

Beginning with his notable World War II military record, Congressman RODINO has dedicated his adult life to public service. He has adopted as his personal credo the motto of UNICO, the National Italian-American organization in which he has been most active, "Service Above Self." His legislative accomplishments attest to his sensitivity, foresight and courage in dealing with the divisive and complex issues of the past quarters of a century. The people of the 10th Congressional District of New Jersey have reason for pride in and gratitude to their distinguished Representative in the Congress. In PETER RODINO his constituents have a strong and effective voice in the Congress, a champion of their inteersts, a Representative with a national and international reputation.

AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized 10 minutes.

Mr. RODINO. Mr. Speaker, on Monday, May 8, I will introduce a comprehensive immigration bill which will be cosponsored by Mr. CELLER, Mr. EILBERG, Mr. FLOWERS, Mr. DENNIS, Mr. HOGAN, Mr. MAYNE, and Mr. MCKEVITT. This bill is designed to protect American labor and the American economy.

This proposal is the product of extensive hearings held in Washington, D.C., and throughout the United States, on the illegal alien problem.

These hearings, begun in May 1971 and concluded in Washington on March 24, 1972, were directed at the impact illegal aliens have on employment, labor conditions, welfare, public assistance and the administration and enforcement of the Immigration and Nationality Act. During the course of the hearings the committee heard 186 witnesses from government, labor organizations, as well as private citizens.

It was concluded that if legislation is enacted to remove the incentive from illegal aliens to work in the United States and of employers to hire such persons, we will eliminate this multifaceted problem. Most employers who have hired illegal aliens do not conspire to violate the law and most aliens are basically law-abiding, but the economies in many countries force people to leave and seek jobs in other areas. The pull factors of the United States—jobs, high standard of living, welfare programs, and so on, cannot be denied.

With no effective law specifically prohibiting the employment of illegal aliens, employers will continue to hire them because such persons, by virtue of their illegal stay in the United States, must work harder, longer, and often for less pay. The consequence of such work compromises labor conditions, depresses wage rates, and deprives Americans of jobs. Whatever sympathy one might have for the underprivileged aliens in their desire to improve their economic position, this Government cannot condone employment when it is to the detriment of American citizens and other persons who are lawfully in the United States. We must have an orderly system of admissions and we cannot permit aliens to violate the system and derive benefits from their illegal acts while bona fide immigrants and nonimmigrants are denied early admission and otherwise disadvantaged.

The major thrust of this bill, to be introduced Monday, is to put a prospective employer on notice that it is unlawful to employ aliens illegally in the United States or aliens who have no permission to take employment. This proposed sanction provision is in three steps: First, a citation can be issued against an employer of illegal aliens by the Immigration and Naturalization Service; second, if the employer thereafter persists in employing illegal aliens, he would be subject to an administrative fine; and third, further violation would result in a criminal penalty with a $1,000 fine and/or 1-year imprisonment.

I repeat now that it is the objective of this bill to remove the incentive from employers to hire illegal aliens and the incentive from aliens to come to the United States illegally and take jobs. It is not the purpose of the bill to put employers in prison, nor to deny aliens lawfully in the United States gainful employment, nor to put illegal aliens in prison.

It is not the purpose of the bill to harass employers or aliens with the prospect of involved legal procedures.

Other amendments which this bill provides are designed to eliminate certain abuses of the Immigration and Nationality Act and others are designed to correct certain deficiencies in that law. These provisions are discussed in the following section-by-section analysis.

The Subcommittee on Immigration and Nationality meticulously conducted hearings to insure that all sides of the issues surrounding illegal aliens were discussed and understood. The members of the subcommittee do not favor a shotgun approach which would initially impose criminal penalties against employers without the assurance that employers would have a reasonable opportunity to know whether their employees were in the United States legally or illegally. Furthermore, the subcommittee desires to protect those persons legally among us who may seem foreign from being deprived of employment opportunities. At the same time, the chronic offender—the employer who unreasonably uses indentured labor and the smuggler, should be subject to a sufficient penalty to deter them from future illegal action.

This bill has been given much thought. Some provisions have been taken from an administration-sponsored bill, while other provisions developed entirely from the hearings.

This bill will be given early consideration by the Judiciary Committee and I trust will have widespread support when it comes to the floor.

A section-by-section analysis and the text of the bill follows:

SECTION-BY-SECTION ANALYSIS OF PROPOSED ILLEGAL ALIEN LEGISLATION

Section 1.—Redefines the term "entry" to provide that a person who obtains permanent residence by an adjustment of status will be considered as having made an entry for the purposes of the immigration laws. This would place such a person in parity of status with one who enters through a port of entry and would subject such persons to the same consequences, time limitations and benefits.

Sections 2 and 3.—Revises the student nonimmigrant category in the following manner: (a) grants the Secretary of Health, Education and Welfare the authority to determine which schools are bona fide and established institutions; (b) specifically designates the following institutions as being eligible to accept foreign students: colleges, universities, seminaries, conservatories, academic high schools and elementary schools; (c) clarifies and expands the power of the Attorney General to withdraw the authority of a school to accept foreign students.

Section 4.—Redefines the temporary worker nonimmigrant category (H–2's) to eliminate the requirement that the jobs which these workers are coming to fill must be temporary in nature.

Creates a new nonimmigrant category—"student-helper"—one who is coming to reside temporarily in a private household of an American citizen or permanent resident alien family.

Section 5.—Redefines the term "lawfully admitted for permanent residence" to require that a permanent resident maintain his residence or principal dwelling place in the United States.

Section 6.—Defines the term "student-helper" as an alien under 24 years of age who is coming to reside temporarily in a private household of a U.S. citizen or permanent resident alien family. Provides that such alien shall not enter into an employment relationship with the members of such household nor accept employment while in the United States.

Section 7.—Restores to the Attorney General the discretionary authority to waive innocent defects in visas presented by entering aliens and enables the Attorney General to grant relief where an entry is defective for technical reasons.

Section 8. Expressly provides that temporary workers (H–2's) shall be subject to the labor certification requirement (presently this requirement is imposed only by regulation). Revises the exemption from the labor certification requirement for natives of the Western Hemisphere by providing that the parents of citizens and permanent residents shall be exempt only if the child is 21-years of age or older.

Section 9. Provides that deportable aliens who are permitted to depart voluntarily from the U.S. shall be excludable for a period of one year unless permission to reapply is obtained from the Attorney General.

Section 10. Eliminates various ambiguities that have resulted from contrasting administrative and judicial interpretations of section 241, relating to the waiver of deportability for misrepresentations in connection with entry. Provides that deportability can be waived for a person who entered through fraud only if he is not deportable on an additional ground other than those based on misrepresentation itself. Makes waiver of deportation discretionary. Specifies that relief under section 241 is available only to those who enter as immigrants, thereby making such benefits unavailable to those who enter surreptitiously or on a false claim to U.S. citizenship, or to nonimmigrants. Specifies that an alien whose deportability is waived shall be considered a permanent resident.

Section 11. Revises section 244 relating to suspension of deportation. Provides that the Attorney General's order granting suspension shall be effective *unless* either body of Congress passes a negative resolution.

Section 12. Restricts the prohibition on adjustment of status to aliens born in contiguous countries or adjacent islands. (This prohibition presently extends to the entire Western Hemisphere.) Prohibits adjustment to any alien who has accepted unauthorized employment or who has otherwise violated the terms of his admission or parole.

Section 13. Authorizes the Attorney General to rescind permanent residence if an alien does not maintain his residence or principal dwelling place in the United States after his admission for permanent residence. The provisions of this section shall become effective two years after the date of enactment of this Act.

Section 14.—Deletes the proviso in section 274 which provides that normal employment processes shall not be deemed to constitute harboring.

Establishes a three step procedure for the imposition of sanctions against employers who knowingly hire aliens who are in the U.S. in violation of law or are in an immigration status in which employment is not authorized: (1) for a first violation, the Attorney General is authorized to serve a citation on the employer informing him of such apparent violation; (2) if such employer commits a subsequent violation after receiving a citation, the Attorney General is authorized to impose a fine of $500 for each alien (each day constituting a separate violation); (3) following the imposition of such a fine, if an employer commits an additional violation he shall be subject to a fine of $1,000 and/or 1 year imprisonment for each violation.

Provision is made for the forfeiture of vehicles used in transporting illegal aliens.

Section 15.—Amends 18 U.S.C. 1546 to include border crossing and alien registration cards in the forgery and counterfeiting penalty statute.

Section 16.—Makes technical and conforming amendments.

H.R. ——

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 101(a)(13) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)) is amended to read as follows:

"(1) The term 'entry' means any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that his departure to a foreign port or place or to an outlying possession was not intended or reasonably to be expected by him or his presence in a foreign port or place or in an outlying possession was not voluntary: *Provided,* That no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception: *Provided further,* That any person whose status is or has been adjusted in the United States to that of an alien lawfully admitted for permanent residence shall be regarded as having made an entry as defined in this paragraph as of the effective date of such lawful permanent residence as specified in the order of the Attorney General."

SEC. 2. Section 101(a)(15)(B) of such Act (8 U.S.C. 1101(a)(15)(B)) is amended to read as follows:

"(B) an alien (other than one coming for the purpose of study pursuant to the provisions of subparagraph (F) of this section or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;"

SEC. 3. Section 101(a)(15)(F) of such Act (8 U.S.C. 1101(a)(15)(F)) is amended to read as follows:

"(F) (i) an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study at a college, university, seminary, conservatory, academic high school, or elementary school which has accepted him for attendance, and (ii) an alien spouse and minor children of any such alien if accompanying him or following to join him: *Provided,* That the Attorney General has authorized the school to accept nonimmigrant students for attendance. The Attorney General may grant a school authorization to accept nonimmigrant students for attendance only if the Secretary of Health, Education and Welfare has determined that the school is a bona fide and established college, university, seminary, conservatory, academic high school or elementary school and it has agreed to report to the Attorney General information concerning the attendance of such nonimmigrant student. If the school fails to make reports promptly or knowingly accepts nonimmigrant students who are not scholastically qualified or lack financial ability to pursue a full course of study, or if the Secretary of Health, Education and Welfare determines that the school is not a bona fide and established college, university, seminary, conservatory, academic high school or elementary school, the Attorney General shall withdraw the authorization granted pursuant to this subparagraph."

SEC. 4. Section 101(a)(15)(H) of such Act (8 U.S.C. 1101(a)(15)(H)) is amended to read as follows:

"(H) an alien having a residence in a foreign country which he has no intention of abandoning (i) who is of distinguished merit and ability and who is coming temporarily to the United States to perfom temporary service of an exceptional nature requiring such merit and ability; or (ii) who is coming temporarily to the United States to perform other services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country; or (iii) who is coming temporarily to the United States as a trainee; or (iv) who is coming temporarily to the United States to reside as a member of a private household and who has entered into a valid 'student-helper' arrangement;"

SEC. 5. Section 101(a)(20) of such Act (8 U.S.C. 101(a)(20)) is amended to read as follows:

"(20) The term 'lawfully admitted for permanent residence' means the status of an immigrant who has been lawfully accorded the privilege of residing permanently in the United States in accordance with the immigration laws and, following his admission into the United States as a permanent resident, thereafter maintains his residence in the United States, such status not having changed."

SEC. 6. Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding the following new subparagraph (41) to read as follows:

"(41) the term 'student-helper' means an alien under 24 years of age coming solely to reside temporarily in the private household of a United States citizen or permanent resident family: *Provided,* That such alien (1) has not entered into an employment relationship with any member of such household and (2) has agreed not to accept employment while in the United States."

SEC. 7. Section 21 of such Act (8 U.S.C. 1181) is amended to read as follows:

"SEC. 211(a) Except as provided in subsection (b) or (c) no immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such visa to the accompanying parent, and (2) presents a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General."

"(b) Notwithstanding the provisions of section 212(a)(20) of this Act in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, returning resident immigrants, defined in section 101(a)(27)(B), who are otherwise admissible may be readmitted to the United States by the Attorney General in his discretion without being required to obtain a passport, immigrant visa, reentry permit or other documentation."

"(c) The Attorney General may in his discretion admit to the United States any immigrant inadmissible solely because he was not entitled to the visa classification exempting him from the numerical limitation on visa issuance or the preference classification specified in the immigrant visa presented at the time of application for admission, or because he was not charged to the proper foreign state or dependent area in such visa, if the Attorney General is satisfied that such inadmissibility was not known to and could not have been ascertained by the exercise of reasonable diligency by such immigrant prior to the departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory prior to the application of the immigrant for admission. The ground of inadmissibility specified in section 212(a)(14) shall not be applicable to any alien whose case is within the provisions of this subsection."

SEC. 8. Section 212(a)(14) of such Act (8 U.S.C. 1182(a)(14)) is amended to read as follows:

"(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that (A) there are not sufficient workers in the United States who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place to which the alien is destined to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to nonimmigrants defined in section 101(a)(15)(H)(ii), to special immigrants defined in section 101(a)(27)(A) (other than the spouse or child of a United States citizens of an alien lawfully admitted to the United States for permanent residence, and the parent of a United States citizen or an alien lawfully admitted to the United States for permanent residence who is at least twenty-one years of age), to preference immigrant aliens described in section 203(a)(3) and (6) and to nonpreference immigrant aliens described in section 203(a)(8);"

SEC. 9. Section 212(a)(16) of such Act (8 U.S.C. 1182(a)(16)) is amended to read as follows:

"(16) Aliens who have been excluded from admission and deported or who are permitted to depart voluntarily from the United States at their own expense under the provisions of sections 242(b) or 244(e) of this Act and who seek admission within one year from the date of such deportation or voluntary departure unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their reapplying for admission;"

SEC. 10. Subsections (c) and (f) of section 241 of such Act (8 U.S.C. 1251) are amended to read as follows:

"(c) An alien shall be deported as having procured a visa or other documentation by fraud within the meaning of paragraph (19) of section 212(a), and to be in the United States in violation of this Act within the meaning of subsection (a)(2) of this section, if (1) hereafter he or she obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than two years prior to such entry of the alien and which, within two years subsequent to any entry of the alien into the United States, shall be judicially annulled or terminated, unless such alien shall establish to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws; (2) it appears to the satisfaction of the Attorney General that he or she has failed or refused to fulfill his or her marital agreement which in the opinion of the Attorney General was hereafter made for the purpose of procuring his or her entry as an immigrant; or (3) he or she obtains a nonimmigrant visa under section 101(a)(15)(K) and subsequently obtains adjustment to permanent resident status on the basis of a marriage to a United States citizen which, within two years subsequent to the marriage, shall be judicially annulled or terminated, unless such alien shall establish to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws."

"(f) In the discretion of the Attorney General, the provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of any entry or admission as aliens who have sought to procure, or have procured visas or other documentation, or entry or admission into the United States by fraud or misrepresentation may be waived for an alien who was admitted or was granted adjustment of status as an immigrant or who reentered following a temporary absence after such admission or adjustment, who was otherwise admissible at the time of the fraudulent entry or adjustment, and who is the spouse, parent or child of a United States citizen or of an alien lawfully admitted for permanent residence. An alien granted a waiver under this subsection with regard to an initial entry or adjustment of status as an immigrant shall be regarded as lawfully admitted for permanent residence as of the date of the waiver. For the purposes of this section, an alien shall be deemed to have been "otherwise admissible" where no other grounds of inadmissibility existed at the time of the fraudulent entry or adjustment except (1) ineligibility for the special immigrant, immediate relative or preference immigrant status accorded him, (2) improper chargeability to a foreign state or dependent area for the purposes of numerical limitation set forth in section 202, (3) lack of a certification under section 212(a)(14), or (4) lack of a valid passport."

SEC. 11. Section 244(c) of such Act (8 U.S.C. 1254) is amended to read as follows:

"(c)(1) Upon application by any alien who is found by the Attorney General to meet the requirements of subsection (a) of this section, the Attorney General may in his discretion suspend deportation of such alien. If the deportation of any alien is suspended under the provisions of this subsection, a complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such suspension. Such reports shall be submitted on the first day of each calendar month in which Congress is in session.

"(2) If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of such deportation, the Attorney General shall thereupon deport such alien or authorize the alien's voluntary departure at his own expense under the order of deportation in the manner provided by law. If, within the time above specified, neither the Senate nor the House of Representatives shall pass such resolution, the Attorney General shall cancel deportation proceedings."

SEC. 12. Section 245 of such Act (8 U.S.C. 1255) is amended to read as follows:

"SEC. 245 (a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is approved.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under section 203(a) within the class to which the alien is chargeable, or the number of visas authorized to be issued pursuant to the provisions of section 21(e) of the Act of October 3, 1965, for the fiscal year then current.

"(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) any alien who has accepted unauthorized employment or who has in any way violated the terms of his admission or parole; or (3) any alien who is a native of any country contiguous to the United States or any adjacent island named in section 101(b)(5), except an alien who is an immediate relative defined in section 201(b), or who is the child of parents neither of whom was born in such country or adjacent island.

SEC. 13. (a) Section 246 of such Act (8 U.S.C. 1256) is amended by substituting the following new language to read as follows:

"SEC. 246. If an alien who has been lawfully admitted for permanent residence does not in fact establish and maintain his residence in the United States following such admission, the Attorney General shall rescind the action taken granting such alien the status of an alien lawfully admitted for permanent residence, under such regulations as he may prescribe."

(b) The provisions of subsection (a) of this section shall become effective two years after the date of the enactment of this Act.

(c) The title preceding section 246 (8 U.S.C. 1256) is amended to read as follows:

"RECISSION OF PERMANENT RESIDENT"

SEC. 14. Section 274 of such Act (8 U.S.C. 1324) is amended by deleting the proviso in paragraph 4 of subsection (a) and by redesignating subsection (b) as subsection (e) and adding new subsections (b), (c) and (d) to read as follows:

"(b)(1) Any employer or any person acting as an agent for such an employer or any person who for a fee refers an alien for employment by such an employer, who knowingly employs or refers for employment any

alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized shall be subject to a civil penalty assessed by the Attorney General in the manner prescribed herein.

"(2) If, on evidence or information he deems persuasive, the Attorney General concludes that an employer, agent or referrer has violated the provisions of paragraph (1), the Attorney General shall serve a citation on the employer, agent or referrer informing him of such apparent violation.

"(3) If the Attorney General finds that any employer, agent, or referrer, who has received a citation under paragraph (1), knowingly employs or refers for employment any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized after the service of such citation, the Attorney General shall assess a penalty of not more than $500 for each such alien. Each day during which such violation or violations continue shall constitute a separate offense with respect to each alien. In determining the amount of the penalty, the Attorney General shall consider such factors as he may prescribe by regulation.

"(4) A civil penalty shall be assessed by the Attorney General only after the person charged with a violation under paragraph (3) has been given an opportunity for a hearing and the Attorney General has determined that a violation did occur, and the amount of the penalty which is warranted. The hearing shall be of record and conducted before an immigration officer designated by the Attorney General, individually or by regulation. The proceedings shall be conducted in accordance with such regulations as the Attorney General shall prescribe and the procedure so prescribed shall be the sole and exclusive procedure for determining the assessment of a civil penalty under this subsection.

"(5) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount assessed in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(c) Any employer or person who has committed an act cognizable under subsection (b) (3) and has been assessed a civil penalty which has become final, and thereafter knowingly employs or refers for employment any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000 for each day of such violation or by imprisonment not exceeding one year, or both,

"(d) (1) Any vessel, vehicle, or aircraft which has been or is being used in violation of this section, shall be seized and forfeited: *Provided*, That no vessel, vehicle, or aircraft used by any person as a common carrier in the transaction of business as such common carrier shall be forfeited under the provisions of this section unless it shall appear that (A) in the case of a railway car or engine, the owner, or (B) in the case of any other such vessel, vehicle, or aircraft, the owner or the master of such vessel or the owner or conductor, driver, pilot, or other person in charge of such vehicle or aircraft was at the time of the alleged illegal act a consenting party or privy thereto: *Provided further*, That no vessel, vehicle, or aircraft shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed, or omitted by any person other than such owner while such vessel, vehicle, or aircraft was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any State.

"(2) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of vessels and vehicles for violation of the customs laws; the disposition of such vessels and vehicles or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as applicable and not inconsistent with the provisions hereof: *Provided*, That such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels and vehicles under the customs laws shall be performed with respect to seizures and forfeitures of vessels, vehicles, and aircraft under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General."

SEC. 15. The first paragraph of section 1546 of title 18 of the United States Code is amended to read as follows:

"Whoever, knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, or document, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or"

OPPOSITION TO THE TRANS-ALASKA PIPELINE MOUNTS

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, 2 days ago 12 midwestern and eastern Republican Senators, lead by assistant minority leader ROBERT GRIFFIN of Michigan, sent a letter to President Nixon asking for further hearings on the trans-Alaska pipeline and forcefully noting the economic and environmental advantages of a trans-Canadian oil pipeline as an alternative to the Alaska line.

Yesterday, the Christian Science Monitor in an editorial called for further hearings and noted the potential advantages of a Canadian oil pipeline.

Today, the Washington Post in an editorial opposed the Alaska line and also noted the potential advantages of a Canadian pipeline.

Recently, the New York Times also opposed the Alaska pipeline in an editorial and noted the advantages of a Canadian alternative.

Over 100 Members of the House and over 20 Senators have called for further public hearings on the final impact statement on the trans-Alaska pipeline, released in March.

Every analysis of the Alaska and Canadian pipelines I have seen that has not been done by the oil industry or the Interior Department has concluded that a Canadian oil pipeline is economically and environmentally superior to the proposed trans-Alaska line.

Every environmental organization concerned with the Alaska pipeline issue would prefer a Canadian pipeline over a trans-Alaska pipeline for environmental reasons.

The Canadian Government itself has vigorously opposed the trans-Alaska pipeline because of the danger that tanker traffic associated with it would pose to Canada's west coast. Repeatedly, Canadian ministers and officials have expressed the government's preference for a trans-Canadian oil and gas line and have even agreed to supply the United States with additional quantities of oil during the period of construction.

I do not know how much more evidence it will take to convince the administration that it should at least postpone a decision on the Alaska pipeline so that a Canadian oil pipeline can be more fully explored. But I do know that if the administration does go ahead and approve the Alaska pipeline, it will be a political decision, one made for the best interests of the consortium of seven oil companies in Alaska and not for the best interests of the United States.

I would like to include in the RECORD today the text of the Christian Science Monitor and the Washington Post editorials on the pipeline:

[From the Christian Science Monitor, May 2, 1972]

OF PEOPLE AND PIPELINES

May 4 marks the end of the 30-day period following publication of the Interior Department's nine-volume report on the proposed trans-Alaska pipeline. At that point, Secretary of Interior Rogers Morton can grant Alyeska Pipeline Service Company the right to go ahead with the disputed project—subject, of course, to court approval.

Presumably the 30-day period was intended to allow a time for public appraisal and debate over contents of the voluminous report. Unfortunately, there has been no such debate. And for a very practical reason. No public hearings have been called, despite repeated requests from conservationists and congressmen. And only seven copies have been made available without cost to the public in six cities across the entire "lower 48" states. Groups, libraries, or interested individuals wishing their own complete sets must buy them, by mail, at $42.50 a set.

Clearly the department has not tried to encourage hearings or informed debate. On March 20 Undersecretary William Pecora stated that "a public hearing would be a circus" and would "interfere with a more thoughtful and rational analysis of this complex document." Apart from being a slap in the face of the democratic process, this statement raises the question of how much "thoughtful and rational analysis" the Interior Department has itself given to the study.

We refer to the number of environmental dangers which the first six volumes spell out, contrary to Interior Department efforts in the past to brush such issues aside; and to discrepancies in the final three volumes, devoted to economic and defense questions.

Among the environmental questions raised in the "almost certain" occurrence of "one or more large earthquakes" in the pipeline route between Prudhoe Bay and Valdez, which could "damage—even rupture—the proposed pipeline." Also, the failure of efforts to prove that tundra torn up by construction can be revegetated; the threatened

loss of caribou, grizzly bears, birds, and other wildlife from loss of habitat, spilling of toxic substances on forage, and disrupted migration patterns; and possible catastrophic salmon fishery losses from oil spillage and siltation of rivers.

Questions also arise regarding an alternate and less ecologically hurtful route through Canada, particularly since the study finds that a gas pipeline through Canada would be an "essential element" of the proposed pipeline project. Backers of the trans-Alaska route have objected that this might take another two years, extending U.S. fuel oil shortages. But Canada has pledged to supply enough oil to meet American needs for that length of time, if the oil pipeline were built through its territory.

Dozens of other significant questions can and should be raised, to which the department should be answerable. But without public hearings, who can put the questions? And who can be held responsible for answering them?

Far from being a "circus," public hearings are the very essence of the democratic process. And that is a treasure that outweighs all the oil in Alaska.

[From the Washington Post, May 4, 1972]

THE ALASKA PIPELINE: NOT NOW

Sometime in May, as things look now, Secretary of the Interior Morton will announce his decision on the Alaskan pipeline. This project, designed to carry oil from the rich fields on Alaska's Northern Slope to year-round ports on that state's southern coast, has been more thoroughly studied than any other pipeline ever proposed. Yet some questions, key ones in our judgment, remain unanswered and on the record before him the Secretary should refuse to grant the permit for the pipeline's construction.

The argument that has been made against this project is almost solely an environmental one. The line would run from Prudhoe Bay to Valdez, through miles of uninhabited tundra and mountain ranges and across rivers and streams, in an area essentially untouched by man.

That its construction would change this area, one of the last remaining large pieces of wilderness under the American flag, cannot be denied. That its mere existence after the construction crews have departed would change things is unquestioned. How much the change would be is open to debate and the new, elaborate environmental impact statement prepared by the Department of the Interior might have triggered that debate except for the statement's great length and inaccessibility even to the groups most concerned. Nevertheless, that statement makes it clear that the change, even held to the minimum now technically possible, would be substantial and, if a major error such as a pipeline break occurred, could be monumental.

That, in itself, is sufficient reason to give the Secretary pause before granting this permit to build this pipeline in this place at this time. It might not be sufficient reason to refuse to grant that permit if the country was in desperate need of the oil and if there were no alternatives. But the country, in our judgment, is not that desperate and there is an alternative. The current application for the permit and the record accompanying it simply do not make out a case to the contrary.

The basic argument for building the pipeline now, as we understand it, is to reduce American dependence on foreign oil in the years ahead, a dependence that is constantly increasing and that has obvious economic and foreign policy implications. The extent of that reduction in dependence is in dispute largely because estimates of how much oil the nation will need a decade hence differ. But using the figures most favorable to this pipeline, its construction would reduce the amount of oil the United States would have to have in 1980 from the Eastern Hemisphere from 10 times as much as it gets now to 6 times as much. That difference, it seems to us, is not sufficient to justify an all-out effort to bring in the Northern Slope oil regardless of the environmental costs involved.

Even if it were, the fact that there is an alternative ought to be given more serious consideration by American officials than it has been so far. The Canadian government is greatly interested in building a gas pipeline from that same area in the far north through the Mackenzie Valley into the center of the continent. It is also greatly interested, if the comments made here last month by the Canadian Minister of Energy, Mines and Resources are any indication, in having the two pipeline projects joined into one. The objections to this, so far as we can tell, are that a pipeline across Canada would cost more and take longer to build. But it would pose substantially fewer risks to the environment in that a Canadian line would avoid, rather than cut through major earthquake zones and eliminate the necessity for shipping the oil in tankers down the continent's West Coast. The inherent risks of an oil pipeline in an earthquake zone and a tanker going through the West Coast fishing areas are obvious.

If we are right in our judgment about the degree of dependence on foreign nations involved in oil needs, the time advantages of building across Alaska are irrelevant. But even if we are wrong, another factor enters in. It has been widely reported that some of the oil companies which own large parts of the Northern Slope field are negotiating to sell that oil to Japan once the pipeline is built. If that is true, the whole dependence argument seems to us to have been wiped out as a fraud.

Putting all these things together, it is clear that Secretary Morton ought to reject the pipeline application. At the least, he has an obligation to explore fully the feasibility of the Canadian route and then to report fully to the American public on his findings. Too much of the fragile nature of Alaska's wilderness and of the waters of Canada's west coast is at stake to do otherwise. Time is not of the essence in this situation; correctness of judgment is, for the damage once done by the construction of a pipeline across that vast area can never be undone.

SELF-HELP—HANDS IN THE TILL

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, everyone wants our country to grow and prosper, and everyone especially wants an equitable distribution of the fruits of our Nation's prosperity. We all know that members of minority groups are all too often poor, all too often unemployed or underemployed, all too seldom active participants in the business and commercial enterprise that is the lifeblood of our Nation.

Knowing all this, we could not help but welcome the vigorous efforts of President Johnson, who launched an attack on poverty, believing that it could be eradicated, that the poor could be uplifted through a combination of help and self help. It was an unparalleled dream, a worthy dream, and one that is still attainable. Among the lesser noticed of the efforts spawned by President Johnson's war on poverty was a vigorous drive by Howard Samuels, who was administrator of the Small Business Administration. This young, personable and successful man determined to use his agency as a catalyst to bring more members of minority groups into business enterprises. In a very short while, Samuels achieved remarkable success. The Small Business Administration was made vastly more responsive to the needs of minority group entrepreneurs, and a new day was at hand.

When President Nixon assumed office, Samuels left the SBA and went back to his native New York. His successor was Hilary Sandoval. The President had expressed his aim to bring minority members into business enterprise, and Sandoval took that as his mandate.

Unfortunately, Sandoval was not of the same caliber as his predecessor. He was also gullible. One of his first mistakes was to hire as his special assistant one Albert Fuente, who immediately took advantage of his position to conduct shakedown of aspiring Mexican Americans who wanted help from the Small Business Administration. Fuentes is now serving a 5-year sentence for his crimes, along with an accomplice by the name of Eddie Montez.

But in early 1970, Sandoval did not have any way of knowing how swift and deep were the waters he was in, did not know how really eager people could be to take advantage of him, his good nature, and his agency. So, when a prominent California Republican named Benjamin Fernandez came to him with a scheme to promote minority business enterprise, Sandoval was receptive, and eager to help. After all, he had a mandate and intended to carry it out. Also, there was the matter of helping fellow Republicans to the public trough, after a very long drought.

Fernandez had the idea of creating a private group of Mexican Americans who would have as their function the encouragement of business enterprise among Mexican Americans and other Spanish-speaking citizens. The organization would help businessmen package SBA loan applications, help set up management programs, and generally lend a hand to Mexican Americans who wanted to get in business, or do better at it. Although all this sounded very much like the job that SBA itself was supposed to be doing, and which Samuels, the previous administrator, successfully had devoted himself to making the agency do, Sandoval liked the idea.

Fernandez was expert enough. He had his own company, Research, Inc., which did market surveys and performed other services for companies and institutions in California. He was also ambitious, and intended, he said, to get Mexican-Americans not just into business, but into banking institutions as well. The idea was to encourage minority groups to form organizing committees to apply for bank charters and savings and loan charters. It was a business he knew something about, for Research, Inc., had occasionally performed surveys of one kind or another for financial institutions.

So it was that not long after Sandoval became SBA Administrator, Fernandez formed the National Economic Develop-

ment Association, usually called NEDA. Sandoval quickly approved an SBA grant to Fernandez' group for $605,360. NEDA took out a corporate charter in the District of Columbia on June 8, 1970, and opened its first office and national headquarters in Los Angeles on July 1.

Since that initial grant from SBA, NEDA has received additional grants of $899,671 and $449,872 plus additional cash from the Department of Commerce. With all of this money, NEDA opened a string of branch offices from Los Angeles to Connecticut, from Puerto Rico to San Antonio and a number of points in between. Altogether the group has some 18 offices.

One of the initial branch offices to open happened to be in San Antonio, and it is an office which from the beginning has been unusually active.

As soon as NEDA was in business, Fernandez went around the country to proclaim his message that a new organization was in town, and Mexican-Americans who wanted business help should call on him and his group. When Fernandez came to San Antonio in late 1970 however, I received a disquieting report. It seems that a San Antonio businessman approached Fernandez for some advice, which was only natural since Fernandez had just finished a speech about how advice giving in behalf of NEDA was his principal occupation. Fernandez, I was told, listened to the man and then asked whether he was asking for advice from the president of NEDA or from a professional consultant. The message was clear: Fernandez expected to be paid for whatever advice he gave, NEDA notwithstanding.

At about this same time, a San Antonio group was encouraged by NEDA to organize a committee to apply for a savings and loan association charter. Two of the six organizers were associated with NEDA: one was Cipriano Guerra, who ran the San Antonio office of NEDA, and the other was Dr. Richard Delgado, who was a member of NEDA's national board of directors.

One of the essential parts of any financial institution charter application happens to be an economic survey, for bank supervising agencies must have some substantial way of measuring the likely success of the proposed venture. The San Antonio group hired none other than Research, Inc., to do its study, and the economist who did the job was none other than Benjamin Fernandez. For this work, according to documents at the Federal Home Loan Bank Board, the San Antonio group paid $13,500. In short, Fernandez used NEDA to encourage the San Antonio group to organize, and then offered them a complete package of economic and legal services to complete the necessary documents.

This technique apparently was a habit with Fernandez. He saw nothing wrong with using his NEDA position, the facilities and resources of NEDA, and the contacts developed by the organization—all thanks to very large Government grants—to establish bank organizing groups, and then charge those same groups $10,000 or more for his personal services. Chances are excellent that without his NEDA position, Fernandez would have never come into contact with many of the groups he obtained contracts from. Clearly, his helping hand was aimed very much at helping himself. Fernandez' helping hand was reaching across the counter and into the till of the people he claimed to be helping, thanks to NEDA.

Not long after the San Antonio savings and loan group organized, another NEDA group came into being in San Antonio. So closely together did these events take place, they might have even occurred at the same time. In any event, this second NEDA group in San Antonio aimed to apply for a national bank charter. Once again, the NEDA San Antonio office chief, Cipriano Guerra, was among the organizers, and in fact was to become one of the largest stockholders in the proposed bank. NEDA national board member Delgado was also among the bank organizers and likewise scheduled to become a stockholder, if the group received a charter. I should point out here that when a national bank charter is granted, the initial stockholders almost immediately receive an immense increment in the value of their investment, often doubling the value of their holdings overnight. For Delgado and Guerra, the NEDA connection stood to pay off very well indeed, if the charter application succeeded.

Like the parallel savings and loan group, the bank group also turned to Research, Inc., to carry out the requisite economic surveys. For this job, Research, Inc., received a payment of $5,000 in November 1970 and was to be paid a like amount on submission of the charter application. Altogether, then, within 6 months of the opening of the NEDA venture, Fernandez had earned $23,500 in San Antonio alone in fees paid to his research company by NEDA organizing groups.

It was clear that the bank group, which proposed to form the Plaza National Bank of San Antonio, was very much dependent on Fernandez and NEDA. At an initial meeting with the Comptroller's staff in Dallas on December 29, 1970, Fernandez was introduced as the group's economist. But exactly 6 months later at a Comptroller's hearing, Fernandez claimed that he had not prepared the Plaza group's economic survey. This was odd, in light of the fact that he had prepared what was probably an almost identical study for the savings and loan group, and especially since he had received $10,000 for the services of his company to the Plaza group. Somehow between December and July, Fernandez chose to transform himself from a professional economist to an interested citizen, one who had no stake in the bank application other than a paternal interest. His interest was real enough, but it was financial, not paternal.

Why Fernandez chose to thus transform himself, I cannot say. It is possible that since he had sold his Research, Inc., interests in March 1971, he somehow thought his role really had changed. However, that would be to overlook the fact that he had been paid for a complete package of services in late 1970 and early 1971, and that whether he personally prepared the survey in question or not, it was clearly done under his direction and he had received a handsome amount of money for his troubles.

Whatever his reasons, Fernandez in July 1971 tried to present himself to the Comptroller's office as simply an interested citizen, the national president of NEDA, a man who knew about banking matters, and who wanted the charter application to be approved. Fernandez claimed at the hearing to have appeared at some 300 such occasions, but this claim of expertise was somewhat deflated when he admitted that he had been present at fewer than five—and probably this meant only one or two—national bank charter hearings. Fernandez does seem to have a capacity for gross exaggeration. He also claimed at the hearing that NEDA was about to open a vast new string of offices, though to my knowledge the organization has not grown substantially since that time. But then Fernandez boasts today that he is raising a million dollars toward the reelection campaign of the President.

Fernandez claimed that he and NEDA had been responsible for some 18 financial institution charter applications. In light of his tendency to boastings, this might not be true at all. If we take the figures Fernandez claimed and if the pattern of his operations holds true throughout, it is possible that Fernandez collected something like $10,000 from each of 18 bank organizing groups—or $180,000. In the two cases I have described, Fernandez made plenty of money for his efforts in behalf of NEDA, using NEDA to set up groups, and then collecting $23,500 from them for the professional services of his research outfit. In a third case, the same pattern appears to have taken place, and I would not be at all surprised to find that Fernandez also got substantial money from this group.

Following the first year of NEDA operations, Fernandez appeared confident of the future. But sometime late last year or early this year, Fernandez was bounced out of the NEDA presidency and even off its board of directors.

It may be that NEDA feared that Fernandez was getting too greedy, or that his gross improprieties would someday besmirch the organization. Whatever the case, he now no longer holds as much as a directorship on the NEDA board, though his benefactor, Hilary Sandoval, is on the board. Dr. Delgado also remains on the board, and Cipriano Guerra and the rest of the Fernandez team are still pretty much in place.

It is possible that Fernandez did not commit any crimes. Possibly not. Yet it is plain that he did not hesitate to take advantage of his position for his private gain, and did not hesitate to make it clear that he intended to be very well paid for whatever efforts he made toward helping his fellow Mexican Americans, even though, thanks to NEDA, his efforts were already being paid for. Such avarice, such blatant misuse of position is morally reprehensible and ought to be condemned, for actions of this kind can

only undermine and damage the integrity of the best of organizations. Whatever good NEDA may have done, and whatever good it may do in the future, can only be damaged by the moral blindness and self-aggrandizement of men like Fernandez. There can be no excusing such behavior as I have described, there can be no explaining it away.

I believe that if NEDA is going to be able to do its job, the agencies that finance its operations must demand that it operate free of self-seeking by its employees. They must be dedicated to helping others, not merely enriching themselves. I have accordingly asked each of the executive agencies concerned to look into this matter and take whatever corrective action is necessary to assure that in the future NEDA will not be the plaything of men like Fernandez. I am also asking the appropriate committees of the House to look into this matter, and join me in insisting that steps be taken to clean the NEDA house, and see that no longer will the helping hands be in the till or at the trough, but stretched out to assist those who have been asking for help, and who desperately need it.

GENERATING POWER FROM EARTH'S INTERNAL HEAT: A HOPEFUL FACTOR IN AMERICA'S ENERGY CRISIS

The SPEAKER. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 10 minutes.

Mr. MATSUNAGA. Mr. Speaker, the Committee on Interior and Insular Affairs is currently holding timely hearings on the energy crisis which the United States and the world are facing.

The demand for energy in America continues to grow at an increasing rate. The demand for electrical power alone increased from 95 billion kilowatt hours (kw.-hr.) 30 years ago to 1,212 billion kw.-hr. in 1967, and is predicted to reach 4,700 billion kw.-hr. in the year 2000. This explosive increase in demand requires that all possible practical sources of energy be developed.

That is why I am introducing today legislation to further the research, exploration, and development of our geothermal resources. Scientists involved in the energy field have estimated that geothermal energy—the energy from the interior heat of the earth—could provide as much as a fifth of our Nation's electrical power capability.

Of course, geological constraints limit the areas where geothermal resources can become an important energy source. But the potential for the Western States, including Hawaii, will likely be significant. In many cases, geothermal power generation will prove to be the most efficient method. Unlike nuclear powerplants it can be economically feasible on a small scale. It is virtually nonpollutant. In sum, this is a resource that must be developed.

Congress has made a beginning, with its enactment of the Geothermal Steam Act of 1970; Federal lands with a potential for geothermal energy may now be developed properly.

What is needed now is an expanded research and development program, on a scale not economically feasible for private or academic interests to undertake without assistance. That is what is contained in the measure I introduce today.

The bill proposes a 5-year program directed toward the achievement of the following goals:

First, to assess the geothermal energy resources of the public domain;

Second, to establish a reliable body of knowledge of the principles that determine the occurrence and characteristics of geothermal reservoirs;

Third, to develop reliable guides to exploration for such reservoirs;

Fourth, to help develop the technology of power generation; and

Fifth, to help develop the technology of byproduct recovery, largely fresh water and mineral products.

My bill would establish an immediate revolving fund of $20 million and an amount not to exceed $5 million in each succeeding year. The total amount in the fund could never exceed the original $20 million. Federal loans could be made to cover up to 75 percent of the cost involved in the exploration of ground steam or hot steams. The legislation would allow the loans to be made for exploration on both private and public lands.

The research program established under the bill's provisions would serve as the cutting edge in the development of this long-neglected resource. Ten million dollars are authorized for this purpose over the 5-year life of the program. The focus of the research efforts would be a Geothermal Research Institute, which would serve as a clearinghouse for relevant data and a source of data development itself. Because of the ideal geological conditions resulting from the volcanic origin of the Hawaiian Islands, Hawaii would provide the perfect setting for such an institute, and my bill so provides.

The full development of the potential of geothermal energy sources could substantially supplement America's energy supplies, and conserve invaluable, nonrenewable resources, while protecting environmental quality. I am hopeful for timely congressional approval of this important legislation.

At this point I include the text of my bill, as well as a recent article from the Honolulu Star-Bulletin relating to geothermal resources in Hawaii:

[From the Honolulu Advertiser, Feb. 17, 1972]

EARTH'S HEAT ADVOCATED AS SOURCE OF POWER

EL CENTRO, CALIF.—The interior heat of the earth—our planet's primordial energy—could soon be providing a fifth of the United States' total electrical power capacity, it was reported yesterday.

The heat is available in enormous, practically untapped and inexhaustible underground pools of hot water and steam.

Advocates have estimated that a geyser steam field in California's Sonoma County could generate 5 million kilowatts of electricity, and that all other known fields in the Western states could produce 75 million kilowatts.

These rosy views of the potential of geothermal electric power were given at the opening session of a national conference sponsored by the Geothermal Resources Council, a new organization formed to encourage exploration and development of this relatively undeveloped energy source.

Richard G. Bowen, an Oregon geologist, is chairman of the three-day conference. He said in an interview that what had been considered potential geothermal resources were now proving to be facts.

"United States geothermal capacity is somewhere between 30 and 100 million kilowatts," Bowen said.

H.R. 14801

A bill to promote the exploration and development of geothermal resources through cooperation between the Federal Government and private enterprise.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds and declares that geothermal resources are vital natural resources which should be explored and developed to their fullest potential to supplement the Nation's energy supplies and conserve nonrenewable resources and environmental quality.

SEC. 2. As used in this Act—

(1) The term "geothermal resources" means (A) all products of geothermal processes, embracing indigenous steam, hot water, and hot brines; (B) steam and other gases, hot water, and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (C) heat or other associated energy found in geothermal formations; and (D) any byproduct derived from them;

(2) The term "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) The term "person" means an individual, partnership, corporation, or other legal entity;

(4) The term "Secretary" means the Secretary of the Interior.

TITLE I—GEOTHERMAL RESOURCES RESEARCH PROGRAM

SEC. 101. (a) For the purpose of evaluating and developing the potential of geothermal resources as a source of power, the Secretary is directed to establish a Federal geothermal resources research program of the seventies.

(b) The geothermal resources research program will be a five-year program designed to—

(1) establish a reliable body of knowledge of the principles that govern occurrences and characteristics of geothermal resources;

(2) develop reliable guides for identification of and exploration for specific reservoirs of geothermal resources;

(3) conduct regional surveys, using geologic, geophysical, geochemical, and drilling techniques, that will lead to identification of potential reservoirs of geothermal resources in the United States and its territories, possessions, and the District of Columbia and Puerto Rico with emphasis on assessment of geothermal resources of all federally owned lands; and

(4) develop the basic knowledge of geothermal resource systems necessary for consideration of byproduct recovery, including that of fresh water, gases, and minerals.

(c) (1) As part of the program established under subsection (b), the Secretary shall establish in Hawaii a United States Geothermal Research Institute (hereinafter in this subsection referred to as the "Institute") to accumulate and computerize all available geothermal information, both domestic and

foreign, and to encourage the free exchange of all developed geothermal information for the general welfare of the fledgling industry.

(2) The Institute shall be a clearinghouse of all geothermal energy related data and shall acquire and develop cost-engineering and trade-off studies, and conduct actual developments and tests for new technologies as they become available to the Institute.

SEC. 102. There is authorized to be appropriated for the purposes of this title the sum of $10 million to be spent over the five-year life of the program.

TITLE II—GEOTHERMAL RESOURCE DEVELOPMENT LOAN PROGRAM

SEC. 201. (a) The Secretary is authorized to enter into contracts with persons who are engaged in the business of developing power from geothermal resources to—

(1) conduct exploration on private lands or on federally owned lands to which rights have been obtained in order to determine the character and economic potential of specific reservoirs of geothermal resources;

(2) develop the technology of power generation from geothermal resources, including construction and operation of demonstration or pilot plants;

(3) develop the technology of byproduct recovery, including that of mineral products such as calcium chloride, lithium, and borates; gaseous products such as carbon dioxide and ammonia; and fresh water; and

(4) develop a disposal system for waste products from geothermal resources such as brines and condensates, in a manner compatible with environmental preservation.

(b) The Secretary shall file a written report on the progress of this program with the President, the Congress, and the Environmental Protection Agency at the end of each fiscal year.

SEC. 202. (a) Contracts issued under section 201 shall provide for Federal loans of up to 75 per centum of the cost of the project, to be repaid in the event the Secretary determines that the results of the project have a commercial value.

(b) If the Secretary determines that the results of the project have a commercial value he shall establish a reasonable schedule for repayment of an amount not to exceed (1) the full amount of the loan plus 6 per centum interest compounded annually or (2) 75 per centum of the commercial value of the results of the project, whichever is smaller.

(c) The contract may include such terms and conditions as the Secretary deems necessary to protect the interests of the United States and the environment.

SEC. 203. The Secretary is directed to establish a revolving loan fund from which loans will be made and into which loan repayments will be deposited.

SEC. 204. There is authorized to be appropriated in the first fiscal year after enactment of this Act $20 million and in each subsequent year an amount not exceeding $5 million provided that in no event the revolving fund shall exceed $20 million.

SETTING THE RECORD STRAIGHT ON THE TRANS-ALASKA PIPELINE

The SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. BEGICH) is recognized for 10 minutes.

Mr. BEGICH. Mr. Speaker, in the CONGRESSIONAL RECORD of April 27, 1972, my distinguished colleague, the gentleman from Wisconsin (Mr. ASPIN), charged that the Department of the Interior and Secretary Rogers Morton had made the recent environmental impact statement on the trans-Alaska pipeline "virtually invisible." As any of us who have held the massive nine-volume impact statement know, it is anything but invisible. But the impression fostered by the allegation was that the Department had consciously conspired to prevent public scrutiny of the statement, that the statement had been "virtually hidden from public scrutiny," and that the Department's "treatment of the public has been shabby."

With all due respect for my able colleague, I must assert that such statements simply do not correspond with the facts. I ask unanimous consent to have reproduced hereafter the comments and allegations of the gentleman from Wisconsin (Mr. ASPIN) as they were printed in the CONGRESSIONAL RECORD for April 27, 1972, on pages 14602 and 14603. And to demonstrate that the statements made therein are inaccurate and misleading, I ask that a brief statement from the Department of the Interior be included following the remarks of the gentleman from Wisconsin. I am hopeful that this will be of great interest to my colleagues who are seeking complete knowledge on this matter.

The statements follow:

THE ALASKA PIPELINE ENVIRONMENTAL IMPACT STATEMENT IS VERY SCARCE

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, I am very concerned that the environmental impact statement on the proposed trans-Alaska pipeline has been virtually hidden from public scrutiny. I am sure that many of my colleagues will be interested in knowing that only seven copies of this important impact statement are available for public inspection in the lower-48 States. In fact, there is not one impact statement publicly available for 3,000 miles. There is not one impact statement publicly available in New York, Chicago, Milwaukee, or Detroit. In fact, there is not one copy available between Washington, D.C. and San Francisco.

Not only that, but the Interior Department is charging $42.50 for the 9-volume environmental and economic study of the Alaska pipeline and its alternatives. And, even if you are willing and rich enough to be able to afford the $42.50 price tag, it may take almost 1 month to obtain a copy of the impact statement.

For instance, in one case, it took the lawyers for the three environmental groups who are suing to prevent construction of the Alaska pipeline, 28 days to obtain several copies of the impact statement. On March 24, these lawyers asked for the copies, but were told they were out of print and would not be available for another 2 weeks. Three weeks later, on April 14, they were told that the impact statements were still not ready. They finally received part of their order on April 21. Thus, it took these lawyers—who have been integrally involved in the Alaska pipeline issue for over a year and a half—almost a month to get hold of these copies, which they wanted to distribute to others for comment. It is quite relevant to note that Secretary of the Interior Rogers Morton stated when the impact statement was released that a decision might be made at the end of a 45-day period, which means that these lawyers spent almost two-thirds of that period futilely searching for some copies of the 3,550-page impact statement.

Saying that Interior's treatment of the public has been shabby in this case is being kind to the Department. First, Interior refuses to hold public hearings on the basis that hearings would constitute "a circus," in the words of Under Secretary William Pecora. Then the Interior Department announces that it is selling the impact statement for a mere $42.50, and delays the distribution of these copies for as long as 1 month in some cases. And, to top it all off, the Department only provides seven publicly available copies for over 200 million people.

If there were a conscious conspiracy to prevent public scrutiny of the impact statement, it couldn't be accomplished much more effectively than this.

It is also important to note that the Council on Environmental Quality, to whom all comments on the impact statement are submitted, has so far received only five or six comments from private individuals on the Alaska pipeline impact statement. This is an unusually low number. I am just waiting for the Interior Department to say: "Aha, this shows that the public is satisfied with the impact statement." The real reason, of course, for the lack of public comment is that the Department has made the impact statement virtually invisible.

I believe very strongly that if the Interior Department is truly concerned with allowing the public a fair opportunity to comment on this vitally important environmental impact statement, it will agree to postpone its decision on the Alaska pipeline for at least 2 more months. In the interim it should, of course, make the impact statements much more available for public inspection and should also assure that those willing and able to buy the impact statement are able to get them much more quickly than is presently the case.

FACT SHEET—DEPARTMENT OF THE INTERIOR

1. The Final Environmental Impact Statement on the Trans-Alaska Pipeline as proposed was the most lengthy and detailed impact statement ever prepared. Consisting of 6 volumes and 3 supplemental volumes, it totals over 3,800 pages. The statement was the result of approximately 175 man years of work during the past year. It is the most thorough and lengthy impact statement ever published.

2. Congressman Aspin received a complete set of the 9-volume statement. Over two dozen complete sets of the 9-volume statement were distributed to certain members of the House and Senate.

3. March 20, 1972, was the date on which the Department of the Interior released the final environmental impact statement on the proposed pipeline. On that date, in accordance with the provisions of the National Environmental Policy Act, 10 copies were delivered to the Council on Environmental Quality.

4. On the same date, 102 copies of the 9-volume statement were made available to the press.

5. Ten copies of the entire statement were given on March 20, 1972, by the Department of the Interior to the lawyers for the three environmental groups who are suing the Department concerning the pipeline. These lawyers were given preferential treatment.

6. Congressman Aspin did not mention that the lawyers were given 10 free copies on March 20, 1972. But Congressman Aspin claims that the lawyers spent almost a month "futilely searching for some copies of the 3,500 page impact statement." While leading one to believe the lawyers could not get copies, Congressman Aspin failed to mention that the lawyers had been given ten free copies on the first day of issue.

The Department of the Interior did not sell the statement. The statement was sold by the National Technical Information Service of the U.S. Department of Commerce and by the Government Printing Office. The cost for all nine volumes (3,800 pages) was $42.50. The Department of the Interior sold no copies.

8. Congressman Aspin alleges that only seven copies of the statement are available for public inspection in the lower 48 States. Of the 2,460 copies printed, 585 were for De-

pository Libraries, 265 were for sale by the National Technical Information Service, and another 1,000 were for sale by the Government Printing Office. And in addition, copies were sent free to several environmental and public interest groups. Also, copies were provided to the media and to elected officials, all of which are public.

9. There were three printings of the 9-volume document. The first printing (March 20, 1972) provided 625 copies for special distribution such as the Council on Environmental Quality, the press, conservation groups, other government agencies and officials, Alaskan offices, and the Congress. Of that 625, 174 complete sets and 172 copies of Volume I went to the National Technical Information Service for public sale. The second printing (April 7) provided 225 complete sets to the National Technical Information Service for public sale. The third printing (April 17) provided 585 complete sets for Government Printing Office distribution to its depository library system and 1,000 complete sets for GPO sales stock.

HO HUM—ANOTHER MONTH, ANOTHER TRADE DEFICIT

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, it is that time again, another month, another deficit; another quarter, an even bigger deficit; another year. Well, it is obvious that we are in for yet another record trade deficit. It is utterly incredible to me the way people around this town become hardended so quickly to crisis situations that within a short period they almost seem immune, almost totally impeturbable. When these huge gapping trade deficits first started to make their regular appearance some months ago, it was front page news, speeches were made, promises were given. Then as the months went by, apparently impressed with the Nation's ability to live with defeat as far as foreign trade is concerned, the administration and the agencies with responsibility in this area settled back to their routine of business and government as usual. The men with the soothing voices, the statisticians on the administration's payroll with an ability to use figures to justify anything and everything to explain away figures have completely taken over, it would appear. We are constantly being told with each month's deficit, in essence, to sit back and relax, there is no cause for alarm; things will be turning around 'ere long.

Mr. Speaker, I rise today to serve notice that, at least as far as one Member of this body is concerned, the pablum is wearing a little bit too thin. My constituents are beginning to gag on it, to judge from my mail. They want something more solid in response to these figures than calming reassurance. They want action now. They are tired of being told "wait until next month, the figures will show a great improvement." They are tired of hearing each month that month's trade deficit figure is a "temporary aberration." They are tired of hearing each month one statistician after another blame the whole thing on the east or west coast dock strikes.

As a matter of fact, I am so sick of hearing these deficit figures explained away month after month by men who should know better as the result of a dock strike that I am convinced that, if the dock strike never had occurred, the administration's spokesmen would have had to invent it. It is a pretty sorry state of affairs when the best explanation that money can buy from the collective economic talents of this administration is the lame excuse that somehow or other last year's whopping trade deficit and the monthly deficits for the past half year are all somehow the results of a dock strike. While the dock strike certainly had some serious repercussions on our economy and certainly lasted a number of months—that no one can deny—the administration would have us believe that everything that has gone wrong with our balance of trade for the past year and it would appear for this year is somehow related to this one occurrence. When anyone attempts to pin down these official spokesmen, they get vague and say they are not quite sure what the connection is and how it is all related. If I accomplish nothing else here today, at least I hope I am in part responsible for the administration burying this excuse when they announce next month's trade deficit which, just as sure as I am standing here today, will be announced.

Sarcasm to one side, it is high time that people in this city got down to brass tacks and began to confront the real continuing contributing factors behind this country's consistently poor trade performance. It is time that they began to tackle the rising flood of imports. A $1.5 billion surplus of imports over exports for the first 3 months of 1972 is a frightening harbinger in the spring of what we can expect come December. Those administration spokesmen who take comfort in the fact that the monthly trade deficit for March, $484.3 million, is down slightly from February's record high, ignore at their own peril—and the Nation's peril—that last month's trade deficit was still the third highest in the history of the Nation. The quarterly trade deficit is in fact the highest in the Nation's history.

This Nation just cannot continue to withstand this kind of imbalance of imports over exports. If our negotiators cannot come up with concrete evidence that our trading partners have agreed to dismantle their numerous trade barriers against our exports or if our other negotiators fail to come up with voluntary agreements with our foreign trading partners to restrict their flooding of our markets with their imports, then this Congress has no alternative but to exercise its responsibility and legislate new trade legislation. Time is running out on our administrators. One would not have to be a long time observer of the Washington scene to detect a mood in this House that Congress must act and begin hearings soon on trade. The chairman of the Ways and Means Committee has said as much and we all know any administration ignores his few, well chosen words at its own peril.

Should any Member here feel that I am taking up too much time discussing these figures, let me share with them the background against which I am speaking. In a report just furnished to Congress by the Secretary of Labor under Public Law 92–224, the act which extended unemployment compensation for a further number of weeks, the Secretary indicates that "Massachusetts' exhaustion rate for regular benefits was higher than the rate for all States participating in the temporary compensation program." The Secretary goes on to say:

> Massachusetts' experience under the temporary compensation program reflects the employment and unemployment conditions that have been prevailing in the State during the past few years. The decrease in nonagricultural employment was entirely in manufacturing with a 12% decline. Manufacturing, the largest industry in the State which accounted for 31% of nonagricultural employment in 1969, was down to 28% in 1971. Both durable and nondurable goods manufacturing declined.

If these statistics do not shake you, perhaps these will. Average annual total unemployment increased from 97,000 in 1969 to 135,300 in 1971, an increase of 90 percent. That is not one Congressman's imagination, this is the Secretary of Labor talking. To quote further from the good Secretary:

> Approximately 24% of both temporary compensation claimants and regular claimants were attached to the durable goods manufacturing industry, where employment decreased 13% from 1969 to 1971. For the nondurable goods sector of manufacturing where the employment decrease was 10%, the proportion was also 24% of temporary compensation claimants and of regular claimants. The Secretary ends his discussion of Massachusetts on this sobering note, "The extended benefit program in Massachusetts under which benefits became payable at the initial October 11, 1970 date, is still in operation, with a 13-week insured unemployment rate of 7.65%, 126% above the average rates for the corresponding periods in the prior two years.

So, in other words, the manufacturing sector of Massachusetts' economy is in serious trouble. Those of us in Massachusetts know the industries hardest hit have been the leather goods, textiles, and consumer electronics industries—just the industries that have been hardest hit by the rising flood of imports. This is no coincidence. This is very much at the root of our problems in Massachusetts and as a Congressman from Massachusetts, I would be doing less than my job if I did not demand something better from those in charge of our economy than stale explanations and the promise of more trade deficits to come.

Mr. Speaker, this very afternoon this House is considering a bill at the request of the administration to appropriate $1.6 billion to maintain the gold value of U.S. dollar holdings in various international financial institutions. This bill is referred to and correctly so as the dollar devaluation measure, because the expense is directly attributable to the decision of this country to devalue the dollar not too long ago. My point is this, and I do not want to belabor it, that even though in the end I will vote for this measure as a necessary evil in part and parcel of the bitter pill we swallowed when we accepted the need to devalue—the point I want to make today is that

this amount of money is but a small part of the price we are paying and we can expect to pay as a nation for the continued erosion of this Nation's balance of trade. The fact is that at various periods already our foreign exchange experts have had to come to the dollar's rescue more than once. The pressure for further devaluation is there, make no mistake about it. If we do not want to see continued decline of the dollar in the world currency markets and additional expenses of this sort on top of an already staggering budget deficit, then it is time we took immediate steps to confront the problem directly.

MINIMUM WAGE

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, minimum wage legislation will soon be a topic for House discussion and decision. As cosponsor of a substitute minimum wage bill, H.R. 14104, I am particularly interested that the provisions of such bill are fully understood. The thrust of the substitute bill is focused in two major areas, namely, the granting of reasonable increases in the minimum wage scale, and secondly, the provision for a "youth differential" minimum wage. Today, I want to emphasize the need for such a youth differential wage and explain the differences in approach made by the committee bill and the substitute.

Is there a need for a youth differential wage? Perhaps the best answer to that question is still another question; namely, is there a need to encourage the hiring of youths? It is common knowledge that unemployment and the state of the Nation's economy has been a vital topic throughout the Nation this past year. Although the Nation's unemployment has hovered between 5.7 percent to 6 percent, youth unemployment has ballooned to unbelievably high levels. For youths generally, unemployment is at an 18.8-percent level and in the inner cities the unemployment rate—largely for minority youths—zooms to between 20 and 30 percent. This high rate is also attributable in part to the large number of youths entering the job market. It is obvious, therefore, that unemployment among youths is an immediate problem that demands our immediate attention.

THE COMMITTEE BILL, H.R. 7130—IGNORES THE YOUTH PROBLEM

The committee bill has no youth provision—it has only a limited student exemption which provides that a full-time student irrespective of age can work for not more than 20 hours a week at 85 percent of the applicable minimum wage but not less than $1.60 an hour. However, the bill lists over 20 industries or occupations in which students cannot be employed. In those in which they can be employed, an employer must receive a prior certification from the Secretary of Labor. Under current law, requiring comparable certification in 1971, there were approximately 5,000 certifications issued.

To sum up the defects of the committee bill: First, it ignores the high unemployment of youths and provides that only students can receive a differential rate. Thus, the children of the affluent or middle class have special provisions that enable them to get jobs at reduced rates but ghetto youth or high school dropouts get no consideration whatsoever; Second, even the employment of students is drastically inhibited by the requirement for prior certification—more redtape to discourage employers—and the long list of industries from which they are excluded from working. In practical effect then, the committee provision on students is rhetorical rubbish designed to indicate a modicum of concern for student employment. In reality it is a studied unconcern even for the employment of students.

YOUTH PROVISION UNDER THE SUBSTITUTE BILL (H.R. 14104)

Our substitute provides that youths under 18 may be employed at 80 percent of the applicable minimum wage or not less than $1.60 an hour, whichever is greater. Witnesses at hearings on this bill testified that at least a 20 percent differential is needed to be meaningful. Second, the rate takes into account the increases to be promulgated in the regular minmium wage which will go to either $1.80 or $2 shortly after passage.

More importantly, however, is that our bill requires no prior certification and does not restrict the industries in which they can get jobs—except for those industries restricted under existing child labor laws.

Finally, our bill gives the Secretary of Labor authorization to issue regulations that will insure that the hiring of youths at the youth rate will not displace regular full-time employees. We have voted to give the youth of America the right to vote and participate in the American political scene and I believe it is time to give the youth of America a piece of the employment action.

The youth provision in the substitute bill will help to give the youth of America a fair share of available employment. I urge Members to show their concern for the high unemployment among youth by supporting our substitute bill, H.R. 14104.

EIGHTY-SIX DAYS, AND STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, it has now been 86 days since House Ways and Means Committee Chairman WILBUR MILLS wrote President Nixon asking that the President forward to Congress the tax reform proposals he promised last September. The President has still not responded to Chairman MILLS' February 7 letter.

Last weekend, however, the President went down to Floresville, Tex., for a gala affair at the ranch of Treasury Secretary John Connally. From all reports, the Texas oil, business, ranching, and industrial establishment was abundantly represented.

The President had a good deal to say about Vietnam, busing, tax reform, and the work ethic. From all accounts, the President's remarks were well received by his immediate audience. I submit the full text of these remarks, including the President's thoughts on tax reform, in the RECORD:

REMARKS OF THE PRESIDENT AND SECRETARY OF THE TREASURY JOHN CONNALLY

Secretary CONNALLY. My friends, may I have your attention for a moment, please. Please go ahead with eating your food, if you wish, but time is running, and while we have you all here, there are a few things that I would like to say for myself and for Nellie.

First, I think I have known most of you, or all of you, long enough to where you will completely and fully understand when I say how perfectly delighted Nellie and I are to have you on this ranch. Under this roof are many—not all; I can't say all, because I think we have a few members of the press here—but many of the dearest friends that we have in this world. (Laughter)

I am always an optimistic fellow, and at times a little vain, perhaps, and I wouldn't want our distinguished guest to leave you assuming I had assembled under one roof 40' by 60' all the friends I had. But in all seriousness, everybody by the name of Connally, or married into or kin to the family, so far as I am concerned, is grateful to all of you for so much.

Years ago I said to many of you, as I traveled about this State, that I hope that no occasion ever presented itself where I had a microphone and the opportunity to do so, when I did not express our profound thanks for the kindness, for the generosity, for the thoughtfulness, for the support and, above all, for the confidence which all of you have so clearly shown over the years, and I am grateful for that.

But if I am grateful for the occasion for those reasons, think how doubly pleased we are that on this particular evening we have the great and rare privilege of hosting the President and the First Lady of the United States.

You rose, you applauded, you manifested your confidence and your support and your feeling about the President and his lovely wife, but before we go further, let me impose upon your time just a moment or two to say to you that I have been privileged to serve in the Cabinet of President Nixon for a number of months. During those months, I have had an opportunity to see him in moments of satisfaction, in moments of serenity, in troubled moments, and moments of decision, and I must say to you that I respect the office of the President of the United States, but I want to go much further than that and say to all of you, my dear friends, that I respect this particular President of the United States for the manner in which he conducts himself, and the First Lady for the pride and dignity which she so obviously has in maintaining the role that is so unique in American society and culture and political life, and to the President, who is a scholar in the affairs of this Nation and the foreign affairs of this country, who is as disciplined a man as I have ever known, mentally and physically. He is trim and slender and boyish looking. You wouldn't think he was older than I, would you? (Applause)

But part of it, at least, is because he is physically disciplined; but more importantly, he is mentally disciplined. He understands the role of the President of the United States. He understands the role that this Nation plays among the nations of the world in conducting the foreign affairs, the foreign policy of this country. He disciplines his time

among the many duties he has as head of government, head of State, and head of party, and he allocates to each of those great responsibilities the time which he feels he can devote to them without sacrificing the more responsible task that the President of the United States has.

Above all else, I think he studies the difficulties that he has. He has the ability and the intelligence to perceive those problems. He has the tenacity and perseverance to seek a solution to them; but above all else, he has the courage to do what he believes to be right in the interest of this Nation.

At this point, Nellie, would you join me here, and we are going to ask all our friends to join us in a toast to the President of the United States and Mrs. Nixon.

You know, I don't know how the press is going to handle this gathering, but I am going to find out, and I trust their judgment, but you know, it is a social occasion, I suppose, by any standard, and it was designed to be such, but I always try to put myself in the position of other people, on an occasion of this kind, and Nellie and I are grateful that we were hosts and got to sit at this head table, if this is a head table, and we got to sit with President and Mrs. Nixon, the former Mayor of Dallas and his lovely wife, Mr. and Mrs. J. Eric Jonsson, and the former Mayor of San Antonio and his lovely wife, Mr. and Mrs. W. W. McAllister, and if you think this is just a party of "ex's", you couldn't be more wrong.

I never learned much in politics, but I always learned that you had to fish with live bait, and we are not without some in this gathering this evening. But be that as it may, I try to put myself in other people's positions.

We have been here, we sat, we had occasion to talk with Mrs. Nixon and the President. We heard him early this afternoon on the ride talk about some problems of this country, and some of his ideas about those problems that range all the way from foreign affairs, the war in Vietnam, the forthcoming trip to Russia, ITT and busing, and a few other things in between. I think I know something about those views, but those of you sitting at these other tables have not been privileged to talk to them in that light or in that vein to discuss these matters, and it has been my privilege to have the opportunity to do that.

Frankly, I guess it is just an old political instinct of mine that when you have a fellow kind of at your mercy, you never let him get away without trying to prevail on him if you can, and during dinner I did mention to the President that I thought this particular gathering would be profoundly interested in some of his views about some of the problems that the country has and that this world has, and if you would be, I think we can prevail on him to frankly respond to some of your questions if you would like. (Applause.)

Mr. President, they talk about the ivory towers of the White House, but I assure you that they are not so high nor the walls so thick that the call of applause cannot permeate them, and I know that a man with a political instinct such as you have is always willing to respond to such acceptance. Need I say more?

Ladies and gentlemen, for what remarks he would like to make, and what questions he would like to respond to, the President of the United States.

Will you please be seated for just a moment, because before I turn the microphone over to him, I again want to ask your indulgence to afford me another great privilege.

I know what a wonderful woman can do to a man's life. No one knows that better than I, unless it is Richard Nixon. So I want the rare privilege—because hopefully not, but perhaps the only time I will ever have the opportunity on this ranch and on this soil that Nellie and I love so much—to present to you a marvelous woman, a lovely lady, a real First Lady of America, Mrs. Richard Nixon.

The PRESIDENT. Well, I want to say first of all that we are most grateful for the welcome that you have given us to Texas, and speaking in a very personal sense, I, of course, rather than saying Mr. Secretary, would like to say to John and Nellie Connally that we are particularly happy that we have had a chance to visit this ranch, to tell a lot of old friends, and also to make some new friends, as well.

As I listened to John Connally, and as I listened to some of the things he had to say about me and my age, and as I thought back of some of those dope stories suggesting that he was no longer a potential candidate for anything, I began to wonder. (Laughter.)

I would like to return the compliment, not simply because it is a case of when one man scratches your back, you scratch his in return—and, of course, it is much more pleasant when it is a lady—but nevertheless, what ever the case might be, I would like to say a word about the appointment that I made of John Connally as Secretary of the Treasury; how it was greeted with such surprise in many quarters, applause from some, a wonder among others, and criticism, of course from many that you would expect.

Generally speaking, the line was, well, what does John Connally know about being Secretary of the Treasury? They recognized he was a fine lawyer, they recognized he was a very successful political leader in Texas, they recognized he had been a great Governor of this State, but what in the world did he know about being Secretary of the Treasury. And the country has found out.

All that I can say is this: When I named him to this position, I named him to the position because I had had the privilege of knowing him as a man through many years, and particularly well during the years I have been President. And based on the—and it is hard to realize it has been 18 months almost now that he has been in this position—based on those 18 months, I can say that John Connally, who has been a Governor and now a Cabinet Officer, and was a former Secretary of the Navy, is, in my view, a man who has demonstrated that he is capable of holding any job in the United States that he would like to pursue. (Applause.)

I am just glad he is not seeking the Democratic nomination. (Laughter.)

If I could just add to that by saying that we remember the new economic policy of August 15; we remember the United States at long last standing up for its position in international monetary affairs, in trade matters and the rest, and the leadership that the Secretary of the Treasury provided. We remember his leadership in the fight on inflation, in all of the other areas, but I also recall those times when clearly out of his special capacity as Secretary of the Treasury, his capacity of the head of the Cost of Living Council, as an advisor, as a friend, as a counsellor in all areas, I remember how much he has contributed to this Administration.

And to all those, I would add one final thing. Certainly his greatest contribution was bringing Nellie Connally to Washington, D.C. She has been a scintillating star on the Washington scene. Don't get the idea that that is bad, necessarily, but I can assure you that in our Cabinet Family and among those who have known her, be they Democrats or Republicans, they have all been as warmly affectionate toward her as the people of this State are, and we are so happy that here with their friends, we can share this special evening with you.

Because I know you have had a very splendid dinner tonight, and because I know this has probably never happened on this ranch before—well, at least if it has happened, it has never been done by one who held the office that I hold—I think that all of you would like to join me in raising our glasses to John and Nellie Connally.

Now, with that, let me just say a word with regard to what John has suggested. It did occur to him as we were sitting here that so many of our guests don't have the opportunity to talk with the one who happens to be the guest of honor as those who are at only the one table at which we are seated. It doesn't mean that there are many pearls of wisdom that are passed out here that you are missing, but I would say it does mean simply that perhaps on an occasion like this, since this is a party of close friends, and since this whole great State is covered, that I know that both Pat and I would have liked to have sat at every table and talked to each one of you.

So for the next few minutes, if you like, in a totally non-partisan, not political way, if you would like to just rather imagine that we were sitting in your living room, and you were chatting and asking questions, I will try to answer them.

I can assure you, if I don't know the answers, John will.

So with that, in that very informal way, we will be glad to take any of your questions that you have for a few minutes, and we will not keep you too long, unless the questions take too long.

Q. Mr. President, do you anticipate any developments in Vietnam other than those courageous statements we heard on the television the other night, that you might tell us here?

The PRESIDENT. I would respond by saying that the evaluation of the situation in Vietnam today is the same that I gave then.

As General Abrams reported then, and as he has updated his report as of today, the South Vietnamese on the ground are resisting very bravely a massive Communist North Vietnamese invasion of South Vietnam. That invasion will continue. The offensive will continue in its intensity, and we can expect over the next four to five weeks that there will be some battles lost for the South Vietnamese and some will be won, but it is his professional judgment—General Abrams' professional judgment—that the South Vietnamese will be able to hold and deny to the North Vietnamese their goal, which, of course, is to impose on the people of South Vietnam a Communist government.

Now to keep it all in perspective, let us understand that when we hear about this town or that one that is under attack, we must remember that as of this time, the North Vietnamese have utterly failed in their ability to rally the South Vietnamese people to their cause.

We also must remember that despite their moving in on certain territory and in certain towns, that over 90 percent of the people of South Vietnam are still under the government of South Vietnam, and not under control of the Communists.

So keeping it in perspective, while we can expect, and should expect, as is always the case in a war of any kind, and particularly a war of this type—we can expect some days when the news may be a South Vietnamese setback, and other days when it will be otherwise. It is the professional view of the man on the spot, best able to judge, that the South Vietnamese will be able to hold, provided—and this comes to what we do—provided the United States continues to furnish the air and naval support that we have been furnishing to stop this invasion.

Now, without repeating what I said last Wednesday night, but simply to underline it, I would like to make just two or three points quickly, frankly to this group of friends here in Texas.

Questions have been raised about the de-

cision that I have made, which is to the effect that as long as the North Vietnamese were conducting an invasion, an offensive, in South Vietnam, and were killing South Vietnamese and Americans in South Vietnam, that I would, as Commander-in-Chief of our Armed Forces, order air and naval attacks on military targets in North Vietnam.

I realize that decision has caused considerable controversy in this country. I understand why that would be the case. There are many people who believe that the United States has done enough in South Vietnam; that what we should do is to find a way to get out as quickly as we can, and let whatever the consequences are flow from that, which would mean, of course, a Communist take-over.

Let me tell you the reasons why I feel that it is vitally important that the United States continue to use its air and naval power against targets in North Vietnam, as well as in South Vietnam, to prevent a Communist takeover and a Communist victory over the people of South Vietnam.

First because there are 69,000 Americans still in Vietnam—that will be reduced to 49,000 by the first of July—and I, as Commander-in-Chief have a responsibility to see to it that their lives are adequately protected, and I, of course, will meet that responsibility.

Second, because as we consider the situation in Vietnam, we must remember that if the North Vietnamese were to take over in South Vietnam, as a result of our stopping our support in the air and on the sea—we have no ground support whatever, there are no American ground forces in action in South Vietnam and none will be—but when we consider that situation, if there were such a take-over, we must consider the consequences.

There is first the consequence to the people of South Vietnam. We look back to what happened historically in 1954, when the North Vietnamese took over in North Vietnam, the Catholic Bishop of Danang estimated that at least 500,000 people in North Vietnam who had opposed the Communist take-over in the North were either murdered or starved to death in slave labor camps.

I saw something of that when Mrs. Nixon and I were in there in 1956, when we visited refugee camps where over a million North Vietnamese fled from the Community tyranny to come to the South. If at this particular point, the Communist were to take over in South Vietnam, you can imagine what would happen to the hundreds of thousands of South Vietnamese who sided with their own government and with the United States against the Communists. It would be a blood bath that would stain the hands of the United States for time immemorial.

That is bad enough. I know there are some who say we have done enough; they say what happen to the South Vietnamese at this particular time is something that should not be our concern. We have sacrificed enough for them. So let's put it in terms of the United States alone, and then we really see why the only decision that any man in the position of President of the United States can make is to authorize the necessary air and naval strikes that will prevent a Communist take-over.

In the event that one country like North Vietnam, massively assisted with the most modern technical weapons by two Communist superpowers—in the event that that country is able to invade another country and conquer it, you can see how that pattern would be repeated in other countries throughout the world—in the Mideast, in Europe, and in others as well.

If, on the other hand, that kind of aggression is stopped in Vietnam, and fails there, then it will be discouraged in other parts of the world. Putting it quite directly then, what is on the line in Vietnam is not just peace for Vietnam, but peace in the Mideast, peace in Europe, and peace not just for the five or six or seven years immediately ahead of us, but possibly for a long time in the future.

As I put it last Wednesday night, I want, and all America wants, to end the war in Vietnam. I want, and all Americans want, to bring our men home from Vietnam. But I want, and I believe all Americans want, to bring our men home and to end this war in a way that the younger brothers and the sons of the men who have fought and died in Vietnam won't be fighting in another Vietnam five or ten years from now. That is what this is all about.

Q. May we raise our glasses and pay tribute to the courage of the President of the United States.

The PRESIDENT. I am most grateful for that toast. Incidentally, I hope the champagne holds out for the evening.

But I do want to say that in the final analysis, what is really on the line here, of course, is the position of the United States of America as the strongest free world power, as a constructive force for peace in the world.

Let us imagine for a moment what the world would be like if the United States were not respected in the world. What would the world be like if friends of the United States throughout the non-Communist world lost confidence in the United States? It would be a world that would be much less safe. It would be a world that would be much more dangerous, not only in terms of war, but in terms of the denial of freedom, because we talk about the United States of America and all of our faults, let us remember that in this country we have never used our power to break the peace, only to restore it or keep it, and we have never used our power to destroy freedom, only to defend it.

Now, I think that is a precious asset for the world. I also feel one other thing, and I will close this rather long answer on this point: John Connally has referred to the office of the President of the United States. Earlier this evening I talked to President Johnson on the telephone. We are of different parties. We both served in this office. While I had my political differences with him, and he with me, I am sure he would agree that each of us in his way tries to leave that office with as much respect and with as much strength in the world as he possibly can—that is his responsibility—and to do it the best way that he possibly can.

Let me say in this respect that I have noted that when we have traveled abroad to 18 countries, particularly even when we went to the People's Republic of China, the office of President—not the man, but the office of President—of the United States is respected in every country we visited. I think we will find that same respect in Moscow. But if the United States at this time leaves Vietnam and allows a Communist takeover, the office of President of the United States will lose respect and I am not going to let that happen.

Q. Mr. President, may I ask you about strategic targets in North Vietnam? I have been told for years by the pilots that there are dams up there that would be very much defeating to the North Vietnamese, who have defied what you have tried to prove in the way of peace. Is this true or false? Has this crossed your mind?

The PRESIDENT. The question is with regard to the targets in North Vietnam, and particularly with regard to the dams and dikes, which many of the pilots believe would be very effective strategic targets.

I would say on that score that we have, as you know, authorized strikes, and we have made them over the past four weeks, since the Communist offensive began, in the Hanoi-Haiphong area.

I have also indicated, as this offensive continues, if it does continue, that we will continue to make strikes on military targets throughout North Vietnam.

Now, the problem that is raised with regard to dams or dikes is that, while it is a strategic target, and indirectly a military target, it would result in an enormous number of civilian casualties. That is something that we want to avoid. It is also something we believe is not needed.

Just let me say that as far as the targets in North Vietnam are concerned, that we are prepared to use our military and naval strength against military targets throughout North Vietnam, and we believe that the North Vietnamese are taking a very great risk if they continue their offensive in the South.

I will just leave it there, and they can make their own choice.

In other words, I believe that we can limit our strikes to military targets without going to targets that involve civilian casualties. That is what we have done, and we can do that in the future, and do the job.

Q. Mr. President, turn to domestic America. You know there are great misgivings in the press now about how America feels about itself, and where we are going to. I don't think there is anyone better equipped to tell us how you feel about where America is going; not today, but for its future and about its own confidence in itself, and I would like to hear your remarks.

The PRESIDENT. The question relates to domestic America, the feeling that many Americans have that possibly we, in America, are losing confidence in ourselves. The question asks me to evaluate how I see the mood of America, and how I understand it, and what the future for American is in terms of confidence in itself.

That, of course, would allow a rather extended reply. Let me see if I can get at the heart of it. First, let me relate it to the last question.

I know there are those who say that the trouble with America's confidence, most of it, is due to the fact that we are involved in Vietnam, and that once the war in Vietnam is over that then the trouble on the campuses will go away, the division in the country, the polarization and all the rest. That is just nonsense.

Let me say the American people do not want war. We did not start this war. Let me say also that when I see people carrying signs saying "Stop the War," I am tempted to say "Tell it to Hanoi; they are the ones who have started the war, not the United States of America."

Nevertheless, while peace is our goal, and peace will be achieved—not just peace in our time, but we hope peace that will live for a generation or longer—that is why we went to Peking. That is why we are going to Moscow. That is why we are trying to end the war responsibly, in a way that would discourage those who would start war, rather than encourage them.

Let us well understand, if the United States, as a great nation, fails in Vietnam as we come to the end of this long road, and as we see the end, and as we know that it is not necessary to fail, I can think of nothing that would destroy the confidence of the American people more than that. So I would begin with that proposition by answering it on the negative side.

Now, turning to the domestic issue, what about the attitude of America toward itself? We often hear it said that we, in this country, are so divided about race issues, we are divided between labor and management, rich and poor, environmentalists, those who are against doing anything about the environment, and so forth and so on, that it is a rather hopeless future.

I would simply raise this one question in that respect. If you sit in Washington, if you limit yourself to the group that we in Washington generally talk to, and this is no reflection on them, because we all tend to be sort

of victims of intellectual incest there, what happens is that you get the impression that everything is wrong with America; that the majority of the people of this country have lost faith in themselves, faith in their country; they no longer have the will to work, the will to defend the country, the will to build a great nation.

That is a point of view. That point of view tends to be fed—and I say this, incidentally, not in anger, and perhaps more in sorrow—it tends to be fed by the tendency of some in the media—not all, but some in the media—constantly to emphasize a negative; I am speaking now more of the national media, rather than those who are out across the great, heartland of America—but the tendency to emphasize those negatives and to create in the minds of the American people the impression that this country, just before its 200th birthday, has reached the point where it has lost its sense of destiny; the American people no longer have the will to greatness which they once had.

I can only say that as I travel through America I find a different story. Let me point it out to you in a different way. I was talking to an Ambassador recently from a country in Europe who had just been accredited to this country. This was several months ago. This Ambassador told me that he had lived in Washington for a while, and then he had taken a trip out through the country. He said, "Mr. President, as I traveled through the country"—he had been to Illinois; he had been to California; he had also been to Texas; as a matter of fact, to Florida and Georgia and back to Washington, and he said, "I go out into the country and I see a different America than I see in Washington, D.C." I believe that the heart of America is still strong. I believe that the character of America is still strong. But I think now is the time when we must stand up against the trend toward permissiveness, the trend toward weakness, the trend toward something for nothing, and if we do that, this country is going to regain its self-confidence.

I believe that is what is going to happen.

Q. Mr. President, I would like to ask you this question: Mr. Moncrief spoke my sentiments, and I think 99 percent of the people in Texas are in favor of what you are doing in Vietnam, but why is it in the East you get the newspapers and students and Members of the Congress and the Senate are complaining about what you are doing, but they never mention what the Communists, the North Vietnamese, are doing by invading South Vietnam, and they are killing thousands of people. They seem to think that is right, and what we are doing is wrong. Why don't they ever mention that?

The PRESIDENT. I think that would be a very excellent editorial for somebody to write. (Applause)

Let me, in all fairness, say this: I do not question the patriotism of any critics of this war. Reasonable and honest and decent Americans can disagree about whether we should have gotten into Vietnam. They can disagree about how the war should be conducted, disagree about who is at fault now, and so forth, but let's look at the record as it is at the present time.

Since I have come into office we have withdrawn half a million men from Vietnam. We have offered everything that could be offered except impose a Communist government on the people of South Vietnam, and their answer has been massive invasion of South Vietnam by the North.

Now, under these circumstances, instead of the critics criticizing brave Americans flying dangerous air missions, hitting military targets in North Vietnam and military targets only, instead of criticizing them trying to prevent a Communist takeover, I think they should direct a little criticism to the Communists who are trying to keep this war going. That is what they ought to be doing.

Q. What are the possibilities of trade with China and Russia, as you now see it?

The PRESIDENT. Looking at both of these countries, we must realize—and I know that there are many here who have traveled certainly to Russia, and to other Communist countries, although very few perhaps have been to China, at least in recent years—and looking at both of these countries realistically, as far as China is concerned, while we have now opened the door for a new relationship insofar as trade is involved, realistically, the amount of trade that the United States will have with the People's Republic of China will be considerably limited over a period of time.

The Japanese, for example, have found that out. They, of course, are much closer to Mainland China, and they have been trying to trade with them over a period of years, and yet they find that the amount of trade that they are able to have with the People's Republic of China is, frankly, much less than they expected when they began to open trade up.

We should not expect too much in the short range. We could expect a considerable amount further down the road.

Now, with the Soviet Union, this, of course, will be a major subject that will be discussed at the Summit meeting. There will be considerable opportunities for trade with the Soviet Union.

The Secretary of Agriculture, Mr. Butz, was there discussing the possibility of trade insofar as agricultural products are concerned—the selling of some of our grain to the Soviet Union.

We have also had discussions between the Secretary of Commerce, Mr. Stans, and Mr. Peterson; now the new Secretary of Commerce is discussing this with the Russian delegation, and we expect more trade opportunities to develop with the Soviet Union.

Realistically, however, we must recognize that where you have a Communist country dealing with a capitalist country, or non-Communist country, the possibilities of trade are seriously limited because of an inability to have a method for financing it.

I know I have heard some American businessmen say wouldn't it be great if we could just sell just a few consumer items to 800 million Chinese. That is fine, but what are they going to sell us, and how are we going to finance it?

That is a problem, to a lesser extent, with the Soviet Union, but also a problem with them.

I would say then that these new relationships we have developed are developing with the People's Republic of China and with the Soviet Union, will certainly lead to more trade in the years ahead—trade in non-strategic items of course, so long as those countries are engaged in supporting activities such as those in Vietnam.

Q. Mr. President, leave it to John. He will work it out. (Laughter)

Q. Mr. President, one thing that is bothering me is what is the basis for the criticism of our bombing Haiphong and Hanoi? Were the United States in war, do you not think they would immediately bomb Washington and San Francisco and New York, and isn't the quickest way to stop this war to stop the supplies that are going into South Vietnam from their friends?

The PRESIDENT. The United States has shown restraint such as a great power has never shown in history in its handling of the war in Vietnam. At the present time, however now that we have gone the extra mile in offering a peace settlement and peace terms, a cease fire, an exchange of prisoners of war—and Mr. Ross Perot can tell you about some of the things we have gone through there and the barbarism with which our prisoners of war are treated. We have offered a total withdrawal of all our forces within six months. President Thieu has offered to resign a month before new elections that would be internationally supervised in which the Communists would participate in the election and the supervisory body.

Having offered all of that, and then faced with this invasion, certainly the least the United States can do—and that is all I have ordered—is to use our air and sea power to hit military targets in North Vietnam. This is what we have done and that is what we are going to continue to do until they stop their invasion of South Vietnam.

Q. Mr. President, most of us who have observed the moves that you have made in raising the price of gold and expecting the rest of the world to let their currency float, are pleased. At least the ones who I know.

The greatness of the country is built on the willingness of its people to work. The success of this country is built on that. When Japan can settle a strike in two days, a shipping strike, and we take six months, why can't we do this a little more efficiently and quickly. When we take people away from their jobs and do not have them produce, we are losing the productive value of these people, and if we don't do this, will we not face a further devaluation in the ensuing months ahead?

The PRESIDENT. I think most of you could hear the question. It relates to what I think is the totally correct policy of the Secretary of the Treasury in which we sought a new alignment of currency, we raised the price of gold, and as a result we improved the competitive position of American products in world markets.

But when we come to the fundamental point—and this is the one you are getting at—it is very simply this: Unless the United States is prepared to build a wall around itself, we have to compete with other nations in the world. Now in order to compete with other nations in the world, we who pay by far the highest wages in the world, have to be more productive than other people in the world, and that means that we can't afford work stoppages that are too long.

The strike that you refer to, the Longshoremen's strike, was one that certainly was not defendable and had enormously negative affects on the economy of this country.

We also, in that connection, if we are going to be competitive, have to have a tax structure which will encourage new investments in capital rather than discouraging it, and we also have to have, if I may boldly suggest it, a recognition of the need to respect what I call the work ethic in this country.

Now, briefly, on all three points. With regard to strikes of the Longshoremen, railroads, transportation generally, the Congress of the United States has had before it for the past two years a bill that would require, in effect compulsory arbitration of such disputes and bring them to a halt, and the Congress has not acted.

I think this, of course, is a major failure on the part of the Congress, and it is time that we had Congressmen and Senators—incidentally, this is not partisan—Democrats or Republicans, that have the courage to go down to Washington and vote for legislation in the public interest that will stop these transportation tie-ups that we had on the docks and other places, and I think we should get them.

Second, with regard to the competitive position of American products in the world, there has been a lot of talk lately about the need for tax reform, and a great deal of criticism of so-called tax loopholes. I am not going to go into that in any detail, when I have the major expert on tax reform right here in front of me. And it is no accident he is on my right, incidentally, in this respect.

But I simply want to say this: One of the

loopholes is supposed to be depreciation. Another loophole is supposed to be depletion. Now all of you here in this State know my own position on depletion and depreciation, and you also know that this Administration has been subjected to considerable criticism on the ground that we are for big business and we are for rich oil men and against people.

I will tell you what we are for. What we are for is for more jobs for America and for American industry to be able to compete abroad. Do you know where the most efficient steel plant in the world is? It is not in the United States. It is in Japan. Do you know where some of the most efficient new kinds of chemical plants in the world are? We have some very good ones in the United States, but the best new ones may be in Germany.

How did this happen? It didn't happen because our American businessmen are less imaginative, our scientists and engineers less capable. I believe we have the best in the world. But in both Japan and Germany, after they had gone through the devastation of World War II, they adopted a tax policy in terms of the depreciation that encouraged investment in new plants and equipment and research on a basis unheard of in any noncapitalist country in the world.

As far as I am concerned, that is why I strongly favor not only the present depreciation rate, but going even further than that, so we can get our plants and equipment more effective. That is why, in terms of depletion, rather than moving in the direction of reducing depletion allowance, let us look at the fact that all the evidence now shows that we are going to have a major energy crisis in this country in the 80's. To avoid that energy crisis we have to provide incentive rather than disincentive for people to go out and explore for oil. That is why you have depletion, and the people have got to understand it.

Now, if I can just spend a moment on the last point, the work ethic. First, let us well understand that there are millions of fine Americans who work hard, are proud of their work and they have made this country, they built this country and they are going to build it bigger in the future.

But let us also understand that there has developed—and this goes back to the earlier question which I could not answer too precisely because it is difficult to answer in an effective way a question so profound in its implication—but in recent years there has grown up the idea more and more and more of something for nothing; the idea that where a job is concerned that we will take those jobs only if they happen to be jobs that we consider as the term is used, not menial.

Let me ask any of you who have traveled to Los Angeles, to Miami, to New York and so forth, Denver, Dallas, any place, pick up your papers, look at the Help Wanted ads, and you will find thousands of Help Wanted ads in those particular papers, and yet you will find unemployment, and in the City of New York alone, a million on the welfare rolls.

Now this is not always true. It may not even be true in a majority of cases, but it is sometimes true, and very simply, it is that in case after case, an individual who is able to work refuses to work because the job is not one that he feels is up to his capability. He feels that it is too menial a job.

Well, I just have grown up in a different time. I say that no job is menial if it provides bread on the table and shelter for a family. Rather than for a man to have to go on public welfare, he ought to take the job.

It is that spirit that we need revived in this country, and we have to revive it not only down among those who might potentially be on welfare rolls, but up and down our whole society, because let us be quite honest in our own self-evaluation: The tendency, too often, in modern education, in some of our great colleges and great universities, is to downplay the necessity for excellence, for pride in work and all these other great values that have made this country what it is.

I just want to say on that point, I have great confidence in the future as far as America's competitive position is concerned, but let us make no mistake about it: Simply letting the dollar float, having realignments of currency, erecting temporary barriers, 10 or 15 percent surcharges or less, isn't going to do the trick. The United States will be able to compete in the world only when the United States and the people of this country are competitive in every sense of the word. We can do it, but we have to tighten our belts if we are going to meet that task.

Secretary CONNALLY. Ladies and gentlemen, the President has been going for about an hour. Let's see if we can take one more question, and we won't count this: Mr. President, the people here from Dallas, Corpus Christi, Houston, Austin, and in very recent months, I suppose, perhaps, the most emotional, most critical issue in those cities has been the question of busing. Do you have any comments on it?

The PRESIDENT. My views on the merits of busing have been expressed on many occasions. I will repeat them only briefly, and then talk about the remedy briefly.

The reason that I am against busing for the purpose of achieving racial balance in our schools is that it leads to inferior education. Let's look at the situation with regard to what the whole busing controversy is about, and there are many lawyers here tonight, and all of you are, of course, familiar with the famous, landmark case of Brown versus the Board of Education in 1954.

The very title of that case tells us something. Brown versus the Board of Education, which provided that the dual school system had to be eliminated, was about education, and correctly, in the opinion of observers at that time, and I was one of them, and certainly most observers now, a system that legally sets up a dual school system and divides people according to race is one that could lead and would inevitably lead to inferior education. So Brown versus the Board of Education dealt with that problem.

That problem has been moved on very effectively, particularly during this Administration, to the great credit of those particularly in Southern States, where some of the dual school systems had to be removed. We now find that the South has gone really further than the North insofar as meeting the goal of getting rid of a dual school system.

Let's look at busing. Where busing comes in, in attempting to deal with the problem, a Board of Education or a court orders that school children be bused across town away from their neighborhood schools in order to create some artificial racial balance.

If you read the decisions, they never use the term "racial balance", but there are over 23 that we already have identified where that is exactly what the court was ordering.

Now, why do I believe this is wrong? Because in my view, when you bus children, particularly young children, away from their neighborhood school, into an unfamiliar neighborhood, whether they are black or white, it leads to inferior education. It also has some other disadvantages. It divides communities; it creates hostility among people that didn't exist before. I think that for that reason, we have got to find more effective ways to have equality of educational opportunity for all Americans than to use busing.

So that is why I have come up with these remedies: First, a moratorium on any new busing orders for a year. We have asked the Congress to act on that.

Second, I have ordered the Attorney General of the United States to intervene in those cases where the courts have gone beyond what the Supreme Court presently has laid down as the requirement insofar as eliminating the dual school system is concerned.

And then third, we have asked for the enactment of the Equal Educational Opportunity Act, under which we would upgrade education in inferior schools; but we would specifically provide that busing would not be required at all for children in the sixth grade and below, and then for any other cases above that, would be used not as the first resort, but only as a last resort, and then only temporarily.

It also provides, incidentally, when this Act is passed, that in those States that have had imposed upon them busing orders that went beyond what the new legislation would require, those cases could be reopened.

Now, where do you stand? At the present time, the Congress has had this request for legislation for over two months. It has not acted. The prospects for its acting do not appear hopeful at the present time. In my view, before the Congress goes home for its election recess, the Congress owes it to the American people to act, because unless it does act, it means that tens of thousands of students in scores of communities across this country are going to be subjected to busing orders that will provide inferior education for them, and that should be avoided. So I believe that the Congress should act to deal with the problem. If the Congress does not act, and refuses to face up to the problem, then the only resort that we have left is to proceed with the constitutional amendment.

So under these circumstances, I realize that the position that I have taken is subject to honest criticism, honest debate by people who have considered the subject just as I have tried to consider it, with the interest of better education as well as eliminating the dual school system, and providing equality of education for all concerned.

But I smply conclude my answer to this question by saying that in this country if you were to provide for—I am talking now about the most extreme advocates of busing—if you were to provide for busing students in the major metropolitan centers like New York, Chicago, Detroit and Los Angeles, in plans that go further than even the most liberal plans have ever provided, it would still leave the great majority of black children in inferior schools in central cities who would never get the benefit of a so-called better education.

So I say that the better answer is to upgrade the education for those children who would otherwise be a lost generation, but let's do not impair the education for all other children as a result of busing orders. That is the way I think we should approach it.

Q. Mr. President, your days and nights are very long, and we are very grateful for your services. As a newspaperman, I would like to exercise my prerogative and say thank you, Mr. President.

COST-OF-LIVING COUNCIL

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 5 minutes.

Mr. BLACKBURN. Mr. Speaker, yesterday the AFL–CIO announced its opposition to the Cost-of-Living Council's ruling that all small businesses—those businesses with less than 60 employees—would be exempt from wage-and-price regulations.

The AFL–CIO's position has always been extremely curious in that they urge strict control of all business operations, but demand that wage increases not be regulated in any form.

AFL–CIO spokesmen stated that the action of the Cost-of-Living Council was

aimed at hurting the poor. However, prices charged by smaller firms are not expected to increase since large firms within the industries tend to exert price discipline over smaller companies. Furthermore, small businesses will have to exercise restraint for fear of losing much of their market to large companies if they inordinately raise prices. It is well known that direct controls on small businesses have created significant administrative difficulties and that these small businesses have a very insignificant impact with regard to inflation.

Specifically, I would like to point out that the members of the AFL–CIO seem to be completely out of step with the thinking of the other members of the labor community. On March 24, 1972, the representatives of the United Auto Workers and the International Brotherhood of Teamsters issued the following statement with regard to small business exemptions:

> We support the principle of the recommendation of the Public Members concerning the possible exemption from wage controls of small business units. We feel, however, that this recommendation does not go far enough in the de-control of sectors of our economy which have not been, or are not now contributing to our present economic situation.
>
> Specifically, we feel that an exemption of employers of 100 employees or less will not jeopardize the current stabilization effort.

Thus in the above statement other spokesmen for organized labor express a sharp difference with Mr. Meany and his AFL–CIO. I am positive that the auto workers and teamsters are just as concerned with regard to controlling inflation and the plight of the poor as are the members of the AFL–CIO. So we must ask, Mr. Speaker, why has Mr. Meany decided to attack this move by the Cost-of-Living Council?

I am not privileged to know Mr. Meany's motivations. Previously, however, I have made the observation that 1972 is divisible by four and this may explain the constant stream of otherwise unexplainable inconsistencies emanating from the AFL–CIO.

THE DANGERS OF TOBACCO SMOKE TO NONSMOKERS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, several months ago the Surgeon General of the United States reported something that many of us nonsmokers have known, or at least suspected, for a long time: that breathing somebody else's tobacco smoke, particularly in a confined area, is annoying and irritating, often causing bleary eyes, cough, headache, or runny nose. The Surgeon General has now reported, on the basis of a substantial amount of medical information, that tobacco smoke is indeed hazardous to the health of a nonsmoker. This raises a question, Mr. Speaker, as to how the health and rights of the nonsmoker can be protected.

An organization which has been in the forefront of the fight to establish and protect the rights of nonsmokers is Action on Smoking and Health, 2000 H Street NW., Washington, D.C. Almost 2 years before the Surgeon General issued his report, this organization filed a petition with the FAA to require nonsmoking sections on all airlines. The FAA has tentatively approved that petition, but final issuance of the rule is still pending. Nevertheless, many airlines, under prodding by ASH and others, are now providing nonsmoking sections. Recently the ICC ruled that interstate buses must restrict smoking to the rear 20 percent of the bus. When that ruling was held up by the Commission, ASH jumped into the fray and the ICC again issued the rule. Unfortunately, the rule has not yet become effective, since the motor bus owners are fighting it in the courts. Action on Smoking and Health has also persuaded the Department of Health, Education, and Welfare to recognize for the first time anywhere in Government that nonsmoking employees have a right to breathe air unpolluted by cigarette smoke, and to ban smoking in certain areas and provide separate nonsmoking sections in others.

As one of the early sponsors of Action on Smoking and Health, I am proud of this organization and the work it and others are doing to protect the rights of nonsmokers. In view of the tremendous amount of interest in the portion of the Suregon Generals' report describing the health hazards of tobacco smoke to nonsmokers, I include a copy of that section in the RECORD:

PUBLIC EXPOSURE TO AIR POLLUTION FROM TOBACCO SMOKE

The purpose of this chapter is to summarize the present state of evidence concerning the effects of exposure to an atmosphere containing either tobacco smoke or its constituents. Since the identification of cigarette smoking as a serious health hazard to the smoker was based on clinical and epidemiological observations that nonsmokers have much lower mortality and morbidity rates from a number of conditions, it is obvious that cigarette smoking is normally a greater hazard to the smoker than is the typical level of exposure to air pollutants produced by the smoking of cigarettes which many nonsmokers experience. This would be consistent with the voluminous data which show a dose-response relationship between the level of exposure to smoke and the magnitude of its effect.

The research so far reported on the nature and effects of exposure to smoke-pollutants in the atmosphere has not been as extensive and well-controlled as that done on the health effects of smoking on the smoker himself. Knowledge on this subject can be separated into four major areas of concern:

1. The extent to which the components of cigarette smoke contaminate the atmosphere and are absorbed by the nonsmoker.
2. The effects of low levels of carbon monoxide on human health.
3. Allergic, adverse, and irritative reactions to cigarette smoke among nonsmokers.
4. The known harmful effects of the passive inhalation of cigarette smoke in animals.

THE EXTENT TO WHICH THE COMPONENTS OF CIGARETTE SMOKE CONTAMINATE THE ATMOSPHERE AND ARE ABSORBED BY THE NONSMOKER

Theoretical models of this contamination have been constructed. Owens and Rossano (44) have noted that most popular cigarettes release into the atmopshere approximately 70 mg. of dry particulate matter (about 60 mg. in the sidestream and slightly over 20 mg. in the mainstream, about one-half of the latter being absorbed by the smoker and one-half expelled into the ambient air) and 23 mg. carbon monoxide per cigarette. This material adds to the cleaning problem of the air of any enclosed space and contributes to residual odors. In a recent study of particulate matter filtration in domestic premises (35), the authors observed that the smoking of one cigar completely overcame the effect of an electrostatic filtration device for one hour.

Atmospheric pollutants caused by smoking are derived from two major sources: mainstream and sidestream smoke. Mainstream smoke emerges from the tobacco product through the mouthpiece during puffing, whereas sidestream smoke comes from the burning cone and from the mouth piece during puff intermissions (60). The tobacco smoke released into the atmosphere consists of all the sidestream smoke as well as that part of the mainstream smoke which has been either held in the smoker's mouth or taken into his lungs and then expelled.

The actual amount of material to which individuals are exposed in the presence of smokers depends upon the amount of smoke produced, the depth of inhalation on the part of the smoker, the ventilation available for the removal or dispersion of the smoke, and the proximity of the individual to the smoker. The length of time of exposure to those pollutants is extremely important in determining how much is absorbed into the body. The pattern of smoking influences the amount produced by altering the content of the exhaled smoke. As shown by Dalhamn, et al. (10, 11) mouth absorption removes approximately 60 percent of the water-soluble volatile components (e.g., acetaldehyde), 20 percent of the nonwater-soluble volatile components (e.g., isoprene), 16 percent of the particulate matter, and only three percent of the carbon monoxide. Thus, the smoker who does not inhale "filters" a portion of the smoke components in his mouth before expelling them into the ambient air. On the other hand, the lungs retain from 86 to 99 percent of the volatile and particulate substances and approximately 54 percent of the carbon monoxide inhaled. Hence, the inhaling smoker "filters" the mainstream smoke rather effectively before expelling it into the ambient air, A factor which has apparently not been investigated is the difference in the smokers' "filtration" of mainstream smoke when the smoke is exhaled through the nose instead of the mouth.

Thus, the nonsmoker breathes smoke-containing air composed of sidestream smoke and mainstream smoke exhaled by smokers. The inhaling smoker receives nearly the full amount of mainstream smoke as well as a portion of sidestream smoke and smoke exhaled by himself and other smokers. The smoker who does not inhale receives those compounds which are absorbed from the mainstream smoke in this mouth, as well as absorbing the sidestream smoke and the smoke exhaled by himself and other smokers contained in the air he breathes.

Since pipe and cigar smokers less commonly inhale than do cigarette smokers, their contribution to the substances in the air breathed in exposure to smoke pollutants consists of a composite of sidestream smoke and relatively unfiltered mainstream smoke which has been held in the mouth and then expelled.

The actual effluents in the mainstream and sidestream cigarette smoke have been considered by Pascasio, et al. (45) and Scassellati Sforzolini and colleagues (50, 51). These authors stated that "tar" and nicotine levels in sidestream smoke may be significantly higher than those of mainstream smoke and may be harmful to the nonsmoker. Actual volume measurements were not reported, however.

Actual measurements of the contamination

due to cigarette smoking have been carried out by a number of research groups. A recent, well-controlled study by Harke (24) involved the smoking of 42 cigarettes in 16 to 18 minutes using German blend cigarettes of 85 mm. length, 18 mm. filter, and smoked to a 25 mm. butt length in a room with a volume of 57 cubic meters (approximately the eqiuvalent of a room with a 10-foot ceiling and dimensions of 12 by 14 feet). The author observed that in the absence of ventilation the atmosphere contained up to 50 p.p.m. carbon monoxide and .57 mg./m.³ nicotine.

With substantial ventilation, these levels fell significantly (to approximately 10 p.p.m. carbon monoxide and .10 mg./m.³ nicotine). He also found that cigar smoke (9 cigars of Clear Sumatra tobacco smoked in 30 to 35 minutes produced similar amounts of contamination while pipe smoke (3 grams of Navy type medium cut tobacco smoked as eight pipefuls in 35 to 40 minutes) produced much less. Other authors have made similar measurements. Galuskinova (20) found that 3,4-benzpyrene levels in a smoky restaurant were from 2.82 to 14.4 mg./100 m.³ as compared to outside atmospheric levels to 0.28 to 0.46 mg./100 m.³, although burning of food particles may have contributed to the presence of 3,4-benzpyrene in this setting. Kotin and Falk (33) have shown that sidestream cigarette smoke condensate may contain more than three times as much benzo(a) pyrene as mainstream smoke. Srch (55) observed that the smoking of 10 cigarettes to a 5 mm. butt length in an enclosed car of 2.09 m.³ volume produced carbon monoxide levels up to 90 p.p.m. Lawther and Commins (34), working with a ventilated chamber, found levels of up to 20 p.p.m. of carbon monoxide after seven cigarettes were smoked in one hour; however, peaks of up to 90 p.p.m. were recorded at the seat next to the smoker. Coburn, et al. (9) recorded levels of 20 p.p.m. of carbon monoxide in a small conference room after 10 cigarettes were "burned." Harmsen and Effenberger (25) reported up to 80 p.p.m. of carbon monoxide in an enclosed 98 m.³ room (approximately the equivalent of a room with a 10-foot ceiling and dimensions of 18 by 20 feet) in which 62 cigarettes had been smoked in two hours.

Another set of contaminants probably present in a tobacco smoke-polluted atmosphere are the oxides of nitrogen. These, specifically NO and NO_2, have been shown to be present in tobacco smoke although the type most likely to be present in the atmosphere is NO_2. No measurements have been reported of the amount of NO_2 in smoke-filled rooms. The importance of obtaining and evaluating this information is stressed by the results of Freeman and Haydon and their colleagues (17, 18, 19, 27, 28) and of Blair, et al. (5) who observed bronchial and pulmonary parenchymal lesions in rodents continuously exposed to low levels of NO_2.

Other experimenters have measured carboxyhemoglobin (COHb) levels in nonsmokers exposed to cigarette smoke pollutants. Srch (55) observed that the COHb level in two nonsmokers rose from 2 to 5 percent (that of smokers from 5 to 10 percent) when seated in the cigarette-smoke contaminated car mentioned above (exposure to 90 p.p.m.). Harke (24) reported that when seven nonsmokers were exposed for approximately 90 minutes to a "smoked" room containing 30 p.p.m. of CO there was a rise in COHb from a mean of 0.9 percent to 2.0 percent. In 11 smokers subjected to the same conditions, COHb rose from a mean of 3.3 percent to 7.5 percent. With improved ventilation of the experimental room, the COHb level decreased significantly.

The CO exposures and COHb levels reported above closely approximate the results obtained following experimental chamber exposure of humans to various levels of CO. The uptake of CO by the person depends on, among other parameters: CO concentration, previous COHb level, the level of activity, and the person's state of health. Equilibrium between CO concentration in the lung and in the blood requires over 12 hours exposure. However, as may be noted in table 1, reproduced from Stewart, et al. (56) and derived from measures of COHb in young sedentary males who were not smoking, over half of the equilibrium COHb level is reached within three to four hours of the onset of exposure. The equilibrium value associated with 100 p.p.m. is approximately 14 to 15 percent COHb. Exposure to 100 p.p.m. in the nonsmoker can lead to 3.0 percent of COHb within 60 minutes and 6.0 percent in two hours (16). Of equal significance is that COHb has a half-life of at least three to four hours in the body. As shown in table 1, the COHb level fell only to 2.7 percent in the two hours following cessation of exposure to 50 p.p.m. from the end exposure level of 3.7 percent. This lengthy half-life extends the period of effect of exposure to CO and provides for a buildup of COHb concentration from fresh exposures.

TABLE 1.—PERCENT OF COHb DURING AND FOLLOWING EXPOSURE TO 50 P.P.M. OF CO

Time during exposure	Mean	Range	Number of subjects
Preexposure	0.7	0.4–1.5	11
30 minutes	1.3	1.3	3
1 hour	2.1	1.9–2.7	11
3 hours	3.8	3.6–4.2	10
6 hours	5.1	4.9–5.5	5
8 hours	5.9	5.4–6.2	5
12 hours	7.0	6.5–7.9	3
15½ hours	7.6	7.2–8.2	3
22 hours	8.5	8.1–8.7	3
24 hours	7.9	7.6–8.2	3
Time without exposure after 1 hour of exposure:			
30 minutes	1.8	1.8	3
1 hour	1.7	1.6–1.8	3
2 hours	1.5	1.4–1.5	3
5 hours	1.1	1.0–1.1	2
Time without exposure after 3 hours of exposure:			
30 minutes	3.7	3.4–3.9	3
1 hour	3.3	2.7–3.8	3
2 hours	2.7	2.3–3.0	3
Time without exposure after 8 hours of exposure:			
30 minutes	5.6	5.1–5.9	3
1 hour	5.1	4.8–5.4	3
1¾ hours	4.0		
11 hours	1.5	1.4–1.7	3
Time without exposure after 24 hours of exposure:			
30 minutes	7.5	7.2–7.8	3
1 hour	6.7	6.4–7.1	3
2 hours	5.8	5.6–6.2	3

Source: Stewart, et al. (56).

THE EFFECTS OF LOW LEVELS OF CARBON MONOXIDE ON HUMAN HEALTH

The data on the effect of low levels of carbon monoxide on human psychological and physiological function have been summarized in two recent publications (8, 58).

There is presently much discussion as to the physiologic and psychophysiologic effects of exposure to levels of CO approximating 50 to 100 p.p.m. Beard and Grandstaff (4) observed that exposure to 50 p.p.m. of CO for from 27 to 90 minutes altered auditory discrimination, visual acuity, and the ability to distinguish relative brightness. McFarland (40) observed that COHb levels of 4 to 5 percent caused visual threshold impairment. Ray and Rockwell (48), reporting on a study of the driving ability of three subjects under varying CO exposure, observed that the presence of 10 percent COHb was associated with increased response time for taillight discrimination and increased variance in distance estimation. Schulte (52) observed that increased errors in cognitive and choice discrimination tests were manifest at levels of COHb also was 3 percent. Chevalier, et al. (7) have also observed that levels of 4 percent COHb in nonsmokers are associated with an increase in oxygen debt formation with exercise similar to that seen in smokers.

On the other hand, other investigators utilizing complex psychomotor tasks in men and monkeys have observed no decrement in function upon exposures to CO at 50 to 250 p.p.m. (2, 3, 23, 41, 56).

Animals exposed to low levels of CO (50 to 100 p.p.m.) continuously for weeks have shown varying degrees of cardiac and cerebral damage similar to that produced by hypoxia (21, 47, 57).

Finally, the possible effects of exposure to 50–100 p.p.m. CO on patients with coronary heart disease (CHD) were investigated by Ayres, et al. (1) who observed a decrease in arterial and mixed venous oxygen tensions with COHb saturations of 5 percent. Certain patients with CHD developed altered lactate and pyruvate metabolism with COHb levels of 5 to 10 percent suggesting myocardial hypoxia.

The evidence concerning the effect of low levels of carbon monoxide has recently been reviewed and evaluated by the National Air Quality Criteria Committee of the National Air Pollution Control Administration (58). The following is taken from the published conclusions of the Advisory Committee (also see table 2):

TABLE 2.—EFFECTS OF CARBON MONOXIDE

Environmental conditions	Effects	Comment
58 mg./m.³ (50 p.p.m.) for 90 minutes	Impairment of time-interval discrimination in nonsmokers	Blood COHb levels not available, but anticipated to be about 2.5 percent.
		Similar blood COHb levels expected from exposure to 10 to 17 mg./m.³ (10 to 15 p.p.m.) for 8 or more hours.
115 mg./m.³ (100 p.p.m.) intermittently through a facial mask	Impairment in performance of some psychomotor tests at a COHb level of 5 percent.	Similar results may have been observed at lower COHb levels, but blood measurements were not accurate.
High concentrations of CO were administered for 30 to 120 seconds, and then 10 minutes was allowed for washout of alveolar CO before blood COHb was measured.	Exposure sufficient to produce blood COHb levels above 5 percent has been shown to place a physiologic stress on patients with heart disease.	Data rely on COHb levels produced rapidly after short exposure to high levels of CO; this is not necessarily comparable to exposure over a longer time period or under equilibrium conditions.

Source: Adapted from U.S. Public Health Service, Air Quality Criteria for Carbon Monoxide. Washington, D.C., U.S. Department of Health, Education, and Welfare (58).

"Experimental exposure of nonsmokers to 58 mg/m³ (50 ppm) for 90 minutes has been associated with impairment in time-interval discrimination. . . . This exposure will produce an increase of about 2 percent COHb in the blood. This same increase in blood COHb will occur with continuous exposure to 12 to 17 mg/m³ (10 to 15 ppm) for 8 or more hours. . . .

"Experimental exposure to CO concentrations sufficient to produce blood COHb levels of about 5 percent (a level producible by exposure to about 35 mg/m³ for 8 or more hours) has provided in some instances evidence of impaired performance on certain other psychomotor tests, and an impairment in visual discrimination. . . .

"Experimental exposure to CO concentrations sufficient to produce blood COHb levels above 5 percent (a level producible by exposure to 35 mg/m³ or more for 8 or more hours) has provided evidence of physiologic stress in patients with heart disease. . . ."

The levels of carbon monoxide found to be present in "smoked" rooms (20 to 80 ppm) are similar to the levels (30 to 50 ppm) which the Advisory Committee has concluded are associated with adverse health effects:

"An exposure of 8 or more hours to a carbon monoxide concentration of 12 to 17 mg/m³ (10 to 15 ppm) will produce a blood carboxyhemoglobin level of 2.0 to 2.5 percent in nonsmokers. This level of blood carboxyhemoglobin has been associated with adverse health effects as manifested by impaired time interval discrimination. Evidence also indicates that an exposure of 8 or more hours to a CO concentration of 35 mg/m³ (30 ppm) will produce blood carboxyhemoglobin levels of about 5 percent in nonsmokers. Adverse health effects as manifested by impaired performance on certain other psychomotor tests have been associated with this blood carboxyhemoglobin level, and above this level there is evidence of physiologic stress in patients with heart disease."

These levels of CO are also similar to that set as the time-weighted occupational Threshold Limit Value of 50 p.p.m. for a 40 hour week (five 8-hour days) which has been in effect in the United States for the past several years (13). A further reduction in this limit to 25 p.p.m. is now under consideration. These levels of CO exceed those recently set by the Environmental Protection Agency as the national primary and secondary ambient air quality standards for CO (14). These standards are:

(a) 10 milligrams per cubic meter (9 p.p.m.)—maximum 8-hour concentration not to be exceeded more than once per year.

(b) 40 milligrams per cubic meter (35 p.p.m.)—maximum 1-hour concentration not to be exceeded more than once per year.

ALLERGIC AND IRRITATIVE REACTIONS TO CIGARETTE SMOKE AMONG NONSMOKERS

(A more detailed discussion of this subject is presented in the Allergy chapter of this report.)

Several investigators have reported on the discomfort and symptoms experienced by both allergic and nonallergic individuals upon exposure to tobacco smoke. Johansson and Ronge (31, 32) in 1965 and 1966 have observed that the acute irritation experienced by nonsmokers in the presence of tobacco smoke is maximal in warm, dry air and that nonsmokers experience more nasal irritation than ocular irritation as compared with smokers exposed to similar amounts of smoke in the atmosphere. Speer (54) studied the reactions of 441 nonsmokers divided into two groups, one composed of individuals with a history of allergic reactions and the other of individuals without such a history.

The allergic group underwent skin testing for the presence of sensitivity to Tobacco extract while the "nonallergic" group was determined solely by questionnaire concerning subjective allergic responses. Approximately 70 percent of both groups experienced eye irritation while other symptoms differed in their frequency from group to group (nasal symptoms: allergic 67 percent, "nonallergic" 29 percent; headache: allergic 46 percent, "nonallergic" 31 percent; cough: allergic 46 percent, "nonallergic" 52 percent; and wheezing: allergic 22 percent, "nonallergic" 4 percent). Thus, a significant proportion of nonsmoking individuals report discomfort and respiratory symptoms on exposure to tobacco smoke.

Other authors have attempted to separate out those patients who may have specific allergies to smoke. Zussman (61) found that in a random series of 200 atopic patients 16 percent were clinically sensitive to tobacco smoke, and that a majority of these were aided by desensitization therapy. In an earlier study, Pipes (46) observed that 13 percent of 229 patients with respiratory allergy showed positive skin tests to tobacco smoke. Savel (49) has recently reported on eight nonsmokers observed to be clinically hypersensitive to tobacco smoke. After *in vitro* incubation of their lymphocytes with cigarette smoke, increased incorporation of tritiated thymidine was recorded; similar exposure of the lymphocytes of those not sensitive resulted in depression of tritiated thymidine uptake.

Luquette, et al. (39) have recently reported on the immediate effects of exposure to cigarette smoke in school-age children. They observed that heart rate and blood pressure rose with such exposure, although questions remain about the adequacy of their controls and the manner in which the experimental situation may have excited the subjects. Finally, Cameron, et al. (6) observed that acute respiratory illnesses were more frequent among children from homes in which the parents smoked than among children of nonsmoking parents. The meaning of these results is uncertain since smoking by the children was not considered and the level of exposure to cigarette smoke in their homes was not measured. Shy, et al. (53) in a study of second grade Chattanooga school children failed to demonstrate a relationship between parental smoking habits and the respiratory illness rates of their children.

THE KNOWN HARMFUL EFFECTS OF THE PASSIVE INHALATION OF CIGARETTE SMOKE IN ANIMALS

A number of investigators have studied the effects of the passive inhalation of high concentrations of cigarette smoke on the pulmony parenchyma and tracheobronchial tree of animals. The results of these investigations are listed in detail in the recent report to Congress, "The Health Consequences of Smoking," (59) in table 9 of the Bronchopulmonary chapter, and table 16 of the Cancer chapter.

The pathologic changes observed in the respiratory tract of the animals included parenchymal disruption, bronchitis, tracheobronchial epithelial dysplasia and metaplasia, and pulmonary adenomatous tumor formation. Leuchtenberger, et al. (36) exposed 151 mice to the smoke of from 25 to 1,526 cigarettes over a period of 1 to 23 months and observed that 20 percent of the animals developed severe bronchitis with atypism.

Working with 30 control rabbits exposed to up to 20 cigarettes per day for two to five years, Holland, et al. (30) observed increased focal and generalized hyperplasia of the bronchial epithelium and generalized emphysema in the exposed rabbits. Hernandez, et al. (29) observed significantly more pulmonary parenchymal disruption in adult greyhound dogs exposed to cigarette smoke 10 times per week for approximately one year than in nonexposed control animals.

Lorenz, et al. (38) observed no increase in respiratory tract tumor formation above that seen in controls in 97 Strain A mice exposed to cigarette smoke for up to 693 hours. Essenberg (15), however, exposed Strain A mice to cigarette smoke for 12 hours a day for up to one year and observed significantly more papillary adenocarcinomas in the exposed than in the control group. An increased percentage of hybrid mice were found by Mühlbock (42) to have alveolar carcinomas among the experimental group exposed to smoke for two hours a day for up to 684 days when compared with a nonexposed group. Similarly, Guerin (22) observed that 5.1 percent of rats exposed to cigarette smoke for 45 minutes a day for two to six months showed pulmonary tumors compared to 2.4 percent of the control mice.

Leuchtenberger, et al. (37), working with 400 female CF mice, observed only a slight increase in the presence of pulmonary adenomatous tumors among those exposed to cigarette smoke compared with those in the control group. The authors commented that the presence of tumors showed an age relationship independent of smoking exposure. Otto (43) found that 11 percent of a group of albino mice exposed to 12 cigarettes a day for up to 24 months showed pulmonary adenomas as compared with five percent of the control non-exposed group. Dontewill and Wiebecke (12) found that increasing the exposure of golden hamsters to up to four cigarettes a day for up to two years was associated with an increasing percentage of animals showing desquamative metaplasia and bronchial papillary metaplasia. Harris and Negroni (26) exposed 200 C57BL mice to cigarette smoke for 20 minutes a day every other day for life and found eight adenocarcinomas as compared to none in the control group.

Because the damage observed in these experiments was seen after prolonged exposure to high concentrations of cigarette smoke, and because the comparability of animal exposure to smoke with that of human exposure in smoke-filled rooms is unknown, it is presently impossible to be certain from animal experimentation about the extent of the damage that may occur during long-term intermittent exposure to lower concentrations.

SUMMARY

1. An atmosphere contaminated with tobacco smoke can contribute to the discomfort of many individuals.

2. The level of carbon monoxide attained in experiments using rooms filled with tobacco smoke has been shown to equal, and at times to exceed, the legal limits for maximum air pollution permitted for ambient air quality in several localities and can also exceed the occupational Threshold Limit Value for a normal work period presently in effect for the United States as a whole. The presence of such levels indicates that the effect of exposure to carbon monoxide may on occasion, depending upon the length of exposure, be sufficient to be harmful to the health of an exposed person. This would be particularly significant for people who are already suffering from chronic bronchopulmonary disease and coronary heart disease.

3. Other components of tobacco smoke, such as particulate matter and the oxides of nitrogen, have been shown in various concentrations to adversely affect animal pulmonary and cardiac structure and function. The extent of the contributions of these substances to illness in humans exposed to the concentrations present in an atmosphere contaminated with tobacco smoke is not presently known.

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QUESTIONNAIRE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, this week I am sending to my constituents a questionnaire requesting their position on some of the major issues now under consideration. With the thought that it might interest our colleagues, I am submitting for printing in the RECORD the entire text of the questionnaire. It follows:

CONGRESSMAN EDWARD I. KOCH ASKS FOR YOUR OPINION: QUESTIONNAIRE, MAY 1972

(NOTE.—Provision is made for two respondents to answer "yes" or "no.")

I send you a newsletter three times a year to tell you of my efforts as your Congressman. Now it is your turn to let me know your position on some of the major issues under consideration.

The questions are posed as concisely as possible. I realize that some of the issues are complex and cannot be answered satisfactorily by a "yes" or "no" answer. Unfortunately, these limitations must be accepted when one is trying to poll over a quarter of a million people on a number of topics. Please understand that this questionnaire is only one mode of constituent expression—I continually welcome your letters, your visits at my traveling office, and your comments when we meet at the subway.

ECONOMY

1. Do you favor increasing the minimum wage to $2.00 an hour and extending its coverage to all workers, including employees in small retail shops, farm workers, and domestics?

2. Do you favor a federal "value added tax" (a national sales tax) as a means of financing elementary and secondary education, instead of local revenue sources like the property tax?

3. Do you believe the government should provide 200,000 more public service jobs (currently the Emergency Employment Act of 1971 is providing 140,000 such jobs at a cost of $1 billion)?

4. Would you favor the government's guaranteeing a job to everyone seeking work and being an employer of "last resort" when jobs are not available from private enterprise?

EDUCATION

5. Assuming that it is Constitutional, would you favor a system of federal tax credits for parents with children in non-public schools?

6. Do you favor a Constitutional Amendment or legislative measure prohibiting the use of busing by the courts or localities to desegregate public schools?

7. Would you favor the establishment of bilingual programs in all of the City's public schools having a substantial number of Spanish speaking students?

MISCELLANEOUS

8. Would you favor setting aside lanes on some major avenues in New York City for use by bicycles?

9. (a) Do you now ride a bike to work?

(b) Would you ride a bike to work in good weather if exclusive bike lanes and parking facilities were provided?

10. Would you favor the operation of heroin maintenance pilot projects on a limited and temporary basis in order to determine the feasibility of establishing heroin maintenance programs for adult addicts?

11. Do you believe the Civil Rights Act's protections (in employment, housing, etc.) should be extended to homosexuals?

12. Do you believe in the concept of "scatter site" housing—i.e. building government subsidized low income housing in middle income areas?

VIETNAM

(Choose one alternative)

Do you favor—

(1) The immediate withdrawal of all U.S. combat forces, the complete cessation of U.S. air support, and termination of weapons supply?

(2) The immediate withdrawal of all U.S. combat forces and the complete cessation of U.S. air support, but continued furnishing of weapons for use by the South Vietnamese?

(3) The immediate withdrawal of all U.S. combat forces, but continued air support and furnishing of weapons for use by the South Vietnamese?

(4) The President's policy of "Vietnamization" aided by U.S. air support and bombing?

(5) Increased U.S. military activities in North and South Vietnam with the objective of a military victory?

The following are five bills I have authored that touch upon issues of current interest. Do you approve?

H.R. 850, as amended, establishing a uniform tax rate so that individuals, regardless of whether they are married or single, would pay the same graduated tax on their taxable income (after deductions).

H.R. 854, as amended, requiring federal agencies to inform persons of files maintained on them and allow them to inspect their files for errors; the bill also establishes a board to which one could appeal for the removal of erroneous and irrelevant material.

H.R. 12417 offering draft resisters "conditional amnesty"—amnesty in return for two years of civilian service comparable to that now required of conscientious objectors.

H.R. 13362 providing $400 million annually in federal assistance in meeting the expenses of operating public transportation (subways, buses, and commuter railroads).

H.R. 14549 decriminalizing the personal use and possession of marihuana and allowing the transfer (at no profit) of reasonable amounts of marihuana when incident to private use. The sale of marihuana for profit and smoking it in public would continue to be subject to criminal penalties.

A QUESTION FOR WOMEN

During the last five years have you ever been discriminated against because of your sex in the following categories (if yes, check):

Employment:
- hiring
- salary level
- promotion
- maternity leave
- fringe benefits (health insurance, pension plan, etc.).

Obtaining a loan.
Obtaining a credit card.
Renting an apartment.
Renting a car.
Excessive telephone deposits.
Admission to graduate school.
Obtaining financial aid for graduate study.
Your recommendations on how I can improve the job I am doing:

AN ACT TO ENHANCE THE ENVIRONMENT AND TO CREATE AND PRESERVE ECONOMIC OPPORTUNITY

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, I have introduced a bill, H.R. 14670, to enhance the environment and to create and preserve economic opportunity in disadvantaged areas. The purpose of this bill is to correct the harmful effects upon the economy of disadvantaged areas that come about when, as a result of the implementation of our environmental control legislation, a vital industry or business must close its doors because it cannot comply for lack of funds.

There are many examples of these harmful effects, Mr. Speaker. I shall give just one of them here. The Special Subcommittee on Economic Development Programs of the Public Works Committee heard testimony concerning Winslow, Ariz., a community of about 3,200 population with but one industry, a sawmill. A traveler on his way to the Grand Canyon from Phoenix led a complaint to the effect that the plant was burning in violation of State air pollution standards.

As a result, the mill will have to be closed down putting 232 people, many who are representatives of various minority groups, out of work. No other employment is available. This matter is now in the courts.

As my good friend from Arizona (Mr. STEIGER) has pointed out to the subcommittee, as a matter of priority it is more important that we retain the fiscal soundness of the town. To emphasize this, the lumber mills in Arizona employ more than 40,000 people—about 2 percent of the population of the State. The jobs of all these people are threatened unless we do something to help them.

Our very real concern for the environment must, I believe, be tempered with our concern for the human beings who are entitled to enjoy the environment.

The quality of life has been the concern of Congress and serves as one of the bases of our statutes protecting the environment. In turn, that quality of life in our times is dependent upon the economic well-being of those who live in the environment, indeed, are part of it and contribute not merely to its detriment but to its improvement as well.

If we want to create new jobs or even hold our own by keeping Mr. STEIGER's constituents working and earning money and paying taxes, we must address ourselves to this environmental problem. If a court order enjoins burning, or discharge of waste, by a vital industry in a depressed area we must, I feel, supply the means by which the burning can be ameliorated to conform to State or Federal standards, and the means by which the waste can be purified in accordance with our pollution laws. In that way we can protect the environment and save the people dependent on the industry.

I recognize that there are many who believe that our environmental standards lack some wisdom—nevertheless they exist and are being enforced. Perhaps as we gain more experience and are able to observe more closely the balance between man and his environment, they will be changed. In the meantime, reason dictates that we should not destroy the economic lives of our people while we protect the ecology of which they are a part. I don't believe it would be unrealistic to protect both our national and human resources.

My bill would solve the problem by giving a depressed area those beneficial enterprises which it needs for the development of its economy, employment, and well-being, and at the same time protect our environment.

This would be done by providing for low-interest, long-term loans to be made to such enterprises to permit them to construct needed environmental protection facilities, or to modify their manufacturing processes, without a severe impact upon the company's near-term balance sheet. It provides for up to 30-year loans at not to exceed 3-percent interest to be used for the express purpose of aiding these enterprises in the construction of their pollution control facilities or the modification of their methods of operation so that their business may be preserved for the benefit of the community that so sorely needs it while conforming to environmental protection requirements. The loans would be administered under the authority of the Secretary of Commerce through the Economic Development Administration.

The problem that would be resolved by my bill is a very serious one. It cannot be ignored nor do I feel it is necessary to give in to it. A simple and, I believe, relatively inexpensive solution is readily available as set forth in my bill. I urge the Members of this body to give this matter their fullest support.

TENTATIVE SCHEDULE FOR THE APPROPRIATION BILLS

(Mr. MAHON asked and was given permission to extend his remarks at this point in the RECORD and to insert certain tables and include extraneous matter.)

Mr. MAHON. Mr. Speaker, as I indicated in my earlier remarks today during the 1-minute period, and under leave granted, I include for the information of Members of the House and others the tentative schedule for reporting and floor consideration of the appropriation bills at this session. A brief explanatory statement accompanying the schedule is also included.

(The schedule and statement follow:)

COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES—TENTATIVE SCHEDULE FOR REPORTING AND FLOOR CONSIDERATION OF APPROPRIATIONS BILLS

Bill	Report in full committee	Floor consideration [1]
Urgent Supplemental, 1972	Thursday, Mar. 9	Tuesday, Mar. 14.
Legislative	Monday, Mar. 20	Thursday, Mar. 23.
Second Supplemental, 1972	Monday, Apr. 24	Wednesday, Apr. 26.
State-Justice-Commerce-Judiciary	Monday, May 15	Week of May 15.
HUD-Space-Science-Veterans	Friday, May 19	Week of May 22.
Transportation	Monday May 22	Do.
District of Columbia	Wednesday, May 31	Week of June 5.
Labor-HEW	Monday, June 5	Do.
Interior	Thursday, June 8	Week of June 12.
Military Construction	Monday, June 12	Do.
Public Works-AEC	Thursday, June 15	Week of June 19.
Agriculture-Environmental and Consumer Protection	do	Do.
Foreign Assistance	Monday, June 19	Do.
Defense	Thursday, June 22	Week of June 26.
Treasury-Postal Service-General Government	do	Do.

[1] Exact floor dates to be worked out in cooperation with House leadership.

STATEMENT BY GEORGE MAHON OF TEXAS ON THE REPORTING SCHEDULE FOR THE APPROPRIATION BILLS

Working in cooperation with the House leadership over a period of weeks, we have now developed a tentative schedule for processing the appropriation bills of the session which—if adhered to—will see all the regular bills for fiscal 1973 sent to the other body by June 30.

It lays the basis for timely dispatch of the important appropriations business.

The schedule shapes up this way:

1. Legislative Bill (March)
2. Second Supplemental (April)
3. Three bills in last half of May
4. Nine bills in June

It is something of a rugged schedule but insofar as the status of the work of the Committee on Appropriations is concerned, we can, I believe, meet it. A number of our hearings began in early February; we have had as many as 11 subcommittees holding hearings on a single day. A heavy hearings schedule continues.

Because so much of the budget for education programs is subject to authorization action, plus the expectation that we can secure timely enactment of the Labor-HEW bill, we are not scheduling a separate education appropriation bill this year. Timely action on the authorizations and the following Labor-HEW bill should afford the educational community generally definite information about the approved Federal funding levels well in advance of the coming school year.

Orderly achievement of the appropriations bills schedule requires timely consideration of the related authorization bills. The House has already processed some of the annual authorizations for fiscal 1973 and a number of the legislative committees are busy with consideration of additional ones. Insofar as reasonably possible, we have scheduled several major bills—for example, Defense, Military Construction, Public Works–AEC, Foreign Assistance—late in the priority reporting order, allowing maximum time for processing the several authorizations on which those appropriation bills significantly depend.

Of course, expeditious disposition of the appropriation bills will require the active cooperation of both bodies. The Senate Committee on Appropriations has been holding hearings on several of the bills and I feel confident can duplicate its remarkable performance of last year in moving the House-passed bills to the Senate floor and on to conference. I would hope that a very substantial number of the appropriation bills will be signed into law by the beginning of the new fiscal year on July 1 next.

In conclusion, with a projected Federal funds deficit of $36.2 billion in the coming year, on top of a Federal funds deficit of $44.7 billion for the current fiscal year, as reestimated in January, which follow a Federal funds deficit of about $30 billion last year ($110,000,000,000 for the 3 years!), it is clear to me that the situation demands that we make every effort to proceed with restraint and caution and hold the authorizations and appropriations as low as reasonably possible.

There will be many opportunities to practice fiscal prudence. Processing the budget is the work of many hands. The new budget (obligational) authority requests for FY 1973 total about $270,898,000,000 of which *about $185.3 billion is subject to congressional action at this session;* appropriations for debt interest, social security and other so-called permanent appropriations do not require annual congressional action. And of the $185.3 billion of new budget authority subject to action in this session, some *$47.5 billion is for going programs first subject to annual authorization action* through a number of legislative committees. Another *$10 billion involves new legislative proposals* which will be before the legislative committees and the House.

EMERGENCY LABOR DISPUTES

(Mr. SCHWENGEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SCHWENGEL. Mr. Speaker, labor strikes in transportation industries have engendered much discussion and debate over the past several months. The need for effective machinery to deal with such strikes seems necessary. It is my strong feeling that we, the Congress, must act to protect individuals from costly and disastrous disputes.

The time is ripe for a nonpartisan appraisal of the situation, the problems and issues involved. Recently, Thomas A. Woodley, a third-year student at the Georgetown University Law Center and senior editor of the Georgetown Law Review, wrote a comprehensive paper on "Emergency Labor Disputes and the Public Interest: The Proposals for Legislative Reform." This paper covers in detail the major proposals for reform,

a discussion of the weaknesses of the present law, and suggestions for future action. Mr. Woodley has written an excellent and very informative paper and I commend it to my colleagues for their study of this subject.

The paper follows:

EMERGENCY LABOR DISPUTES AND THE PUBLIC INTEREST: THE PROPOSALS FOR LEGISLATIVE REFORM

(By Thomas A. Woodley)

INTRODUCTION

"Because I have come to the conclusion that both the common law of a State and a statute of the United States declare the right of industrial combatants to push their struggle to the limits of justification of self-interest, I do not wish to be understood as attaching any constitutional or moral sanction to that right. All rights are derived from the purposes of the society in which they exist; above all rights rises duty to the community. The conditions developed in industry may be such that those engaged in it cannot continue their struggle without danger to the community. But it is not for judges to determine whether such conditions exist, nor is it their function to set the limits of permissible contest and to declare the duties which the new situation demands. This is the function of the legislature which, while limiting individual and group rights of aggression and defense, may substitute processes of justice for the more primitive method of trial by combat." [1]

Although the above quote of former Justice Brandeis was not addressed specifically to the problem of national emergency strikes, it does articulate the duty of the legislature to strike the necessary and appropriate balance between the right of the "industrial combatants" to struggle for their own self-interests and the right of the community to ensure social harmony and economic progress. Unfortunately, the existing statutory framework for dealing with emergency labor disputes has clearly failed to accomplish its intended purpose of protecting the public interest in the free flow of goods and services while at the same time preserving the traditional institution of private collective bargaining. Indeed, the strikes with the most serious repercussions have occured after the exhaustion of present statutory procedures. The continuing crescendo of criticism has inspired the recent submission of several legislative proposals, which recommend a variety of methods for permanently resolving national emergency disputes. This article will outline the dispute-settlement procedures presently available under the Taft-Hartley and Railway Labor Acts, evaluate the major legislative proposals introduced in the 92nd Congress, and analyze the different procedures that could be included in corrective legislation that would safeguard the public interest whenever an emergency labor dispute imperils the national health and safety.

THE WEAKNESS OF EXISTING LAW

Government intervention in collective bargaining disputes between management and labor is engendered by the need to protect the public interest from the deleterious effects of a protracted lockout or strike. The manner and extent of this intervention in emergency disputes involving the transportation industries are governed by the Labor Management Relations Act [2] and the Railway Labor Act.[3] Both Acts contain specific emergency dispute procedures [4] intended to provide government assistance to the parties in their mutual pursuit of a peaceful solution without resort to the strike or lockout. However, it is the failure of these existing procedures either to encourage effective collective bargaining or to prevent strikes and lockouts that has stimulated the present movement toward statutory reform.

The Labor Management Relations (Taft-Hartley) Act

The emergency disputes provisions of the Taft-Hartley Act,[5] cover all labor disputes in industries affecting commerce except the railroad and airline industries. The occasion for federal intervention under title II of the Act is limited to strikes or lockouts that, in the opinion of the President, "imperil the national health or safety".[6] The extent of federal intervention is limited to: (1) a report by a Board of Inquiry concerning the issues involved in the dispute, but with no power to make recommendations or findings concerning the merits of those issues;[7] (2) an 80-day injunction against a strike or lockout during which the parties are required to continue bargaining;[8] (3) a "last offer" vote shortly before the injunction expires.[9] The terminal point of federal intervention—in the absence of settlement of the dispute by collective bargaining during the injunction period—is the submission of the matter to Congress for appropriate legislative action.[10]

These emergency dispute provisions of the Taft-Hartley Act have been invoked by the President on 30 separate occasions.[11] More than one-third (11 of 30) of these occasions involved the longshore and offshore maritime industry. Furthermore, all 11 maritime disputes were among the 25 disputes settled only after a strike, and eight of the nine instances where a strike or lockout occurred after the 80-day injunction period also involved the maritime industry.[12] Although these statistics do not reveal the entire story, it is possible to draw two fairly broad conclusions: (1) the maritime industry has been the prime target of the emergency dispute provisions of the Taft-Hartley Act, and (2) the procedures available under the Act have been inadequate devices for resolving labor disputes without crippling work stoppages that seriously disrupt the economy. In order to understand the proposals for amending the emergency disputes sections of the Taft-Hartley Labor Act, it is first necessary to examine some of the constructive criticisms of these provisions.

While the general performance and impact of the national emergency procedures are difficult to measure, the effects of the law are more easily evaluated. Perhaps the most widespread objections to the existing procedures of the Taft-Hartley and Railway Labor Acts are that they serve only to postpone settlement by the parties themselves and that the major steps outlined in both Acts fail to offer the parties any effective assistance or exert any pressure on the parties to resolve their differences.[13]

The second objection is actually the cause of the first. Past experience in collective bargaining reveals that labor and management representatives compromise their positions only when confronted with a rigid deadline. However, in the transportation industries, the carriers and the unions realize that (1) it is almost a certainty that a major strike deadline will be postponed by the invocation of the emergency procedures; and (2) once these procedures have been exhausted, their relative positions will not have changed appreciably. Therefore, the parties can safely, and sometimes intentionally, delay voluntary settlement until the real deadline approaches [14]—the end of the 80-day injunction [15] or the 60-day status quo period.[16]

Unfortunately, neither of the present Acts permit the exertion of pressure on the disputants during the 80- or 60-day hiatus, or provide for additional remedies that could be used after the expiration of the "freeze" periods. In addition, the officials entrusted with the administration of existing procedures have been applied uniformly to the varying problems of different industries. It is this absence of alternative courses of action and the lack of flexibility, perhaps more than the other weaknesses, which have rendered present statutory procedures ineffective and inappropriate.

Once the President has decided a "national emergency" exists under the Taft-Hartley Act, the course of government action is predictable. The Board of Inquiry appointed by the President is restricted in its activities, both by the time limitations of the President's Executive order and by the statute itself. Due to the necessity of obtaining the injunction quickly, the Board of Inquiry is often given only a few days to carry out its fact-finding and reporting duties.[17] Moreover, the board is specifically prohibited from making public recommendations for settlement,[18] and because of the time limitations they are unable to actively engage in mediation and conciliation. The haste with which a Board of Inquiry is required to act and the restriction of its duties to a fact-finding role preclude the board from making any constructive contribution to the settlement of a dispute. Since the only job assigned to a Board of Inquiry is to discover the causes and circumstances of the emergency dispute and to file a report including "a statement of the facts [and] each party's statement of its position," [19] it is understandable that one commentator has remarked that any "average high school student" could accomplish a board's task with a tape recorder and a typewriter.[20]

Though other deficiencies in the emergency procedures have been noted,[21] it can be generally stated that title II of the Taft-Hartley Act presents a negative, rather than a positive, approach to the settlement of labor disputes. Since the course of government action is predictable, both procedurally and substantively, the representatives of labor and management are inclined to adopt a more inflexible posture at the bargaining table than they would if the mode and extent of government intervention was uncertain. In fact, the longshore and offshore maritime industries currently rely on the fact that the Taft-Hartley procedures will be invoked either before or after the commencement of a strike. Consequently, both sides have been reluctant to conduct serious negotiations concerning a new collective bargaining agreement until the emergency procedures have been invoked. They are fully aware that the date set for a strike does not constitute the final deadline by which they must agree or suffer a long-term shutdown.

Based upon these constructive criticisms of the Taft-Hartley emergency procedures and the disconcerting experiences in the maritime industry, few today would disagree with the following comment:

"[T]he Emergency Labor Disputes provisions do not work in theory or in practice. They do not permit free collective bargaining nor do they resolve labor conflicts. They do not serve the needs of the nation, the general consumer or the disputing parties. A better method of coping with our labor problems is urgently needed." [22]

The Railway Labor Act

The handling of emergency labor disputes under the Railway Labor Act has suffered from many of the same limitations that have impaired the successful application of the Taft-Hartley provisions. To avoid work stoppages during the formation of new agreements in the railroad and airline industries, the step-by-step procedure available under section 10 of the Railway Labor Act [23] contemplates direct negotiations, government mediation,[24] voluntary arbitration, a 60-day status quo period, and the Presidential appointment of an Emergency Board. Although section 10 was initially acclaimed as a significant improvement over earlier railway statutes,[25] the general consensus among

Footnotes at end of article.

members of emergency boards [26] and labor authorities [27] today is that the peacekeeping mechanisms have not been effective.

Since the enactment of the Railway Labor Act in 1926, the emergency provisions have been invoked on over 180 occasions.[28] A number of the railroad and airline strikes have occurred after the procedures were exhausted, but the great majority of these stoppages were relatively local and short-lived and did not result in national emergencies.[29] In the last decade, however, Congress has been called upon to enact eight separate laws to prevent or end threatened or actual rail strikes that outlasted the emergency procedures of the Railway Labor Act.[30]

The legislative action in 1963 marked the first time under the Act, that Congress imposed a statutory settlement in a rail dispute.[31] Three of the eight ad hoc laws were passed in 1967 prohibiting six shopcraft unions from striking most of the Nation's major rail lines,[32] and three more Federal laws were enacted in 1970, two of them again involving the shopcraft unions.[33] The eighth piece of legislation was approved in 1971, halting a two-day nationwide strike precipitated by a walkout of more than 10,000 railway signalmen.[34] In the airline strike of 1966, an ad hoc bill passed the Senate but settlement was achieved before the House completed action.[35] In all these major transportation labor crises, congressional assistance was required after the statutory procedures for dealing with the formation of new contracts had been exhausted. The recent resort to stopgap measures is sombre testimony to the inability of the Railway Labor Act and the emergency boards created thereunder to resolve disputes in the railroad and airline industries.

Contrary to the present dissatisfaction with the Act, early experience was generally favorable [36] and both parties almost invariably accepted the recommendations of the emergency boards as the basis for dispute settlement. However, as the airline and railroad industries began to feel the impact of technological change, the discussions at collective bargaining sessions shifted from wages and fringe benefits to the preservation of jobs for diesel firemen, flight engineers, and other workers similarly situated. While monetary issues retained their level of importance, manpower utilization and job security became almost insurmountable obstacles to agreement.[37] Besides declining employment opportunities,[38] the railroad industry has been plagued by an anachronous system of work rules, grievance procedures, and multiple unionism which has further complicated efforts to negotiate contract renewals.[39] As a result, public opinion and a sense of moral obligation, envisioned at the Act's conception as a strong force for settlement,[40] have failed to inspire settlement of issues that polarize the positions of labor and management. Thus, the parties, unable to resolve their differences in direct negotiations, have come to depend upon section 10 of the Act and the creation of an Emergency Board to delay a work stoppage.[41] The habitual reliance upon the appointment of emergency boards has not only eliminated the "good faith" and spontaneity in collective bargaining,[42] but also has unveiled the inherent weaknesses of the boards themselves.

Although the emergency boards established by the President under section 10 appear to have some power and authority not possessed by Taft-Hartley boards, it is apparent that the former suffers from many of the same restrictions that impair the effectiveness of the latter. Once the board has been deluged with "an avalanche of printed exhibits," [43] time limitations prevent a serious attempt to resolve the issues. Since the boards' recommendations constitute only advice, they are often rejected by one or both of the parties,[44] and in many cases serve only as a floor for future bargaining.[45] In some cases where the boards' findings have been mutually acceptable, the union representatives have been unable to secure ratification by the membership.[46]

The inability of the emergency procedures of the Railway Labor Act to encourage private collective bargaining and to "insure to the public continuity and efficiency of interstate transportation service" [47] has increased the public demand for more effective government control and inspired the submission of several proposals for statutory reform.

EFFORTS TO AMEND THE LAW

The obvious failure of the emergency dispute provisions of both the Taft-Hartley and Railway Labor Act in the past two decades has underlined the importance of finding a suitable alternative to existing procedures.[48] This failure is due in large part to the inherent difficulty in drafting appropriate legislation to deal adequately with critical work stoppages. While there is general agreement over the need to increase the prestige and effectiveness of government participation through mediation, conflicts of interest and opinion among concerned parties—labor, management, Congress, the Administration, and the public—arise over which postmediation procedures should be adopted. Each of these groups has different philosophic and economic standards by which it measures the manner and extent of government intervention in labor disputes. Thus far, it has been the political influence of labor and management which has effectively prevented the submission [49] and promulgation [50] of legislative proposals to amend title II of the Taft-Hartley Act, and, to a lesser degree, section 10 of the Railway Labor Act. Today, however, it is necessary to afford recognition to the role and importance of a third force—the public—which has a "right to an uninterrupted supply of essential goods and services." [51]

Although it is generally conceded that the process of free collective bargaining should be maintained and encouraged, the adverse effects of labor disputes that seriously disrupt the flow of necessary goods and services justifies the conclusion that such disputes must be avoided. Indeed, some labor observers have even questioned the viability of lockouts and strikes as a legitimate means of self-help in a highly mobile and complex society which is so dependent upon its transportation systems.[52] Since work stoppages in the transportation industries cause irreparable loss to the disputants [53] and a severe deprivation to the nation [54], members of Congress have devoted special attention toward modifying the Government's methods of handling such disputes.

Over the years, a number of legislative proposals have been offered to change the present procedures for dealing with national emergency labor disputes.[55] The suggestions have been varied and innovative, and all have received at least marginal support. The spectrum of proposals has ranged from the creation of an industrial peace commission [56] and increasing the authority of the Emergency Boards,[57] to selective strikes,[58] compulsory arbitration,[59] seizure [60] and an "arsenal of weapons" approach which would embody a variety of these procedures in one statute.[61] Unfortunately, consideration of these proposals has traditionally been limited to an academic discussion of their advantages and disadvantages, followed by procrastination and complacency. It was only after the recurrent rail crises [62] and other major strikes of 1970, that mounting public concern compelled Congress to focus its attention on permanent dispute-settlement legislation.

The first formal, specific administration proposal in several years was introduced in the 91st Congress in February 1970 by President Nixon,[63] but hearings were not held on this or other proposals, and essentially the same bill was submitted in the 92nd Congress in early February 1971.[64] Several other legislative proposals making new options available for resolving emergency disputes have been forwarded to the Senate Subcommittee on Labor and Public Welfare which commenced hearings on June 15, 1971. The House Commerce Committee, Subcommittee on Transportation and Aeronautics concluded hearings on the bills referred to it, after twelve days of testimony beginning July 27, and ending September 30, 1971.[65]

Despite the different procedures, coverage and jurisdictional standards of the bills, they all attempt to balance partial achievement of two inconsistent objectives: first, the preservation of free collective bargaining and the restoration of the incentive to reach private settlements without resorting to Congress; second, the protection of the health and safety of the nation against damaging work stoppages through effective government intervention. The purpose of this article is to examine the provisions of the major proposals which seek to, "end national emergency disputes in our transportation industries in a manner which is fair to labor, fair to management and fair to the American public." [66]

THE ADMINISTRATION'S PROPOSAL—S. 560

The Nixon Administration's proposal [67] to deal with emergency labor disputes in the transportation industry has the underlying purpose of encouraging private collective bargaining with a minimum of government intervention. The bill would repeal section 10 of the Railway Labor Act, which presently governs railroad and airline disputes, and make all transportation industries, including the maritime, longshore, and trucking industries,[68] subject to the national emergency provisions of the Taft-Hartley Act. Under the proposal, the Taft-Hartley Act would be amended to provide three alternative procedures to those currently available following the initial 80-day injunction period: (1) extension of the "cooling off" period for up to 30 days; (2) appointment of a special board of three impartial persons to determine under what conditions partial operation of the affected industry is feasible; and (3) appointment of a panel to select and make binding the most reasonable final offer submitted by a party to the dispute. The addition of these new options reveals the adoption of an "arsenal of weapons" or "choice of procedures" approach.[69]

The arsenal of weapons approach

The "arsenal of weapons" approach stems from the need to preserve the flexibility which ad hoc legislation provides while eliminating the undesirable side effects of Congressional intervention. Under existing law, the President is forced to rely upon inflexible procedures that are insufficient in number and inadequate in effect. The presence of several procedures would enable the President to select the most appropriate procedure to deal with the varying circumstances of a labor dispute in each transportation industry.

The "arsenal of weapons" approach is based on the sound premise that collective bargaining by the parties directly involved in the dispute will be encouraged if they are both uncertain as to which procedure may be invoked and are unwilling to risk the application of one or all of the procedures as a substitute for a negotiated agreement.[70] The mere existence of a choice of procedures available to the executive branch would, of itself, constitute a strong influence in persuading labor and management to resolve their differences without resorting to prolonged strikes.[71]

Opponents of the "arsenal of weapons" approach contend that it would create in the executive branch that kind of authority which is susceptible to abuse. It cannot be shown however, that the exercise of Presi-

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dential discretion within this new framework would result in greater unfairness than does the automatic application of the rigid procedures available under present law. Any statutory proposal that affords an executive or judicial officer a wide degree of authority is vulnerable to the inadvertant or malicious use of power. Nevertheless, it is generally agreed that the common criticism of "abuse of discretion" does not outweigh the obvious advantage of a piece of legislation that permits the President to invoke flexible and unpredictable procedures to resolve an emergency labor dispute.

The value of the "arsenal of weapons" approach as a whole, however, depends primarily on the utility of the individual weapons that comprise the arsenal. Therefore, it is necessary to examine separately each procedure contained in the various legislative proposals.

The procedures: A thirty-day extension of the "cooling-off" period

Under the first option, at the end of the initial 80-day injunction the President could order the parties to refrain from making any changes, except by agreement, in the terms and conditions of employment for an additional period of not more than thirty days. During this time the parties would be directed to continue bargaining and the Board of Inquiry previously appointed would continue to mediate the dispute.

According to the President's message this choice might be used chiefly where the dispute was "very close to settlement.[72] If the parties are close to agreement, however, they would probably agree to an extension of the status quo period.[73] On the other hand, if the parties are far apart, it is unlikely that an additional thirty-day period would effect an agreement.[74] In addition, if this procedure is chosen and fails to produce a settlement of the dispute, the only other course of action available to the President is ad hoc legislation which most of the legislative proposals are designed to avoid. The limitation of the President's choice to only one of the prescribed alternatives is one of the major weaknesses of the Administration's bill. Senator Packwood recognized this fundamental defect, and introduced essentially the same bill with the provisions that the President could invoke each or every option in any sequence he deems appropriate.[75]

In sum, the designation of this option as an exclusive procedure is objectionable, in the words of the ABA Special Committee on National Strikes in the Transportation Industries, "on the grounds that the extension of the cooling-off period is likely to be unnecessary, or, if used, to be ineffective." [76]

The procedures: Partial operation

The second option, partial operation, would permit the President to appoint a special board of three impartial members to determine "[w]hether and under what conditions a partial strike or lockout . . . in an entire industry or substantial part thereof could take place without imperiling the national health or safety," and whether such a partial strike or lockout would "appear to be sufficient in economic impact to encourage each of the parties to make continuing efforts to resolve the dispute." The special board would have 30 days in which to hold hearings and make its determination. If it found that a partial strike could be permitted without violating the standards indicated above, it could issue an order "specifying the extent and conditions of partial operation that must be maintained." Its authority is limited, however, by a proviso that "in no event, shall the order of the Board place a greater economic burden on any party than that which a total cessation of operations would impose." If the board issued such an order, the parties would be required to carry on the partial operation without strike or lockout for a period not to exceed 180 days.

The rationale supporting the partial operation procedure is that a minimal amount of government intervention can insure the continued operation of essential portions of a struck industry, thus leaving the economic pressures of a shutdown in the major portion of the industry as an incentive to bargain collectively. Proponents of partial operation describe it as an acceptable accommodation between the right to strike or lockout and the public's right to receive essential goods and services.[77] In addition, partial operation is characterized by some as a purely procedural step which enables the parties to establish the substantive terms of a labor agreement without the threat of an imposed settlement.[78]

In theory, the partial strike or lockout is appealing, but the practical difficulties of implementing this procedure seem insurmountable. The initial problem is the vagueness of the criteria which guide the Special Board in their unenviable task. The Special Board must first, decide that a partial strike or lockout "could take place without imperiling the national health or safety;" second, determine the conditions and extent of the partial operation sufficient to induce the parties to resolve the dispute; and third, issue an order specifying the conditions and extent of the partial operation provided the order does not place a "greater economic burden on any party" than that which a total strike or lockout would impose. The difficulty of defining a national emergency dispute inheres in every legislative proposal; [79] however, the Administration's bill further complicates the problem by requiring the Special Board to differentiate between essential and nonessential transportation services.[80] Furthermore, the emphasis on economic burden betrays an ignorance of the underlying causes of labor disputes, and overlooks the organizational burden on the unions that would have some of its members working while others were on strike.

It would also seem virtually impossible for a Board to assemble and consider all of the necessary economic and business data and make an informed decision whether partial operation was a greater economic burden than a total shutdown, all within the thirty-day period within which the Board must issue its order.[81] Application of the above criteria involves extensive and complex inquiry into market considerations, competition, and other economic consequences of partial operation on the employer, the union and the public. The Board is required to make its determination within thirty days and hold a hearing in relation thereto. Even with the assistance of experts and consultants provided for by the Administration's proposal, it would be difficult to arrive at an intelligent decision within the thirty days provided. The result of a Board's determination would either be a rejection of the partial operation procedure because of insufficient time to study the situation or a decision to employ the procedure without adequate consideration of the intricate problems involved.

The implementation of partial operation also raises questions concerning administration, enforcement and fairness. Although S. 560 included partial operation as a solution to transportation strikes. President Nixon, in February 1971, criticized partial operation in the railroad industry impractical and unfair.[82] The President rejected "partial operation" in favor of "selective operation". It is unclear whether S. 560 encompasses both types of operations under the general heading "partial operation." [83] This confusion in terminology and interpretation as to the scope of the bill would further complicate its administration and enforcement.

In addition, partial operation has been criticized by management and labor as burdensome and unfair. Representatives of railroads and other carriers complain that partial operation would be a costly and unfair burden because it would require a staff almost as large as if the operation were running at full capacity.[84] Labor, on the other hand, contends that partial operation would result in inequality because some workers would be receiving full wages while others receive only strike benefits.[85]

The ABA has noted that partial operation would have a detrimental effect on the process of collective bargaining, because the parties "will spend thirty days arguing the merits, demerits and procedures for partial operation while they could be bargaining." [86] Beside the problem of impracticability, the partial operation alternative is subject to the same defect as the 30-day extension alternative; there is no possibility of resorting to another procedure if the Special Board should reject partial operation as not being feasible. Consequently, the President would be forced to seek Congressional assistance to settle the emergency labor dispute.

The procedures: Final offer selection

The third option, final offer selection, would authorize the President to direct each party to submit two alternative final offers to the Secretary of Labor within three days. Each offer would have to "constitute a complete collective bargaining agreement and resolve all the issues" involved in the dispute. The Secretary of Labor would transmit such offers to all other parties and they would be required to bargain for five days, during which time the Secretary of Labor may act as mediator.

If no settlement was achieved during this five-day period, a three-member panel would be appointed within the next two days by them or by the President if they could not agree upon a panel. The panel would then hold hearings and, within thirty days, select one of the final offers which would be then "deemed to represent the contract between the parties."

During the panel's consideration of the final offers the parties are not permitted to change the terms and conditions of employment except by agreement. The panel is not allowed to mediate a settlement or communicate with third parties concerning recommendations for resolving the labor dispute.

The panel would have to select one of the final offers in exactly the form submitted. The bill provides that "The panel shall not compromise or alter the final offer that it selects. Selection of a final offer shall be based on the content of the final offer and no consideration shall be given to, nor shall any evidence be received concerning, the collective bargaining in this dispute including offers of settlement not contained in the final offers."

In making its decision, the panel would be permitted to consider the following factors: (1) past collective bargaining and contracts between the parties; (2) comparisons of wages, hours, and conditions of employment peculiar to that industry, and industries in general, (3) "security and tenure of employment with regard for the effect of technological changes on manning practices or on the utilization of particular occupations"; and (4) "the public interest and any other factors normally considered in the determination of wages, hours, and conditions of employment." The final offer thus selected would be the labor agreement between the parties. The panel's determination would be final and binding unless found to be "arbitrary or capricious" by the reviewing court.

The theory behind this option is that it would bring the parties closer together in submitting their final offers and would probably result in agreement during the five-day bargaining period after such offers are submitted. As the President explained in his message to Congress:

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"Rather than pulling apart, the disputants would be encouraged to come together. Neither could afford to remain in an intransigent or extreme position. In short, while the present prospect of government arbitration tends to widen the gap between bargaining positions and thus invite intervention, the possibility of final offer selection would work to narrow that gap and make the need for intervention less likely." [87]

Final offer selection is a relatively novel concept [87a] designed to promote the voluntary bargaining process while ultimately providing for a conclusive settlement without a crippling work stoppage. Under Secretary of Labor Silberman has explained that the availability of this option would stimulate serious bargaining at an early stage to insure a negotiated settlement and avoid the risk of having the other party's offer selected.[88] He has also pointed out that the procedure would "reward compromise and concession and . . . penalize intransigence," and provide an impartial authority to accept the responsibility for the solution—the "so-called face-saving situation." [89]

According to its advocates, final offer selection differs materially from compulsory arbitration where the contract is shaped by the exercise of discretion vested in the arbitrators. In final offer selection, however, the panel would choose the most reasonable contract that has been submitted by one of the parties. Further, the traditional form of arbitration, according to this point of view,[90] encourages extreme positions in the expectation that the arbitrator will "split the difference," [91] whereas final offer selection encourages the parties to narrow the gap between bargaining demands and offers in order to gain the endorsement of the panel.

While the final offer selection alternative is technically different from compulsory arbitration, several labor experts have noted that this innovative procedure still entails government intervention and the acceptance of a "selected", rather than "imposed", agreement under compulsion of law.[92] Moreover, since this procedure fails to weigh the economic strengths of the parties, the weaker party will be tempted to delay bargaining in the hope of receiving a more favorable settlement from the three-man panel.

Perhaps the most cogent criticism of final offer selection is that it is inflexible and unfair. It is difficult to imagine the government forcing a settlement that is fair when it is limited to accepting one party's terms in toto.[93] In any labor dispute, two opposing final offers will probably show one party submitting a more reasonable offer on issue A, and the other party submitting a more reasonable offer on issue B. In this situation the panel would be required to weigh the importance of each issue and the reasonableness of each offer; and the end result will certainly not be the most reasonable or acceptable [94] settlement.[95] Indeed, if the parties adopt a gambling posture and offer several objectionable and arbitrary terms of settlement, the entire procedure would be discredited.[96] Experience reveals that the party which believes it has made an offer which will probably be selected may be inclined to insert additional minor advantages which it could not obtain through negotiators or arbitration.[97] The neutral panel would be left with the choice of either selecting the offer preferred on major issues, or declining to make a selection thereby permitting a crippling work stoppage.

In the opinion of several labor observers [98] and the ABA Committee,[99] there are certain types of issues, particularly involving working rules, technological change, and manpower utilization, which do not readily lend themselves to the final offer selection process. In these cases and others, the traditional arbitration procedure would be better suited to balance the positions and resolve the disputes. In addition, normal arbitration permits not only the selection of segments of the rival offers in the hopes of putting together a reasonable package, but also enables the arbiters to recognize the need for protecting the public interest. Final offer selection, on the other hand, limits the scope of the neutral panel's vision to the expressed terms of the parties' offers, and these terms of settlement may not reflect the interest of the public.

The ABA Special Committee correctly labelled final offer selection as the only "viable alternative" contained in S. 560 but conditioned the Association's endorsement of the procedure on the adoption of the following useful amendment: (1) deletion of the "last offer ballot" provision currently in effect under the Taft-Hartley Act because it will conflict with the final offer selection procedure: [100] and (2) extension of the time allotted for the parties to bargain on the basis of their final offers.[101] These two modifications would greatly improve the opportunity for a bargained settlement after the invocation of final offer selection—the only procedure in the Administration's bill that is likely to be used.

Despite the shortcomings of the final offer selection alternative, it does deserve inclusion in a choice of procedures approach that contains other useable alternatives. In S. 560, however, final offer selection is the only real option available to the President, since the 30-day extension and partial operation are not likely to be individually effective in settling an emergency labor dispute. Therefore, the Administration's bill, in its present form, does not contain the necessary attributes of a true choice of procedures or arsenal of weapons approach, since it: (1) fails to provide the President with flexible, useable procedures to apply to the changing circumstances of an emergency labor dispute in the various transportation industries, and (2) fails to create the required degree of apprehension and uncertainty in the minds of the parties that stimulates serious collective bargaining and the private settlement of a dispute.

RECOMMENDATIONS OF THE AMERICAN BAR ASSOCIATION

In response to the widespread concern about the impact of major transportation stoppages on the public interest, the American Bar Association, in 1966, established a Special Committee on National Strikes in the Transportation Industries to examine the existing dispute-settling procedures and to make appropriate recommendations. After hearing the testimony of representatives from labor, management, and the public sector, and after extensive discussions with leaders from the executive and legislative branches of government, the Committee members made a two-part recommendation: first, the creation of individual, tripartite industry commissions to study each industry's bargaining practices, to suggest improved methods of bargaining in order to avoid emergency strikes, and to recommend new procedures for handling work stoppages in these industries; second, the amendment of section 10 of the Railway Labor Act to make the bargaining process more effective and to provide the President with a "choice of procedures" to deal with an actual or threatened stoppage likely to result in an emergency situation.

The Committee considered all modes of transportation, but decided that only the maritime (longshore and offshore), airline and railroad industries should be covered by any amended legislation. The maritime industry would be subject to the Railway Labor Act only with respect to post-impasse procedures and would otherwise be governed by the Taft-Hartley Act. The Committee did acknowledge that recent changes in the bargaining structure of the trucking industry could eventually lead to a breakdown in collective bargaining and to serious harm to the public interest, but concluded that the history of labor relations and negotiations in this industry did not necessitate its coverage under the recommended legislation. In later deliberations and at the urging of the Board of Governors of the ABA, the Committee reversed its earlier decision and, included the trucking industry in its report and recommendations.

The legislative proposal of the ABA Committee authorizes the President to appoint a Presidential Emergency Mediation Board upon a recommendation from the National Mediation Board that a dispute between a carrier and its employees should "threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service." [102] During its 60-day life, the Emergency Board has two functions: first, to hold hearings to investigate the facts of the dispute and "attempt to adjust the dispute through mediation and conciliation;" and second, to recommend to the President, immediately prior to the expiration of the 60-day status quo period, that he choose one of the four available procedures to settle the dispute. The four procedures, as outlined in the Committee's Report [103] are: (1) discharge the Emergency Board and refrain from any further government intervention; (2) direct the Board to make public its recommendations as to the terms for settlement of the dispute; (3) appoint a Presidential Arbitration Board to resolve the dispute by the issuance of a final award binding upon the parties to the controversy; or (4) create an Executive Receivership under Presidential direction by operating the company or companies involved in the dispute while the parties continue their bargaining.

The Special Committee's recommendations were approved by the House of Delegates of the American Bar Association at the annual meeting of the ABA in St. Louis, August 12, 1970.

Industry Commissions

The ABA Special Committee recommended that Congress authorize the President to establish for each industry a commission consisting of an equal number of management and labor representatives, as well as nonvoting representatives from the public sector who would serve in an advisory capacity. The commissions would be charged with the dual responsibility of (1) "developing for the industry an agreed plan for eliminating or minimizing the danger of strikes or lockouts which impair the national security or threaten serious injury to the health, safety or welfare of a large segment of the public;" [104] and (2) "recommending changes in any part of the Railway Labor Act or Title II of the Labor-Management Relations Act designed to make collective bargaining more effective in the industry concerned." [105] The commissions would submit their final report and recommendations to the President and Congress within eight months of their appointment.

In making this recommendation the Committee expressed its preference for initially relying on the parties to develop improved bargaining and strike-prevention mechanisms. The commissions would provide the affected parties with the opportunity to establish permanent procedures which would obviate the invocation of the emergency dispute provisions. Even if the commission's efforts were unsuccessful, their report would offer a sound basis for any legislative action. Furthermore, the tripartite composition of the commissions would combine the knowledge and experience of the particular industry's representatives with the detached objectivity of the public members to facilitate well-reasoned agreements that conform to the public interest. In this respect, the Com-

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mittee's Industry Commissions are clearly superior to the appointment of a seven-member National Special Industries Commission suggested in the Administration's bill. The latter proposal would place the total responsibility for devising peace-keeping procedures for all industries on a single government commission. Experience reveals that general reports and broad recommendations from government-appointed bodies fail to provide the panacea for labor problems and seldom receive the support and cooperation of the collective bargaining parties. The ABA Committee anticipated these problems and explicitly provided for labor and management representation on each industry commission to elicit "creative ideas from the industry itself in settling procedures" [106] that will eliminate or minimize the danger of work stoppages which impair the national security or threaten serious injury to the health or welfare of a large segment of the public.

Legislative recommendations

In general, the Committee attempted to increase the effectiveness of the Government's role as a mediator by establishing a newly structured Presidential Emergency Mediation Board. The proposal specifically withdraws the power of the Emergency Board to make recommendations for the terms and conditions of a settlement to avoid distracting the Board from its primary function of encouraging collective bargaining. The statutory life of the Board is extended from 30 to 60 days to permit more time for assisting the parties in their efforts to reach an agreement. If the dispute has not been settled at the end of the 60-day period, the Emergency Board is required to recommend to the President one of four possible courses of action.

Public recommendation for settlement

The first available procedure allows the President to direct the publication of the Emergency Board's recommendations for settlement of the dispute. After the recommendations have been revealed, there would be an additional 30-day status quo period in which public opinon would hopefully persuade the parties to resolve their differences. If no agreement is reached by the end of the 30-day period the disputants would be free to resort to the strike or the lockout.

The "public recommendations for settlement" alternative is similar to the present procedures under section 10 of the Railway Labor Act. If experience is a guide,[107] the President is not likely to adopt this ineffective course of action, since he is expressly forbidden from choosing any other procedures. The chairman of the ABA Special Committee has defended the "one shot, and only one shot" approach on the grounds that it eliminates the situation where a party will refuse to settle because it knows that a "finality" procedure will later be invoked.[108] On the contrary, if more than one procedure could be used, the parties would be encouraged to settle, rather than risk the selection of a more distasteful procedure. Restricting the President to only one choice places an undue burden on him to pick the "right" procedure, knowing that if the selected procedure fails Congress would again be summoned to resolve the labor controversy.

Presidential Arbitration Board

The second procedure contained in the Committee's legislative recommendations is the creation of a Presidential Arbitration Board empowered to conduct hearings and issue a final and binding award resolving the dispute. Before electing either this procedure or the executive receivership alternative, however, the President would be required to make the additional finding that the failure of the parties to settle the controversy "may impair the national security or seriously endanger the health, safety or welfare of a large segment of the public sufficiently to warrant curtailment of the freedom to strike or lockout and the imposition of a peaceful method of settling the dispute." [109] If the President determines that the particular dispute passes this more stringent, jurisdictional test,[110] the parties would be given five days to appoint members to the Board; otherwise, the President would designate the impartial members. During the 60 days in which the Board is in session or after it has rendered its decision, the parties are free to change any of the issues involved in the dispute or the settlement terms so long as the modification is mutually agreeable. In arriving at its award, the Arbitration Board must consider the following factors: (1) the public interest, including its interest in the continuation of the particular transportation services; (2) comparison of wages, hours and conditions of employment of other employees doing comparable work, giving consideration to factors peculiar to the industry involved; (3) comparison throughout the nation of wages, hours and conditions of employment; (4) security and tenure of employment with due regard for the effect of technological changes on the manning practices or the utilization of particular occupations; (5) other factors normally considered in the determination of wages, hours and conditions of employment in the industry.

Of the numerous methods for final settlement of labor conflicts, undoubtedly "compulsory arbitration" has received the most vitriolic criticism.[111] Labor,[112] and to a lesser extent management,[113] are philosophically opposed to a settlement prescribed by a third party because it negates the right of the parties to freely determine the terms and conditions of employment through the collective bargaining process. In a particular labor dispute, however, compulsory arbitration will be rejected only by the combatant considered to be the stronger, that party generally preferring economic warfare to outside interference.[114] The objection that the weaker party will purposely avoid "good faith" bargaining and rely upon the decision of an arbitration panel to "split the difference" [115] is not a valid criticism of compulsory arbitration when the procedure is only one of many, because the parties can never be sure that compulsory arbitration will be selected by the President. Indeed, by adopting an intransigent position, the weaker party may be confronted with the recommendation that the President take no further action or that the terms of settlement be publicized.

In a true emergency situation, the interests of the public in the free flow of essential goods and services outweighs the interest of the public and the parties in minimizing government involvement in private industry and the traditional collective bargaining process. Compulsory arbitration would not require the total acceptance or rejection of one party's final offer, but would consider the positions of all parties—labor, management, and the public [116]—and determine the most fair and reasonable terms of settlement. The ABA's recommendation and other legislative proposals [117] have included compulsory arbitration in their "arsenal of weapons" primarily because it, more than any other procedure, explicitly recognizes the importance of protecting the public's interest in settling crippling work stoppages in the transportation industries.

Executive receivership

The third alternative procedure recommended by the ABA Committee is that the President "[c]reate an executive receivership of the carrier, or carriers, involved in the dispute for a period, and under such conditions as the President deems to be in the public interest . . ." [118] The government receiver would be empowered to adjust the terms and conditions of employment during the seizure period "by some fair procedure; provided however, that such changes affect wages only, and provided further that such adjustments represent the minimum necessary to provide equitable compensation for employees working during the period of the seizure." [119] The Committee further recommended that all union security and checkoff arrangements would be suspended during the receivership period.

The carrier or carriers involved would be entitled to sue the government for just compensation or to accept the Government's operation of the business for its account after the deduction of the costs of the receivership incurred by the government. If the carrier chooses to sue for just compensation, it would receive 75 percent of the Government's last offer of compensation, pending final disposition of the litigation. Strikes and other concerted activities interfering with the operation of the carrier subject to the receivership would be unlawful under the Committee's recommendation.

Similar to compulsory arbitration, government seizure and operation of a private company as a method of settling emergency work stoppages has been denounced by management as being one-sided [120] and violative of the fundamental principles of free enterprise.[121] Some labor experts even question the constitutionality of legislation that authorizes government seizure, but since the Supreme Court's decision in *Youngstown Sheet & Tube Co. v. Sawyer*,[122] it is generally accepted that Congress has the "constitutional authority to make laws necessary to carry out the powers vested by the Constitution." [123] In fact, several states currently have statutory provisions for seizure whenever a labor dispute threatens a serious disruption of an industry.[124] Other critics of seizure argue that government operation is no guarantee against strikes,[125] and the heavy administrative burden and lengthy legal proceedings [126] which are likely to result outweigh any benefits which may be derived from a government takeover. Finally, opponents of seizure discredit the widespread belief that this procedure will sufficiently induce the disputing parties to immediately terminate the strike or lockout.[127]

The ABA Committee's proposal cannot be categorized as the typical seizure approach because it attempts to strike a balance between management and labor by penalizing the union with suspension of compulsory union membership and payroll deduction for initiation fees and union dues.[128] Moreover, it attempts to lessen the burden by placing explicit limitations upon the changes that may be made by the government receiver.

Executive receivership has the advantage of allowing the parties to determine the terms of agreement rather than imposing a settlement through mandatory arbitration.[129] In addition, the Committee's recommendation grants the government a wide area of discretion to permit maximum flexibility for specifying the most appropriate conditions for government operation.

Similar to compulsory arbitration, the executive receivership procedure recognizes that the public interest in terminating emergency work stoppages in the transportation industry outweighs the disputants' interests in freedom of action. It should be emphasized, however, that the Committee's recommendation require that a higher standard be met—that such interruption will impair the national security, or seriously endanger the health or welfare of a large segment of the public [130]—before the President may select the executive receivership alternative. The higher standard reflects the sound policy that the seizure procedure should only be elected in those rare cases where the seriousness of a transportation work stoppage justifies immediate government operation of the carrier or industry.

With relief available through the courts, the ABA Committee's recommendation pro-

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vides a method for fair and just compensation to the owners for the use of their property during the executive receivership period.[131] In addition, if the President is empowered to take complete possession of a carrier, it would undoubtedly increase the incentive of the parties, especially the carriers, to settle their differences through bargaining.[132] Nevertheless, Congressional representatives criticize seizure as "too drastic a remedy," [133] and labor experts describe the procedures as "having the outward appearance of executive dictatorship." [134] Combining this general disapproval with the outspoken opposition of labor [135] and management, it is apparent that the recent legislative proposals introduced in Congress which provide for a seizure procedure [136] have almost no chance of being passed into law. Although executive receivership has some advantages and was included in the ABA Committee's recommendation to "balance" [137] the choice of procedures, it should not be retained in a bill at the cost of substantially reducing the likelihood of enactment.

Procedures: No further action

The fourth and final alternative that the Presidential Emergency Mediation Board can recommend to the President is that no further action be taken, leaving the parties "to stew in their own juices." [138] During an emergency transportation strike, it does not seem likely that this option would be chosen, however, it may be appropriate in those situations where a work stoppage does not seriously threaten the health, or welfare of the public or where the mediation procedures and public influence have brought the parties close to an amicable settlement. Finally, the possibility that the government can terminate its intervention in a labor dispute, will deter the parties from awaiting predictable emergency procedures to run their course before conducting serious negotiations. Thus, the parties will be induced to bargain in good faith and the government's role as a mediator in transportation disputes acquires increased flexibility and effectiveness.

THE JAVITS BILL S. 594

Procedures

On February 4, 1971, Senator Jacob Javits (R., N.Y.) introduced his legislative proposal, S. 594, which he described as a "broader" and "more flexible" approach than the Administration's bill.[139] S. 594 would bring the railroad and airline industries under an amended version of sections 206–210 of the Taft-Hartley Act, and repeal Section 10 of the Railway Labor Act. The bill would broaden the coverage of the existing Taft-Hartley emergency provisions to encompass regional labor disputes "in an industry affecting commerce [which] may, if permitted to occur or to continue, imperil the health or safety of the Nation or a substantial part of its population or territory. . . ."

The Javits proposal would authorize the President to appoint a Board of Inquiry to make recommendations for resolving an emergency labor dispute. After receiving the report and recommendation of the Board and before obtaining an 80-day injunction, the President could direct the parties to maintain the status quo for not more than 30 days and to continue to bargain collectively without changing the conditions of employment or resorting to a strike or lockout. The 80-day injunction would be granted only by a three-judge district court and appeal would be taken directly to the Supreme Court, rather than to a federal court of appeals. Upon the expiration of 60 days of the 80-day injunction period, the President may direct the National Labor Relations Board to take a secret ballot of employees on the employer's final offer for settlement. In addition, if the labor dispute has not been settled prior to the end of the 60-day period, the President may issue an executive order "prescribing the procedures to be followed by the parties thereafter and any other actions which he determines to be necessary or appropriate to protect the health and safety of the Nation or that substantial part of the population or territory," threatened by the dispute. The executive order would be in effect for the "shortest period of time consistent with the emergency and a resolution of the dispute," and would be required to: (1) provide for the maintenance or resumption of operations and services essential to the national or regional health and safety, (2) encourage resolution of the dispute through collective bargaining, (3) encourage and preserve future collective bargaining within the industry affected, and (4), to the extent consistent with meeting the emergency, avoid undue interference with the rights of the parties to the dispute. Either House of Congress could veto the President's order within 15 days.

Some of the procedures available to the President under S. 594, according to Senator Javits, would be "fact-finding, extension of the status quo, seizure and partial operation, mediation to finality, arbitration, and the 'final offer selection' procedure of the administration's bills." [140] In the event that the President decides to seize and operate an industry or any part of an industry, the bill requires that "such enterprise shall be operated by the United States for the account of the employer." The employer would have the right to waive all claims to the proceeds of the government operation and to receive in lieu "just, fair, and reasonable compensation" for the period of the seizure. The President would determine the amount of compensation, but if the amount is not acceptable to the employer, he would be immediately entitled to 75 percent of the government's offer and could sue the United States in the Court of Claims or a district court to recover any further sums that were fair and reasonable.[141]

Analysis

Of the various proposals considered in this paper, the Javits bill is certainly the broadest in terms of coverage and choice of procedures. The jurisdiction of the bill would extend to "a threatened or actual strike or lockout or other labor dispute in an industry affecting commerce" which may imperil the "health or safety of . . . a substantial part of [the Nation's] population or territory." If this language were given a flexible construction by the President or the courts, it could permit unlimited government intervention in such disputes as transportation and hospital strikes in large cities.[142] Several labor observers have criticized this increase in federal power as unnecessary and undesirable.[143] The application of emergency procedures to regional disputes is a laudable objective, but the Javits proposal could be interpreted to include local disputes within its jurisdictional boundaries. Moreover, S. 594 would also cover labor conflicts outside the transportation industry. If emergency dispute procedures should only be invoked in those situations where the breakdown of the collective bargaining process has seriously impaired the public's interest in the free flow of goods and services, then the Javits proposal seems to authorize an unwarranted expansion of government control.

The Javits bill does not specify a series of alternative methods of dispute settlement, but rather gives the President a general power to issue an executive order prescribing the procedures he deems "necessary or appropriate" for the protection of the public health or safety. Consequently, the emergency procedures available to the President run the gamut from fact-finding and mediation to compulsory arbitration and seizure. This approach permits maximum flexibility with the concomitant danger that the President may abuse his unbridled discretion and choose a procedure alien to a democratic system or inappropriate for the occasion.

Besides the four general criteria mentioned earlier, the Javits proposal fails to offer any precise guidelines to follow during an emergency labor dispute. Seizure is the only procedure outlined in the bill, but this alternative is more ambiguous and one-sided than the executive receivership provisions recommended by the ABA Special Committee. In general, S. 594 deserves little Congressional attention because it is an overly broad and unstructured approach that is not the best legislative proposal for encouraging collective bargaining and protecting the public's interest in emergency labor disputes.

H.R. 9088—THE SELECTIVE STRIKE

Representative James Harvey (R., Mich.) has introduced a bill, H.R. 9088,[144] which would amend section 10 of the Railway Labor Act and provide more effective means for protecting the public interest in emergency labor disputes involving the railroad and airline industries. The bill provides for a 60-day cooling-off period if the National Mediation Board determines that a dispute between a carrier and its employees should "threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service." During the status quo period, the President is authorized to create a board to investigate the facts of the dispute and make substantive recommendations for settlement. If no agreement is reached by the end of the 60-day period, and the dispute still constitutes a substantial threat to interstate commerce, the President may choose any or all of the following three alternatives: (1) an additional 30-day cooling-off period; (2) a limited selective strike by employees; and (3) final offer selection. The President is allowed to invoke these procedures in any sequence he deems appropriate, except that he must proceed first under the selective strike provision "unless he finds that the national health or safety would thereby be immediately imperiled."

Two of the procedures included in the Harvey bill, the 30-day extension of the cooling-off period and final offer selection, are essentially the same procedures contained in the Administration's bill, and the advantages and disadvantages of these alternatives have already been discussed. The provision permitting employees to be selectively strike certain carriers, however, is a relatively novel approach [145] that warrants careful consideration.

In H.R. 9088, a selective strike by railroad employees is permitted against not more than two carriers operating in any one of the eastern, western, or southeastern regions, only if the aggregate revenue ton miles transported by the struck carriers of that region does not exceed 20 percent of the total revenue ton miles transported by all the carriers of that region during the preceding year. The revenue ton mile limitation is not applicable where only one carrier is struck. If the President determines: (1) that the struck services or transportation can not be provided by other rail, truck, water, or air transportation; and (2) that the termination of such services or transportation would "immediately imperil the national health or safety, then he may direct the carrier(s) and employees to maintain the necessary transportation services. In addition, if the President elects to proceed under the 30-day extension provision or final offer selection while selective strikes are in progress those strikes would be immediately terminated. The Harvey bill also prohibits any carrier from locking out employees after the President has invoked the selective strike procedure.

By including the selective strike alternative in H.R. 9088, Representative Harvey has recognized "the basic right to strike on the part of any individual—the right to refuse

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to work under any conditions under which he does not want to work." [146] Nevertheless, the bill circumscribes the selective strike option with appropriate safeguards to insure that the shutdown of transportation does not result in a situation which the public refuses to countenance. H.R. 9088 limits selective strikes in three ways: (1) it limits the strike to no more than two carriers in one region, and no more than 20 percent of the nation's railroads would be affected at any one time; (2) it permits the president to require that certain essential goods be transported; and (3) it enables the President to employ other procedures thereby ending the selective strikes when conditions demand it.[147]

The selective strike, or selective operation, should be distinguished from the partial operation procedure that is contained in S. 560.[148] In general, selective strike means a total shutdown of a few companies and the complete operation of others. Partial operation, on the other hand, requires the continued operation of a part of some or all companies in a struck industry in order to maintain certain transportation services. Proponents of the selective strike mechanism emphasize that selective operation does not present the major administrative problems of partial operation because it is easier to decide which companies will be totally shut down than it is to determine which parts of all companies will be operated.[149] As mentioned earlier, President Nixon recommended selective operation as a better approach for the railroad industry because it was considered more feasible and because partial operation would place a heavier economic burden on the carriers than a total cessation of operations. Though selective operation may seem unfair to the struck railroads, certain carriers have made agreements to insure them against the possibility of being selected for a strike while other carriers continue to operate.[150] In addition, employer groups can decrease the economic harm incurred by an employer member by agreeing to reduce operations during the selective strike, but not below certain levels yet to be established during a selective strike, and by doing a portion of their business on behalf of the struck employer.

The selective strike has evolved from the governmental policy of refusing to allow nationwide railway stoppages. Senator Williams has pointed out that regular Congressional intervention in nationwide strikes, in effect, deprived the railway unions of a credible right to strike.[151] The Harvey proposal, by authorizing selective strikes, would restore the economic pressure necessary to produce a private settlement. Further, the selective strike procedure will help narrow the industry-wide scope of the dispute to more manageable proportions by simply reducing the number of carriers and employees involved.[152] The United States Court of Appeals for the District of Columbia has already upheld the selective strike as a legitimate economic weapon under the Railway Labor Act where the objective of the striking union is to preserve or to continue the national handling of an issue and to obtain a national agreement.[153] Tentative approval of the selective strike by one federal court of appeals is not sufficient to stimulate private settlement since carriers are currently permitted to retaliate with a nationwide lockout thereby creating a general railroad stoppage. H.R. 9088 would prevent a national emergency by making it unlawful for any carrier to lock out its employees or diminish its services after the President has elected to proceed under the selective strike provisions.

Despite the criticisms of the railroad carriers,[154] it is apparent that the selective strike procedure would be a valuable and useable weapon in the "arsenal of weapons" approach of H.R. 9088. Moreover, the bill permits the application of one or all of the recommended procedures, which is a definite improvement over the Administration's bill that enables the President to choose only one alternative. The coverage of H.R. 9088, however, is limited to labor disputes in the railroad and airline industry, which leaves the other transportation industries, particularly the maritime industry, subject to the inadequate emergency procedures of the Taft-Hartley Act. Mr. Harvey corrected this incompleteness of coverage by later introducing H.R. 12702 [155] which would also amend Sections 206–210 of the Taft-Hartley Act to permit the invocation of three similar emergency procedures: (1) 30-day extension of the cooling-off period; (2) partial operation;[156] and (3) final offer selection. In the final analysis, H.R. 12702 provides the requisite degree of flexibility, balance and uncertainty of action that is essential to any effective legislative proposal for resolving national emergency disputes in all the major transportation industries.

THE ESTABLISHMENT OF A COURT OF LABOR-MANAGEMENT RELATIONS

During the past few years, a number of legislative proposals have been made to establish statutory courts with jurisdiction to resolve labor-management disputes. In general, the proposals can be divided into two categories: first, legislation which would abolish the National Labor Relations Board and replace it with a 15-judge labor court having exclusive jurisdiction over all "unfair labor practices" under the Taft-Hartley Act;[157] second, legislation which would create a labor court having limited jurisdiction over disputes that result in work stoppages adversely affecting the public interest.[158] Several bills that fall into the first category were introduced in the 90th [159] and 91st [160] Congress, but are not discussed in this analysis because they do not deal with emergency strike situations per se and were not reintroduced in the 82nd Congress. In the latter category, however, two 1971 bills, H.R 2373 and S. 1934 deserve examination since they would repeal section 206–210 of the Taft-Hartley Act and establish a court empowered to render a final and binding judgment only in national emergency labor disputes.

H.R. 2373, introduced by Mr. Rhodes (R., Ariz.) on January 26, 1971, directs the President to appoint five judges who would constitute a court to be called the United States Court of Labor-Management Relations. This labor court would have jurisdiction "only over labor disputes in industries substantially affecting commerce that have resulted in or threaten to result in a strike, lockout, or other concerted work stoppage which adversely affects, or if permitted to occur or to continue, would adversely affect the general welfare, health or safety of the nation." The court's jurisdiction could be invoked (1) upon application of the Attorney General, on behalf of the President, only after all other procedures for enjoining the work stoppage under the Taft-Hartley Act or Railway Labor Act have been exhausted, or (2) upon application of any party to the labor dispute, regardless of the availability of alternative procedures for settling the dispute.

After the court assumes jurisdiction over the case, the court may, pending a final settlement, "enjoin such strike, lockout, or other concerted work stoppage, or other continuance thereof, and make such other orders, including orders affecting rates of pay and working conditions, as may be necessary or appropriate." The court's order would be in effect for 80 days and during this time collective bargaining between the parties would continue the supervision of the Court, or appointed special masters. If the parties failed to settle their differences at the end of the 80-day period, the court would permit the parties to present all facts and arguments in support of their positions, and make a final determination of all issues in the case. The courts would have the power to settle "among other things, rates of pay, hours and conditions of work, and any other matters proper and necessary to a determination of the dispute or controversy." While formulating its decision, the bill would require the court to "consider, as a primary factor, the national and public interest involved in a fair and just settlement which will promote, to the greatest extent possible, fair, equitable, and workable industrial relations between the parties in the future."

Under S. 1934, introduced by Senator Brock (D., Tenn.) on May 24, 1971, the President is directed to appoint a panel to nominate 3 candidates for each vacancy on a 7-member Management-Labor Commission. The President would then designate one of the candidates to fill each position on the Commission for a term of 14 years. The bill requires the panel and the President to take appropriate action to insure that "the interests of consumers are adequately represented on the membership of the Commission, as well as the interests of management and labor."

S. 1934 defines a national emergency strike or lockout as one which "affects an entire industry, or a substantial part thereof engaged in [interstate or foreign commerce]" which would "if permitted to continue, imperil the national health or safety." If a national emergency work stoppage is likely, the Commission would make its "conciliation, mediation, and arbitration services" available to the disputants, but only if they agree to use these services. If a national emergency work stoppage is "threatened, or in effect" the Commission would assume jurisdiction upon the direction of the President. The Commission would, within an 80-day period, investigate the dispute and issue an order prescribing "the terms and conditions of employment to be in effect, and the period during which they shall be in effect."

When the Commission has issued an order resolving a dispute it would be divested of its jurisdiction over the matter, and thereafter a newly established labor court would be vested with jurisdiction "to hear, determine, and render judgment with respect to all questions of law or fact arising under the order." The Labor-Management court proposed in S. 1934 would consist of five judges serving 10 year terms of office. The decisions of this court would be final unless they were held to be arbitrary or capricious by the Supreme Court.

The establishment of a United States Labor-Management Relations Court is generally viewed as a more sophisticated form of compulsory arbitration.[161] Consequently, any proposals to create a permanent judicial body empowered to settle emergency labor disputes by imposing contract terms is opposed by representatives of management and labor on the grounds that it would greatly weaken the collective bargaining process,[162] and unduly curtail the free development of economic policy.[163] Several labor commentators have argued that the existence of a labor court would reduce the willingness to compromise,[164] since both parties will be "making a case" for judges who would merely "split the difference" between two divergent positions.[165] Finally, opponents of the judicial resolution of labor conflicts contend that such a proposal would impair the confidence in the entire legal system because it would require the combination and confusion of two functions—mediation and adjudication—resulting in substantial injury to both functions.[166]

In support of his bill, H.R. 2373, Representative Rhodes (R., Ariz.) testified at the House Subcommittee Hearings on Settlement of Labor-Management Disputes in Transportation that the proposed labor court would encourage good faith bargaining because the parties would seek to avoid the in-

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vocation of the court's jurisdiction and a compulsory settlement of the dispute.

Mr. Rhodes further stated that a judicial solution to a labor dispute adequately protects the consumer from the economic consequences of crippling work stoppages, "as well as inflationary settlements." [167] According to Mr. Rhodes, H.R. 2373 would "by creating the possibility of a final, impartial judgement about the merits of labor and management positions in a particular controversy, encourage realistic bargaining based on facts about productivity increases and industry profits rather than irresponsible and self-serving demagoguery." [168]

Perhaps the most articulate proponent of the establishment of a labor court to resolve emergency labor disputes is Samuel I. Rosenman, a former New York Supreme Court Justice and adviser to President Roosevelt. In a 1967 article appearing in the *Washington D.C. Sunday Star*, [169] Mr. Rosenman stated the need for some form of final compulsory decision and outlined the major advantages of a judicial resolution of labor conflicts: (1) labor and management would have more confidence in a U.S. judge than an ad hoc board of appointed arbitrators; (2) a court could not be accused of being partial to one side or the other; (3) a permanent court has more time to collect the necessary information on the dispute than a temporary panel of arbitrators; (4) the judicial determination would be more easily enforced than an arbitration award; (5) the court would arrive at a fair and reasonable determination of the issues, and "the contention that the presiding judge will ask what the best offer on each side is and merely split the difference constitutes a libel on our judicial tradition." [170]

The creation of a labor-management court with limited jurisdiction to resolve emergency labor disputes seems appealing, even though it carries the onus of a government-imposed settlement and the concomitant opposition of labor and management. Since almost every legislative proposal provides for some final and binding method of settlement, the recalcitrance of labor and management is not controlling. However, both H.R. 2373 and S. 1934 fail to provide the requisite degree of uncertainty that is conducive to effective collective bargaining. Under these proposals, the invocation of the court's jurisdiction in a national emergency is automatic, and the weaker party in the bargaining relationship would be confronted with the irresistible temptation to delay serious negotiations in the hope of receiving a court-made contract containing more favorable terms. This situation would soon produce a crowded court docket, with the proportionate decrease in serious collective bargaining sessions.

Experience under present law demonstrates the need for adopting a flexible legislative proposal that makes the future course of government action unpredictable. [171] Only when the President has a balanced choice of procedures available to deal with a particular labor dispute, are both parties induced to bargain in good faith rather than risk the invocation of a distasteful procedure. Unfortunately, the establishment of a labor-management court is not the panacea for settling emergency disputes or the most effective proposal for preserving and strengthening the institution of collective bargaining.

SUMMARY ANALYSIS

The foregoing review of some of the proposals to amend the present laws for dealing with emergency labor disputes has necessarily been limited in scope and has omitted several previously suggested approaches which include the application of the anti-trust laws to labor organizations; [172] a ban on multiemployer association bargaining; [173] a restoration of the effectiveness of Emergency Boards and Boards of Inquiry; [174] an indefinite extension of the injunction period; [175] the "non-stoppage" statutory strike; [176] the substitution of private for public controls; [177] the inclusion of the railroad and airline industries under the Taft-Hartley Act; [178] and the maintenance of the status quo. [179] Similar to the other legislative proposals already discussed, all of these suggested methods for resolving national work stoppages have their advantages and disadvantages, but their lack of recent popular support obviates a detailed consideration of each approach. The plethora of recommended procedures for settling crippling labor disputes illustrates the simple fact that there is no single magic formula for industrial peace and stability.

The best solution to the problem of free collective bargaining versus the national interest is for labor and management to voluntarily develop a more cooperative and responsible posture toward each other and the general public. The first step the parties could adopt toward this end is to make agreements for arbitration of new contract terms enforceable under Section 301 of the Taft-Hartley Act. To assist in the task of developing procedures to prevent a strike crisis, Congress should enact a legislative proposal that provides for the Industries Commissions recommended by the ABA Special Committee. [180] These tripartite commissions would be created for each of the transportation industries with an equal number of representatives from labor, management, and the public sector. The commissions would be charged with the responsibility of "developing for the industry an agreed plan for eliminating or minimizing the danger" [181] of national strikes and lockouts. The creation of these joint, consultative institutions is consistent with the national labor policy of preserving and strengthening the private collective bargaining process without government interference. Should these commissions fail in their difficult task of establishing effective means for avoiding critical work stoppages, the interests of the public require new legislation that permits effective government intervention to settle emergency labor disputes in the transportation industries.

In drafting a legislative proposal for handling emergency disputes, the most difficult problem is delineating a jurisdictional standard which must be met before the dispute-settlement procedures can be invoked. For too long, the debate among labor experts over whether or not an emergency strike situation really exists has turned on the unfortunate wording of the Taft-Hartley Act which allows government intervention only in work stoppages that are "national emergencies" that "imperil the national health or safety." [182] Read literally, this comparatively strict standard would only authorize government action in those rare labor conflicts that promise cataclysmic results. Of course, this vague language has been interpreted to permit government action in "serious" labor disputes that are neither trivial nor catastrophic in their impact on the public interest. [183] Nevertheless, it seems that where a work stoppage threatens "substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service," [184] the government is justified in intervening to protect the "public", rather than the "national", interest. This lesser standard recognizes the fact that regional disputes [185] in the transportation industries can have a sufficiently deleterious effect on a substantial part of the population to warrant the implementation of special procedures to end work stoppage.

If a strike law is to stimulate serious collective bargaining, it must create apprehension and uncertainty in the minds of the negotiators; if a strike law is to provide the President with maximum flexibility, it must contain a reasonable range of procedures for dealing with various labor disputes; if a strike law is to be fair and equitable to all concerned parties—labor, management, and the public—it must provide for a balanced approach that adequately safeguards the public interest. To accomplish these goals, the most appropriate and popular proposal has been the "arsenal of weapons" approach. From the previous discussion, it is clear that each and every suggested measure for controlling emergency disputes is attacked on several grounds: for granting the President too much power or not enough; for being too ambiguous or too precise; for favoring one party over the other. To be more specific, labor opposes the injunction, management disdains seizure, and both parties usually criticize compulsory arbitration. Undoubtedly, some of the procedures deserve a higher grade on the comparative scale of advantages and disadvantages; selective strike-operation may be more feasible than partial operation, final offer selection may be more acceptable than compulsory arbitration and executive receivership may be more equitable than seizure. In any event, the need for immediate legislation certainly outweighs the desire for fruitless debate over which procedures are the least offensive to labor and management, especially when all forms of government intervention are offensive to one or both parties. The mere existence of Presidential power to invoke several specific procedures that are unpalatable to labor and management would induce the negotiators to undertake genuine collective bargaining and to refrain from frequently resorting to the strike or lockout. If a work stoppage does result, however, the President could choose the most appropriate measure for ending the dispute subject to a Congressional veto. Labor experts generally agree that: (1) most, if not all, of the proposed measures for handling emergency disputes have serious flaws; (2) any government intervention should preserve and strengthen the collective bargaining process; (3) the public should be protected from crippling work stoppages that result from the breakdown of collective bargaining. The "arsenal of weapons" approach not only encourages genuine collective bargaining and safeguards the public interest, but it also combines the weaknesses of the various procedures to demonstrate that, indeed, the "whole may be greater than the sum of [all] its parts." [186]

CONCLUSION

In sum, there is no dirth of legislative proposals to amend the ineffective emergency provisions of the Taft-Hartley and Railway Labor Acts. The problem is how to induce Congress to adopt one or the other of these bills, considering the obstacles of the offsetting political influence of labor and management. If the members of Congress could successfully resist the persuasive power of these interest groups and acknowledge the fact that the choice of dispute-settling procedures is limited to imperfect and uncertain remedies, conceivably new legislation could be enacted before the nation is plagued by an epidemic of crippling work stoppages in the transportation industries. For any attempt to draft a panacean piece of legislation that satisfies everyone and specifies exactly to what degree a union may strike, or precisely when management may lockout, is an exercise in legislative futility. In fact, it may be that some day the public will no longer condone the strike and lockout as legitimate weapons of economic warfare in the settlement of disputes over the terms and conditions of employment. Until that new day dawns, the present assignment is to effect the most reasonable balance between three contending rights: that of the individual to work only under terms and conditions of employment that are acceptable to him; that of management to conduct its

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business affairs in an efficient and profitable manner; and that of the public to be protected from serious economic and social disruptions due to conflicts between the first two rights.[187]

FOOTNOTES

[1] Mr. Justice Brandeis, dissenting in *Duplex Co.* v. *Deering*, 254 U.S. 443, 488 (1921).

[2] Railway Labor Act, ch. 347, 44 Stat. 577–87 (1926), *as amended*, 49 Stat. 1189 (1936), 45 U.S.C. §§ 151–63, 181–88 (1971) [hereinafter cited as RLA]. The Railway Labor Act controls only the railroad and airline industries.

[3] Labor Management Relations Act, 61 Stat. 136, (1947), 29 U.S.C. § 141 (1971) [hereinafter cited as LMRA]. The Taft-Hartley Act controls all industries engaged in interstate commerce that are not regulated by the Railway Labor Act.

[4] RLA § 10, 45 U.S.C. § 160 (1971); LMRA §§ 206–10, 29 U.S.C. §§ 176–80 (1971). *See* Appendix B for the full text of RLA § 10. *See* Appendix C for the full text of LMRA §§ 206–10.

[5] Emergency disputes arising within the Taft-Hartley Act are governed by §§ 206–10 of title II. LMRA §§ 206–10, 29 U.S.C. §§ 176–80 (1971). When a "threatened or actual strike or lockout" in an industry engaged in interstate commerce, which "if permitted to occur or to continue, [will] imperil the *national* health or safety," the President may appoint a Board of Inquiry. *Id.* § 206, 29 U.S.C. 176 (emphasis added). The task of the Board of Inquiry is to make a written report to the President on the facts of the dispute and the positions of the parties; it is specifically proscribed from making any recommendations for settlement. *Id.* The President may then seek to enjoin the strike or lockout for 60 days. *Id.* § 208, 29 U.S.C. § 178. During the injunctive period, the parties are to continue their collective bargaining efforts with the aid of the Federal Mediation and Conciliation Service. *Id.* §§ 202–204, 29 U.S.C. §§ 172–74. If the parties fail to reach agreement after 60 days, the original Board of Inquiry is recalled to prepare a new report on the positions of the respective parties, and this report is made public. If no settlement has been reached within 15 days after the report has been released, the employees involved are given the opportunity to vote on the employer's last offer. *Id.* § 209(b), 29 U.S.C. § 179(b). Regardless of the outcome of this election, the Attorney General must move to discharge the injunction on its eightieth day. *Id.* § 210, 29 U.S.C. § 180. The only statutory procedure remaining at this point is the presentation of a report by the President to Congress. *Id.*

[6] LMRA § 206, 29 U.S.C. § 176 (1971).

[7] *Id.*

[8] LMRA §208–09, 29 U.S.C. §§ 178–80 (1971).

[9] LMRA § 209(b), 29 U.S.C. § 179(b) (1971).

[10] LMRA § 210, 29 U.S.C. § 180 (1971).

[11] Statistical data on 29 of the 30 occasions when Taft-Hartley strike procedures were invoked appears in Appendix D. This data covers the period 1947–1968. The only other case where the emergency procedures were invoked was the injunction obtained on October 6, 1971 to prohibit for 80 days the strike of the ILWU which began on July 1, 1971. The West Coast longshoreman strike had continued for 100 days before the resumption of work on October 9, 1971. The injunction was dismissed effective December 25, 1971, and the parties agreed to extend the no-strike period until January 17, 1972, when the strike was resumed. Congress passed a joint resolution to end the strike on February 9, 1972. S. J. Res. 197 (H. J. Res. 1025). Reported in Senate, February 8, 1972; Labor and Public Welfare Rept. 92–605. Passed Senate February 8, 1972. Passed House February 9, 1972. The resolution provided for the appointment of an arbitration board to make a determination of all the issues in the dispute. The resolution prohibited the parties from engaging in any strike or lockout pending the board's determination which would be effective for not less than 18 months. The resolution became moot, however, when the parties arrived at a tentative agreement on February 8, 1972, and the longshoremen returned to work after a total of 134 days on strike.

[12] *See* note 11 *supra* and Appendix D.

[13] *See, e.g., American Enterprises Institute for Public Policy, Research with National Emergency Strikes* (1969); D. Cullen, *National Emergency Strikes* (1968); H. Northrup, *Compulsory Arbitration and Government Intervention in Labor Disputes*, 207–11 (1966); H. Wellington, *Labor and the Legal Process* (1968).

[14] *See* F. Pierson, "An Evaluation of the National Emergency Provisions," *Emergency Disputes and National Policy*, 138–41 (1955).

[15] LMRA §§ 209–11, 29 U.S.C. §§ 179–80 (1971).

[16] RLA § 10, 45 U.S.C. § 160 (1971).

[17] *E.g.* In the longshoreman's strike of 1968, the Board of Inquiry was appointed by the President on the evening of September 30, 1968. Exec. Order No. 11431, 3 C.F.R. 138 (Supp. 1968). After conferring for only 2 and ½ hours the following morning, the board submitted its report to the President who obtained an injunction at 7:00 p.m. that same day. United States v. International Longshoreman's Ass'n, 58 CCH Lab. Cas. ¶12,987, at 22,644 (S.D.N.Y. 1968). In over 90 percent of the cases the boards of inquiry have made their initial report within approximately one day of their appointments and that in 15 out of 26 cases such reports were submitted within a period of from one to five days. *Federal Legislation to End Strikes: A Documentary History, House Committee on Labor and Public Welfare*, 90th Congress, 1st Sess., Pt. 2, 575 (1967).

[18] LMRA § 206, 29 U.S.C. § 176 (1971).

[19] *Id.*

[20] Sloane, "Presidential Boards of Inquiry in National Emergency Disputes," 18 *Lab. L. J.* 665, 666, (1967).

[21] (1) The Act does not begin to operate until a national emergency is threatened or has already arisen, and does not provide preventive measures; (2) the Act provides only a flexible definition of a national emergency with no clear specification of when the Act may be used; (3) the required final-offer vote diverts the disputants' attention from the bargaining table to the ballot box at the critical time; (4) the alternatives it provides are too severe—the President can only choose to invoke it or not; (5) in prolonging a conflict the injunction permits the positions of the disputants to become "frozen"—the issues assume symbolic proportions and gain increasing emotional complexity due to propaganda poured out as each side seeks greater support; (6) the final offer has been invariably rejected, so management tends to keep further concessions in reserve; and (7) in the emotionally charged atmosphere of a national emergency, Congress cannot deal with the issues in a calm, reasonable, and nonpartisan manner. *See generally* Sandberg, "Emergency Labor Disputes and the National Interest," 16 *Lab. L. J.* 359, 360 (1965); J. Seidman, "National Emergency Strike Legislation," *Symposium on Labor Relations Law* 479 (1961).

[22] Sandberg, "Emergency Labor Disputes and the National Interest," 16 *Lab. L. J.* 359, 360 (1965).

[23] Under section 10, the National Mediation Board is required to notify the President whenever a labor dispute involving an airline or railroad "threaten[s] substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service[s]." RLA § 10, 45 U.S.C. § 160 (1971). The President may then appoint an Emergency Board to investigate the dispute and submit its findings to him within 30 days. For this period and an additional 30 days, both parties are prohibited from making any changes in wages and working conditions without bilateral agreement. Once the 60-day "freeze" period has elapsed, the parties are free to resort to self-help measures. Unlike the Taft-Hartley Board of Inquiry, the Emergency Board may, and often does, make recommendations for settlement of the dispute.

[24] The National Mediation Board is the agency charged with the duty of assisting the parties in contract renegotiations in the railroad and airline industries.

[25] For a comparison of the provisions contained in the various railroad labor laws, see Appendix E. For a discussion of the weaknesses of earlier statutes, see Wisehart, "Transportation Strike Control Legislation: A Congressional Challenge," 66 *Mich. L. Rev.* 1697, 1699–1706 (1968).

[26] *See e.g.*, Emergency Board Nos. 161–63, *Report to the President* 4–8 (1964); Emergency Board No. 160, *Report to the President* 16–17 (1964).

"This dispute is now over 3½ years old. There has been an unfortunate tendency in this industry to postpone real collective bargaining until the final hour."

Emergency Board No. 54 (1963).

"As the case developed it became apparent that no real bargaining had actually taken place between the parties before their appearance before the Board. We believe this is generally the case in proceedings before Emergency Boards . . . . In transportation cases, experience shows that the parties begin to negotiate only after an Emergency Board has been appointed, and only after a report has been submitted to the President."

Emergency Board No. 169 (1967).

"Our first comment concerns the apparent absence of anything more than perfunctory bargaining between the parties prior to the creation of this Board . . . It seems to us . . . that the parties have assumed from the start that this dispute would eventually be brought to a Presidential Emergency Board . . . Indeed, we suspect that in some minds, at least, the assumption has gone further and that even the procedures of this Board have been considered merely a barrier to be cleared before the real test comes and it is discovered whether, as an alternative to a nationwide railroad stoppage, Congress will intervene and provide machinery for a final settlement. Any system of labor law and labor relations which induces the parties in an essential industry to operate on such assumptions is failing to serve the public interest, and calls for serious study and review." Emergency Board No. 176 (1969).

[27] H. Wellington, *Labor and the Legal Process*, 277–81 (1968). W. Curtin, "Transportation Strikes and the Public Interest: The Recommendations of the ABA Special Committee," 58 Geo. L. J. 243 (1969). M. Cimini, "Government Intervention in Railroad Disputes," 94 *Monthly Lab. Rev.* 27 (1971).

[28] 33 of the emergency boards have involved the airline industry, with the remainder affecting railroads and associated carriers. The two most recent boards were appointed by President Nixon on March 31, 1972, in a threatened strike by the AFL–CIO United Transportation Union against the Penn Central Railroad and in a nationwide wage and work rules dispute involving the AFL–CIO Sheet Metal Workers International Association. *Washington Post*, April 1, 1972, A2, Col. 4.

[29] Emergency disputes in the railroad industry occurring during and immediately after World War II were handled by 51 special emergency boards set up by the National Railway Labor Panel which was established in 1942 and continued to function until 1947.

[30] See note *31–34 infa* and accompanying text.

[31] Public Law 88–108, approved August 28, 1963, (77 Stat. 132). This law marked the first

time since 1916 that Congress imposed an ad hoc legislative settlement in a rail dispute. The law created a seven-member arbitration board to make a binding decision on two issues: (1) the use of firemen on diesel locomotives, and (2) the size of road and yard crews.

For further background and a fuller chronology of the firemen manning dispute, see Library of Congress, Legislative Reference Service; *The Railway Firemen Manning Dispute: History and Issues*, 1959–1970. Joseph F. Fulton. July 31, 1970, HE 1001, U.S. Cl., 70–192 E.

[32] (1) Public Law 90–10, approved April 12, 1967 (81 Stat. 12). This law delayed for 20 days a nationwide rail strike by six shopcraft unions against most of the nation's major lines, accounting for over 95 percent of total rail mileage in the United States. The issue in dispute was wages, and the unions rejected the recommendations of Emergency Board No. 169.

(2) Public Law 90–13 approved May 2, 1967 (81 Stat. 13). This law delayed for an additional 47 days, a threatened nationwide strike by the same six shopcraft unions.

(3) Public Law 90–54 approved July 17, 1967 (81 Stat. 122). This law ended two days of sporadic work stoppages by the six shopcraft unions involved in the impasse which precipitated the enactment of Public Laws 90–10 and 90–13. This work stoppage was the first nationwide rail strike since 1946. Public Law 90–54 authorized the final disposition of the dispute by a five-member Special Board which issued a binding determination that became effective October 16, 1967.

[33] Public Law 91–203, approved March 4, 1970. This law prohibited a strike or lockout for 37 days. The dispute, involving wages and work rules, already had caused a one-day strike on January 30, 1970 by four shopcraft unions against Union Pacific Railroad. On the same day, the Class I rail carriers announced a national lockout, and the United States District Court for the District of Columbia issued a temporary restraining order which enjoined both the nationwide lockout and the strike against Union Pacific.

(2) Public Law 91–226, approved April 9, 1970. This law provided a settlement for the labor dispute that occasioned Public Law 91–023. It established the memorandum of understanding, dated December 4, 1969, as the contract between the disputants, but the membership of the sheet metal workers union refused to ratify it, thereby preventing the contract from going into effect.

(3) Public Law 91–541, approved December 10, 1970. This law ended a one-day nationwide walkout of 400,000 rail employees on December 10, 1970, the third nationwide strike since the close of World War II. It prohibited a strike or lockout until March 1, 1971 in a dispute involving wages and work rules between Class I carriers and four rail unions. The law provided a 5 percent pay increase retroactive to January 1, 1970, and an 8.5 percent increase retroactive to November 1, 1970. Three out of the four unions settled with the carriers in February 1971, but the United Transportation Union did not settle until after a selective strike of 10 railroads beginning in July and ending August 3, 1971.

[34] Public Law 92–17, approved May 18, 1971. This law halted a two-day nationwide strike caused by a walkout of 10,000 railway signalmen. It also prohibited a strike or lockout until October 1, 1971 and granted a pay increase of 13.5 percent (5 percent retroactive to January 1, 1970 and 8.5 percent retroactive to November 1, 1970).

[35] S.J. Res. 186, 89th Cong., 2d Sess. (1966). Before the dispute was settled, however, more than 70 American cities were deprived of trunkline air service for 43 days, and 230 cities lost approximately 70 percent of such service during that period. *See* Hearings on H.R. J. Res. 186. Before the House Comm. on Interstate and Foreign Commerce, 89th Cong., 2d Sess., at 167 (1967).

It is estimated that the strike caused over 135,000 employees to lose earnings, grounded millions of would-be passengers, *See* Statement by Everett M. Goulard, Vice-President, Industrial Relations, Pan American World Airways, on behalf of American Airlines, Eastern Air Lines, National Airlines, Pan American World Airways, and Trans World Airlines, before the *Special Comm. on National Strikes in the Transportation Industries of the American Bar Association*. May 5, 1967, at 18.

The strike cost the airline industry 82 million dollars in net income. *See Civil Aeronautics Board, Study of the Financial Impact on the Airline Industry of the IAM Strike* 2 (1967).

The strike also violated the presidential wage guideline, thus contributing to a series of inflationary settlements. *See* W. Curtin, "National Emergency Disputes Legislation: Its Need and Its Prospects in the Transportation Industries," 55 *Geo. L.J.* 786, 790 (1967).

[36] In the period 1926–1934, arbitration was used in 538 disputes, but only 10 emergency boards were appointed. In the 1934–1964 period only 270 cases (including airline disputes) were handled by arbitration boards. However, one commentator has noted that the decrease in the use of arbitration can be attributed to the rise in the number of emergency boards authorized during the same period. Shils, "Industrial Unrest in the Nation's Rail Industry," 15 *Lab. L.J.* 96 (1964).

Another labor expert has observed that the limited number of nationwide work stoppages in the earlier days of the Railway Labor Act was due primarily to the public's refusal to tolerate the massive cessation of transportation services. M. Cimini, "Emergency Boards in the Airline Industry," 1936–69. *Monthly Lab Rev.* 63 (1970).

"Also, the strike figures . . . do not reveal that, in several of the major rail disputes of the past twenty-five years, strikes were stopped or averted only when strong measures were taken after the Act's machinery had failed. In 1943, President Roosevelt seized the railroads and personally arbitrated a dispute that two boards had failed to settle. In 1946, President Truman seized the railroads and a strike still occurred, with settlement reached only as the President was asking Congress for authority to draft the strikers, to strip them of their seniority rights, and to permit the government to set the workers' wages and retain the companies' profits during the period of seizure. In 1948 and again in 1950, both seizure and injunctions were used to head off rail strikes and, in the winter of 1950–1951, the trainmen's union was twice fined for violating one of these injunctions." D. Cullen, *National Emergency Strikes* 73–74 (1968).

[37] See Curtin, *supra* note *27* at 794; Wisehart, *supra* note *25* at 1720–21.

[38] Railroad employment has been declining steadily during the post-World War II era. From a total of 1,557,000 in 1947, employment has dropped every year, except for the years of the Korean conflict, to a 1970 total of 626,000. *U.S. Department of Labor, Bureau of Labor Statistics*. Technological change and competition from alternate modes of transportation have caused the decline in employment.

[39] *See* Shils, "Union Fragmentation, A Major Cause of Transportation Labor Crisis," 25 *Ind. and Lab. Rel. Rev.* 32 (1971).

[40] *See* Hearings on H.R. 7180, Before the House Comm. on Interstate and Foreign Commerce, 69th Cong., 1st Sess. 21 (1926); Hearings on S. 2306 Before the Senate Comm. on Interstate and Foreign Commerce, 69th Cong., 1st Sess. 37 (1926). *See* also H. Metz and M. Jacobstein, *A National Labor Policy* 140 (1947).

[41] H. Wellington, *supra* note *27* at 277–81; In a recent report, the National Mediation Board criticized the "lack of sufficient and proper direct negotiations between the parties prior to invoking mediation." 35 *NMB Ann. Rep.* 24 (1969). The Board also observed that in some instances the services of the NMB have been requested after "the parties have only met in brief session without a real effort to resolve the dispute." *Id.* at 24–25.

One Emergency Board was moved to remark: . . . we suspect that in some minds, at least . . . even the procedures of this Board have been considered merely a barrier to be cleared before the real test comes and it is discovered whether, as an alternative to a nationwide railroad stoppage, Congress will intervene and provide a machinery for final settlement. Any system of labor law and labor relations which induces the parties in an essential industry to operate on such assumptions is failing to serve the public interest, and calls for serious study and review." Emergency Board No. 176, at 5.

[42] *See* Shils, "Industrial Unrest in the Nation's Airline Industry," 15 *Lab. L.J.* 143, 171 (1964). Many commentators have complained that management offers less and labor demands more than they are willing to accept because they know that an emergency board will probably split the difference.

[43] B. Aaron, "Observations on the United States Experience", 14 *Lab. L.J.* 747 (1963). One observer has remarked that outside commitments by the board members do not permit a full and active mediation process. Kaufman, "The Railroad Labor Dispute: A Marathon of Maneuver and Improvisation," 18 *Ind. and Lab. Rel. Rev.* 196, 204 (1965).

[44] See Aaron, *supra* note *43* at 747. The pattern of "automatic rejection" is undoubtedly the principal reason why the emergency board procedure has not had its intended effect in recent years. See 17 *NMB Ann. Rep.* 32 (1951); Wisehart *supra* note *25* at 1707. The typical pattern has been for labor unions to reject board recommendations, "using them instead only as a basis," for securing further wage and rule concessions in a final settlement, usually made under Executive auspices. 17 *NMB Ann. Rep.* 33 (1951). See also L. Lecht, *Experience Under Railway Labor Legislation* 15 (1955).

[45] A. Harper II, "Major Disputes Under the Railway Labor Act," *Journal of Air Law and Commerce* 12 (1969).

[46] *See* discussion of Public Law 91–226 *supra* note *33*.

[47] H.R. Rep. No. 328, 69th Cong., 1st Sess. 1 (1926).

[48] Despite the general Consensus of opinion that title II of the Taft-Hartley Act and section 10 of the Railway Labor Act have not been effective, some representatives of labor and management favor the maintenance of present procedures.

A representative of the National Association of Manufacturers has stated: "Therefore, a major recommendation is that the emergency dispute provisions of Taft-Hartley, Title II, having worked well, should be left as is." Hearings on H.R. 3595, H.R. 3596, H.R. 2357, H.R. 5347, H.R. 8385, H.R. 9088, H.R. 9989, H.J. Res. 364 (and all identical bills) Relating to Settlement of Emergency Labor-Management Disputes Affecting the Transportation Industry, Before the Subcomm. on Transportation and Aeronautics of the House Comm. on Interstate and Foreign Commerce, 92nd Congress, 1st Sess., pt. 2, at 545 (1971) [hereinafter cited as *1971 Hearings*].

[49] In 1966, President Johnson repeatedly pledged to ask the 89th Congress to consider measures that "without improperly invading state and local authority, will enable [the government] to deal effectively with strikes that may cause irreparable damage to the national interest." Economic Report of the President, transmitted to the Congress January 1966. 89th Cong., 2d Sess., House Doc. No. 348. Washington, U.S. Govt. Print. Off., 1966, p. 17.

On July 20, 1966, the President made the following statement at a press conference in response to a question concerning strike legislation:

"I must frankly say to you that up to this point we have been unsuccessful in getting legislation that the Secretary of Labor and the other members of my Cabinet felt acceptable and that we felt would have any chance of passage in the Congress.

"We are still searching for an answer. We would like to find a solution that could be embraced by the Administration, management, labor, and the Congress. But up to this point we have been quite unsuccessful."

The inability of the Johnson administration to produce a recommendation attests to the intractibility of the problem and the lack of agreement between labor and management.

[50] On March 2, 1972, the Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce voted 6-to-5 to terminate further consideration, during the 1st Session of 92nd Congress, of legislation aimed at preventing railroad and airline strikes. Representative James Harvey (R. Mich.,) observed that "[t]his was a very political vote in a political year." *Washington Post*, March 3, 1972, at A3, col. 6.

[51] Sandberg, "Emergency Labor Disputes and the National Interest," 16 *Lab. L.J.* 359 (1965).

[52] Statement of John J. Rhodes, Representative in Congress from the state of Arizona, *1971 Hearings* at 242.

"First of all, I think we must begin to reconsider carefully the very concept of the strike and lockout as a legitimate economic weapon under contemporary conditions. A strike is actually nothing more than a declaration of economic warfare by workers against a particular industry. It occurs as a result of judgments made by both labor and management that each possesses the economic power to force its will on the other. Both realize that sooner or later bargaining will be resumed, and a settlement reached; each seeks however, the most favorable conditions for the resumption of negotiation and the most favorable possible settlement. Now from the perspective of the objective merits of a particular labor dispute, there was always an irrational element to the use of strikes as a means of settling labor disputes. The position of both labor and management is tarnished by self-interest, and neither is really in a position to determine in a just manner appropriate terms of settlement. There was a time when such considerations did not seem so important. When the strike gained prominence as an economic weapon in the 19th century industrywide bargaining was unknown, and the effects of individual labor crisis limited. Obviously these conditions no longer obtain, and the question is whether we can any longer afford the high social costs of strikes and work stoppages in industries which operate on a national basis."

[53] In a study prepared by the United States Department of Labor, "Impact of Longshore Strikes on the National Economy," (January 1970), the following findings were made concerning three major strikes (1962–1963, 1965, and 1968–1969):

"The most visible impact of a longshore strike is on the oceangoing fleet and its workers. The Maritime Administration estimates that failure to sail cost U.S. merchant seamen about $21 million in potential wages, most of which cannot be made up since there are no means, such as overtime, to recover lost earnings. There have been estimates that it costs around $6,000–$7,000 per day to operate a vessel, even when it is tied up by a strike. At the peak of the 1969 strike, 650 vessels including 185 U.S. ships were tied up in ports—the direct costs to the U.S. vessels were thus over $1 million a day. Some of the costs can be made up when the strike ended by higher revenue from greater ship utilization—cargo already waiting in the ports for ships and faster turn-around times as a result of cargo consolidations. Again, the extent of this makeup depends on how near to capacity the ports and shipping-related companies operate under normal conditions."

[54] In the same Department of Labor study cited in note *53 supra*, the following findings were made:

"Our estimate of average daily net loss in the U.S. trade balance attributable to the strike are about $9–10 million per day in the 1962–63 and 1965 strikes and roughly $3–5 million per day in the 1968–69 strike. The range of the estimated average daily loss in the 1968–69 strike is fairly large because the strike ended in different ports on various dates between February 15 and April 13, 1969. The estimates of the total net loss in the U.S. trade balance are: approximately $350 million in 1962–63; about $450–500 million in 1965; and roughly $250–300 million in 1968–69. None of the total net losses appears large in comparison with total U.S. foreign trade—$41 billion in 1963: $49 billion in 1965, and $70 billion in 1969. The U.S. favorable trade balance was $5.2 billion in 1962, $7.9 billion in 1964 and $1.4 billion in 1968 (includes military assistance grant-aid shipments) . . .

"Although the national economic impact of a prolonged strike appears to have been minimal, the strikes have severe or even disastrous impacts on some small immediate port neighborhoods and businesses, and on many individuals. The halt in port activity adversely affected small truckers, importers and exporters whose livelihood depends on a steady flow of merchandise, small retail establishments featuring imported products, and many of the port-supporting groups such as restaurants, bars, and so forth. The extent that the strike may have affected physical health or national safety (security) is difficult to determine. However, the impact on the movement of Department of Defense cargo has been minimal and requests for special treatment based on health or security needs were normally honored."

The following excerpts are taken from the President's Message of February 2, 1972 concerning legislation for settlement of the West Coast Dock Strike. Senate Comm. on Labor and Public Welfare 92nd Con., 2d Sess., Rept. 92–605 accompanying S.J. Res. 197 (Feb. 8, 1972) at 3–4.

"It is estimated that American exports would have been $600 million higher during this 100-day period except for the work stoppage.

"The strike was particularly hard on our farmers, who have been exporting the product of one cropland acre out of four. During the June-September period, farm exports from the West Coast dropped from $288 million in the same period in 1970 to $73 million in 1971.

"Wheat farmers suffered the worst calamities of all, as their sales to major Far Eastern markets fell off drastically. Japan, for instance, purchases over 50 percent of her wheat from the United States. Since April, we have lost sales to Japan of at least 25 million bushels of wheat valued at $40 million. Ominously, the day after the strike was resumed last month, the Japanese purchased 8.7 million bushels of wheat for a spring delivery, but only 1.6 million bushels were bought from the United States.

"Our merchant fleet also sustained heavy losses, as did exporters of vegetables, rice, cotton, and livestock, and wood products, and numerous related industries."

The following excerpts are taken from the testimony of Secretary of Transportation John A. Volpe. *Id.*

"The loses in port service industries alone which are directly involved in the dispute are estimated to be about 8 million dollars a week. The loss to the shipping industry is estimated at 3 million dollars a week, and the loss to the inland transportation companies, 5 million dollars per week. Greater losses will appear in the wholesale and retail trade sectors—29 million dollars per week—and in the industrial sectors of the economy—some 46 million dollars per week. . . .

"The peak employment impact, not including agriculture, would be as follows: shipping, five thousand people out of work; port services: 18,000 people out of work; inland transportation: 10,000 people out of work; trade: 7,000 people out of work; and industry: 148,000 people out of work."

[55] Several bills were introduced in both Houses of the 89th Congress. *E.g.* S. 2891 and S. 361 (creating a labor Court); S. 2797 (providing for seizure of struck companies); S. 10 (including unions under anti-trust laws); S. 3587 (providing compulsory arbitration in essential industries); H.R. 333 (proposal to prohibit joint bargaining).

[56] Hazard, "Strikes and People, A Proposal," *Atlantic*, Dec. 1966, at 16.

[57] Wisehart, *supra* note *25* at 1719–22.

[58] McClamont, "The Semi-Strike," 15 *Ind. Lab. Rel. Rev.* 191 (1962).

[59] Wisehart, *supra* note *25* at 1714–18.

[60] Cox, "Seizure in Emergency Disputes," in *Industrial Relations Research Association, Emergency Disputes and National Policy* 224 (I. Bernstein, H. Enarson, R. Fleming eds. 1955).

[61] Wirtz, the "Choice-of-Procedures" Approach to National Emergency Disputes, in *Industrial Relations Research Association, supra* note *60* at 149.

[62] *See* note *33 supra* and accompanying text.

[63] 3526 and H.R. 16226, 91st Cong., 2nd Sess., 1970.

[64] S. 560 and H.R. 3596, 92nd Cong., 1st Sss., introduced by Sen. Griffin (R. Mich.) and Rep. Staggers (D. W.Va.) respectively.

[65] *1971 Hearings*. No hearings have been held by either Senate or House Judiciary Committee on the proposal for a U.S. Court of Labor-Management Relations.

[66] President Nixon's Statement Before Congress, On Emergency Dispute-Settlement Legislation at 5 (mimeograph) February 27, 1970.

[67] S. 560, sponsored by Messrs. Griffin, Dole, referred February 3, 1971 to Senate Committee on Labor and Public Welfare. H.R. 3596, sponsored by Messrs. Staggers and Springer, referred February 4, 1971 to House Committee on Interstate and Foreign Commerce. Identical bills H.R. 901, H.R. 3639, H.R. 4116, H.R. 5377.

[68] The proposal is only applicable to the transportation industries: railroads, airlines, maritime, longshore, and trucking.

[69] See W. Wirtz, "The Choice-of-Procedures Approach to National Emergency Disputes", in *Emergency Disputes and National Policy* 1949–65 (1955). Technically, any of the legislative proposals that include more than one procedure can be labelled an "arsenal of weapons" approach.

[70] *See American Bar Association Special Committee on National Strikes in the Transportation Industries*, "Final Report" (Resolutions Adopted by Board of Governors, Spring 1971), Mimeograph, at 4.

The rationale behind the arsenal of weapons approach has been stated to be that "while no single weapon may produce a perfect balance of pressure on the parties, the threat that anyone of several weapons might be applied would prove sufficient to frighten both sides into honest bargaining." Cullen, "The Taft-Hartley Act in National Emergency Disputes," 6 *Ind. and Lab. Rel. Rev.* 15, 25 (1953). See also, H. Northrup, *Strike Controls in Essential Industries*, (New York; National Industrial Conference Board, 1951) at 34.

[71] Editorial, *The Washington Evening Star*, November 6, 1959.

[72] 117 *Congressional Record* s875 (daily ed. February 4, 1971.)

Supporters of this option have also pointed to other situations in which the 30-day extension could be used: (1) to delay a work stoppage while Congress considered the matter (2) to avoid hardship if the expiration of the initial 80-day period fell on a date that caused problems. Silberman, "National Emergency Disputes—The Consideration Behind A Legislative Proposal." 4 *Georgia L. Rev.* 673,686 (1970).

[73] See *ABA Report supra* note *70* at 7. See also *1971 Hearings*, Statement of E. L. McCulloch, Vice President and National Legislative Representative, Brotherhood of Locomotive Engineers, at 687; and Statement of Gerald C. Smetana on Behalf of the American Retail Federation, at 388.

[74] *Id.*

[75] S. 3232. See Appendix *A*.

See 118 *Cong. Record*. S. 2482 (daily ed. February 24, 1972). Senator Packwood's bill was attached as an amendment to the Joint Resolution dealing with the recent West Coast dock strike. (S. 197) passed February 8, 1972; *see note 11 supra*. However, the Senate by a vote of 42–39, agreed to lay Senator Packwood's proposal on the table.

[76] *ABA Report, supra* note *70* at 7–8.

[77] Statement of Senator Griffin, 117 *Congressional Record* S752 (daily ed., February 3, 1971.)

[78] *See* Silberman *supra* note *72* at 687.

[79] *See* Levin, "National Emergency Disputes Under Taft-Hartley: A Legal Definition," 22 *Lab. L.J.* 29, 42 (1971).

[80] *See* Cullen, *supra* note *13* at 119.

[81] See *ABA Report, supra* note *70* at 9–10, for a criticism of the inadequate time period and the probable lack of expertise of the members of the board. *See 1971 Hearings* at 381.

[82] Mr. Nixon said that partial operation was not feasible:

". . . It requires a complex and costly administrative structure to operate it—to make the decisions about which goods are to move, when and how. Further, the effective and safe operation of even a small percentage of each individual railroad's business requires a disproportionately large employee force. For example, the Secretary of Transportation advises me that a nationwide partial operation allowing for the movement of only 15 percent of normal railroad traffic would require a 30 percent operating level of the Nation's railroads. The economic burden of this type of partial strike would fall in disproportionate measure on the carriers." House Document No. 48, 92nd Cong., 1st Sess., February 17, 1971, at 5.

[83] See *ABA Reports supra* note *70*, n. 11 at 8.

"Partial operation, as understood by the Committee, is one part of a company operating while another is subject to the work stoppage; while "selective operation" is the total shutdown of some companies and the complete operation of others." *Id.*

[84] *1971 Hearings* at 423; Secretary Volpe has also acknowledged the burden partial operation would place on the carriers. *1971 Hearings* at 250. See also Cullen, *supra* note *13* at 119.

[85] See Cullen *supra* note *13* at 119.

[86] *ABA Report supra* note 70 at 10.

[87] 116 *Congressional Record* S 2545 (daily ed., February 27, 1970).

[87a] The final offer selection approach was first considered in a different context in 1966. *See* Stevens, "Is Compulsory Arbitration Compatible With Bargaining?" 5 *Industrial Relations*, 45, 49–50 (1960). The final offer selection procedure is included, in various forms, in other proposals before the 92nd Congress: the Javits bill (S. 594); the Harvey bill (H.R. 9088 and S. 2655); the Jarman bill (H.R. 9989 and 2060).

[88] Silberman *supra* note *72* at 688. Professor Cullen has reasoned that:

"If labor and management knew that . . . an arbitrator would be required to choose the deadline position of one party or the other, this prospect should greatly reduce the danger of sham bargaining that has always plagued the idea of compulsory arbitration." Cullen, *supra* note *13* at 130.

[89] Silberman, *supra* note *72* at 688–89.

[90] *See 1971 Hearings* at 216–17.

[91] Charles Killingsworth, a noted labor relations scholar with many years of arbitration experience, takes exception to the assumption that arbitration is a process for "splitting the difference":

"That is a highly simplistic view of the arbitration process which would not be supported, I think, by most parties who have actually had experience with contract arbitration in recent years. All of the arbitrators that I know would consider it grossly dishonest and irresponsible merely to "split the difference: regardless of the merits of the case. At the risk of being accused of grinding an ax, I will testify that we have developed a professionalism in arbitration in the past 25 years that has made the 'split the difference' approach a rarity, at least among experienced and competent arbitrators." Killingsworth, "Emergency Disputes and Public Policy," 94 *Monthly Lab. Rev.* 44 (1971).

[92] B. Aaron, "National Emergency Disputes: Some Current Proposals," 22 *Labor L.J.* 461, 471–72 (1971). *See also 1971 Hearings* at 579.

[93] Editorial, The *Washington Post*, March 3, 1971.

[94] Benjamin Aaron questions the effect of final offer section procedure on the process of ratification of contracts required under many union constitutions. Aaron *supra* note *92*.

[95] Editorial, The *Washington Post*, March 3, 1971.

[96] *Id.* The following excerpt was taken from the Statement of Gerald C. Smetana on Behalf of the American Retail Federation *1971 Hearings* at 389.

"(a) The Administration's proposal establishes no parameters governing what matters could and could not be included in a final offer. Therefore, for example, a union might make an offer which in every other regard was fair and reasonable, but included a provision requiring that three of its members be seated as nonvoting members of the board of directors of the company with which it was bargaining. If, in this example, the company's offer were less fair and reasonable, then presumably the union's final offer would be selected and would become the contract between the parties. Such a result is not consistent with what the union could obtain at the bargaining table. A failing in the Administration's proposal is to limit matters which become subject to final offer selection to mandatory subjects of collective bargaining."

On March 14, 1972, Glen Hofer, Executive Vice-President of the National Federation of Grain Cooperatives, appeared before the Senate Subcommittee on Labor which is conducting hearings on Emergency Dispute Legislation. Hofer recommended two changes in the Packwood bill, which has the same remedies as the Administration bill, with a 15-rather than 30-day cooling off period and the right to use all of the options and not just one. The witness proposed that it be amended to provide that the parties in the last-offer selection process should be directed to identify issues in disagreement and that the selection panel "should be free to choose, without modification, the most reasonable final position on each unresolved issue from each of the final proposals," rather than take one entire proposal or the other.

[97] *See* Rehmus, "Railway Labor Act modifications: helpful or harmful?" 25 *Ind. and Lab. Rel.* Rev. 92–93 (1971).

[98] *Id.*

"The author is familiar with three public sector negotiations where this device [final offer selection] was tried. In two cases the device failed; the parties remained poles apart, and the neutrals refused to select any of the offers because all were deemed unreasonable. The experience in these three cases suggests the circumstances where this device might or might not prove useful. In a dispute in New York State where it proved effective, the sole issue was salaries. Dollar differences are almost infinitely divisible, and the logic of final-offer arbitration pushed the parties' offers to a very small difference. In the Massachusetts and Michigan cases where the device failed, major issues involving working rules were at stake. Such issues by their nature are not readily susceptible to compromise. Cases of this kind, typical of the difficult problems of manpower displacement in transportation, require delicate neutral adjustment between valid but conflicting positions. Final-offer arbitration does not permit this process to operate where it is most needed."

[99] *ARA Report supra* note *70* at 11.

[100] *Id.* at 5.

The ABA Special Committee noted:

"The 'last offer ballot' requires employers to draft a final offer, while the union(s) are not required to do so, for a vote by the employees. The Committee believes that this early requirement for an employer 'last offer' will be detrimental to the statutory processes and bargaining, particularly if the "final offer selection' procedure is ultimately utilized." *Id.*

[101] *Id.* at 11

The ABA Special Committee recommended that:

"A series of increasing pressures for agreement should be generated by providing that after the President invokes the final offer selection procedure, the parties shall exchange their 'final positions'; they then will be granted seven days in which to bargain with regard to their 'final positions' and to prepare and submit to the Secretary of Labor their 'final offers' if they cannot agree; after the final offers are exchanged, another bargaining period of seven days should be provided, with the mediatory assistance of the Secretary of Labor or his representative. Then, if the parties still cannot agree, the final offers are to be submitted to the final offer selector panel." *Id.*

[102] *ABA Report* § B. (1) (a)

[103] *See 1971 Hearings*, Statement of Jerre S. Williams, Professor of Law, University of Texas Law School, on Behalf of American Bar Association, at 611–12.

[104] ABA Report § A (2) (a).

[105] *Id.* § A (2) (b).

[106] *1971 Hearings* at 606.

[107] The influence of public opinion has proved to be an unpersuasive force. *See supra* note *40* and accompanying text.

[108] W. Curtin, "Transportation Strikes and the Public Interest: The Recommendations of the ABA's Special Committee," 58 *Geo. L.J.* 243 (1969).

[109] *ABA Report* § B (1) (d)

[110] *1971 Hearigs* at 617.

[111] *See* H. Northup *supra* note *13* at 207; Wallet, "Emergency Stoppages in the Private Sector," *Lab. L.J.* 321 (1971).

One author has criticized imposed settlements as too rational.

"Labor relations is . . . concerned with the hopes and fears, ambitions and frustrations, of human beings in society . . . [E]mployees join unions for many reasons: to gain some control over their conditions of work, to overcome the feeling that they are entirely at the mercy of an all-powerful employer, to punish their employer for real or fancied wrongs, to vindicate their declining socio-economic status in a changing society, or simply to express frustration with the tensions of modern industrial society . . . To none of these factors is arbitration responsive. Arbitration is a remote and arid, if rational, process. But what alone will satisfy is the sense of participation in a drama, and perhaps even the cathartic experience of a

strike . . . I would strongly suggest that we must for psychological reasons continue to play the frustrating game of conflict . . ." Arthurs, "The Arbital Process," paper presented to the Int'l Symposium on Public Employment Relations, New York City, May 1971. *See also,* W. Harlan, "An Answer to 'National Emergency' Transportation Strikes", 58 *ABA J.*26 (1972).

[112] Organized Labor appears to be virtually unanimously opposed to compulsory arbitration or any mandatory settlement procedure.

See e.q., 1971 Hearings, Statement of Andrew J. Biemiller, Legislative Director, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); Accompanied by Thomas E. Harris, Associate General Counsel.

"We are opposed to compulsory arbitration because we believe that collective bargaining can and should be preserved and restored to full effectiveness in the railroad industry. That means that the right to strike must be preserved and restored, for collective bargaining cannot operate with full effectiveness unless the right to strike exists as a possible last resort. It is the contemplation of this ultimate test of economic strength or, sometimes, the test itself, that induces the parties to reach agreement. Some measure of collective bargaining is possible even where the strike is forbidden and the final resort is to compulsory arbitration or to Congress, but any impairment of the right to strike likewise impairs the effectiveness of collective bargaining. One party or the other is likely to calculate that compulsory arbitration will work to its advantage, and that means no real collective bargaining." *1971 Hearings* at 659.

During hearings before the House Commerce Committee, however, one of the rail brotherhoods proposed authorizing the President to invoke compulsory arbitration in any rail impasse which threatened the national health and safety, but such arbitration award would be binding only until the disputant parties made their own agreement.

Further, the arbitration option could be used only after seizure of the rail carriers by the Federal Government for the duration of the dispute. *1971 Hearings,* Statement of C. L. Dennis, President, Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees.

[113] See 1971 Hearings. Statement of Lyle H. Fisher, Member, Industrial Relations Committee, National Association of Manufacturers; Accompanied by J. P. Matturo, Director, Labor-Management Relations, and Randolph M. Hale, Washington Representative, Industrial Relations.

"First, it is our belief that compulsory arbitration and free collective bargaining are incompatible bedfellows. In situations where a union and employer know that compulsory arbitration lies at the end of the road, history dictates that they will devote their energies to "making a case" for arbitration rather than bargaining seriously under the normal pressures to make decisions which otherwise would not be made.

"Second, the fond belief that compulsory arbitration will limit or eliminate strikes and other concerted union pressures is not borne out by the experienec of other countries as well as our own and several of our States.

"Third, compulsory arbitration puts the power of determining labor costs and conditions on the shoulders of third parties who usually have little or no familiarity with the industry and its employees, and no responsibility for the practical impact of the employment conditions imposed. I think that point was made well in the discussions earlier this morning." *1971 Hearings* at 536–37. But see *1971 Hearings,* Statement of John P. Hiltz, Jr., Chairman, National Railway Labor Conference.

At the hearings, Mr. Hiltz, representing the Conference whose membership comprises almost all of the Nation's Class I rail carriers, made the following statement in support of compulsory arbitration.

"It is undisputed that arbitration will not be the best method for resolving all disputes; however, if it will be the best method for resolving some disputes, we feel that it should be included in the arsenal of weapons. Except for the final offer selection—a weapon which I will next discuss—arbitration is the only concept in any of the pending legislation which furnishes a procedure for settling the dispute with finality. We believe that both the final offer selection and compulsory arbitration should be included in the arsenal and that each be used in the type of dispute to which each is particularly adapted." *1971 Hearings* at 428.

A survey of 500 business executives conducted in 1970 for *Fortune* magazine by Daniel Yankelovitvh, Inc. showed a division of opinion within management ranks. In reply to the survey question, "In the event of a deadlock during bargaining, do you approve or disapprove of compulsory arbitration?" 45 percent of the respondents approved, 42 disapproved, and 14 percent were not sure. However, when asked for their opinion about a specific proposal embodying mandatory settlement—President Nixon's strike-settlement recommendations for the rail and other transportation industries, introduced early in 1970—80 percent of the surveyed executives approved of the President's plan while only 12 percent disapproved and 7 percent were not sure or did not answer. Fortune, July 1970, p. 72–73.

[114] *See* Wisehardt *supra* note 25.

[115] *See* note 91 *supra* and accompanying text.

[116] *1971 Hearings,* Statement of Jerre S. Williams on Behalf of the American Bar Association.

"I have complete understanding of and sympathy with the viewpoints of management and labor in their desire not to have restrictive legislation designed to eliminate the threat of national emergency labor disputes. That such restrictive legislation interferes with the processes of free collective bargaining is clear.

"There is, however, a third party in these disputes who must be heard. The third party is, of course, the public. There are certain work stoppages in our society that we simply cannot ask the public to tolerate. The cost to free collective bargaining of legislation to control such disputes is less of a serious national cost than is the economic and social cost to the public of allowing such emergency disputes to take place.

"It was the unanimous view of the neutral member on the Committee that such general restrictive legislation in the true emergency situation is justified and that as long as the definition of what constitutes an emergency dispute is kept narrow enough, the interference with the processes of free collective bargaining in our society do not threaten the destruction of those free processes in industry generally." *Id.* at 614.

[117] See Appendix *A*.

See e.g., H.R. 9989, introduced by Mr. Jarman, July 21, 1971. The bill amends the Railway Labor Act and provides:

"(1) Upon the failure of the National Mediation Board to successfully resolve *any* dispute by mediation, it must notify the Secretaries of Labor, Commerce, and Transportation who are directed to appoint an ad hoc Transportation Labor Panel which shall recommend one of the procedures outlined immediately below in (2) to be used in the further handling of the dispute.

"(2) The Secretaries may either accept or reject the recommendation but, if the latter, they must recommend one of the procedures themselves:

"(a) take no further action;

"(b) appoint a neutral board to make nonbinding settlement recommendations;

"(c) refer to final and binding arbitration; or

"(d) submit to a 'final offer selection' procedure."

See also H.R. 2357, introduced by Mr. Pickle, January 26, 1971. The bill provides for the establishment of a special board with authority to make a "final and binding", and a "just and reasonable" determination of the matters in dispute. The bill further provides that the board may consider:

(1) "The public interest in the development and maintenance of a safe, adequate, economical, and efficient transportation system"; and

(2) "The public interest in price stability and prevention of inflation."

[118] *ABA Report* § B(1)(c)(iii)

[120] "Seizure is frequently advocated by unions for an obvious reason: the history of governmental seizure as a means of settling labor disputes indicates that after seizure the workers have usually been given some or all of the benefits which they could not get from their employer. When the strike emergency has ended and the business is returned to private management, management in effect has been required to accept a settlement it would not otherwise have accepted." Wisehart *supra* note *25,* at 1713.

[121] It is interesting to note that Senator Taft, chairman of the Labor Committee, informed the Senate that his colleagues had considered a grant of seizure power and rejected it in favor of reliance upon Title II. 93 *Cong. Rec.,* 3834–36 (1947); *see* 2 *NLRB Legislative History of the Labor-Management Relations Act* 1145, 1519, 1626 (1948).

For a history of labor and management resistance to seizure, see J. Blackman, *Presidential Seizure in Labor Disputes* 23–73 (1967).

In a foreword to this book, Professor John T. Dunlop of Harvard University notes that "there have been 71 instances of presidential seizure and temporary operation of industrial property . . . over the past hundred years. Transportation facilities have been seized in 21 cases and military suppliers in 32 other cases. Sixty seizures were made under legislation expressly authorizing its use mostly under maritime legislation and 11 cases, including the 1952 steel seizure, relied on the general and other powers of the president. Some seizures were in wartime, others in reconversion periods, and still others in times of peace. There is a great diversity and variety in the experience with presidential seizure.

Id. at vii. *See also* Cox, *Seizure in Emergency Disputes and National Policy* 227 (1955); *See 1971 Hearings.* Statement of Stuart G. Tipton, President, Air Transport Association of America; Accompanied by Everett M. Goulard, Counsel, Airline Industrial Conference, and Vice-President, Industrial Relations, Pan American Airways. Mr. Tipton summarized management's opposition to seizure in the following way:

"The use of seizure as a method of securing settlements again weakens management's position without any corresponding pressures upon the unions to settle. Seizure by the government of a private transportation system is, of course, a drastic measure. Anticipating such a governmental step, management might well be prepared to act irresponsibly in granting demands which would then have to be paid by the users. Seizure can also form the basis for unending litigation between the employer and the government as to the extent of injury by reason of seizure. Furthermore, the risk of ultimate or even immediate socialization is present, such as resulted a few years ago after a New York City bus strike. Before the strike buses were privately owned and operated, but during the strike they were seized and never returned to private operations." *Id.* at 327.

[122] 343 U.S. 579 (1952).

[120] *Id.* at 583. On June 2, 1952, the United States Supreme Court, in *Youngstown Sheet & Tool Co.* v. *Sawyer*, held that although "There are two statutes which do authorize the President to take both personal and real property under certain conditions," the President's seizure order "was not rooted in either of the statutes," and that Congress, not the President, has the "exclusive constitutional authority to make laws necessary to carry out powers vested by the Constitution...." In declaring the seizure unconstitutional, the Court stated:

"The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times. It would do no good to recall the historical events, the fears of power and the hopes for freedom that lay behind their choice. Such a review would but confirm our holding that this seizure order cannot stand." *Id.* at 583.

[124] Hawaii has provisions for strike ban and seizure whenever a labor dispute threatens to disrupt the stevedoring industry. Hawaii Laws 1951, act 209, § 4181-01-4181.12.

Massachusetts has a similar provision empowering the governor to resort to seizure in the event of a transit strike. Mass. Acts 1947, ch. 544, § 19a; amended by Mass. Acts 1962, ch. 307.

Statutes in North Dakota and Virginia, provide for seizure in coal industry disputes. N.D. Code Ann., § 37-01-06, (1960); Va. Code, § 45-145 to 45-157, (1950).

[125] It is argued, if government "either inadvertently or through political favoritism were to establish terms and conditions quite satisfactory to the union, the union could prevent the restoration of the property to its private owners and managers by the simple expedient of refusing to reach agreement." Chamberlain, "The Problem of Strikes," *Proceedings of New York University Thirteenth Annual Conference on Labor* 435 (1960).

[126] Opponents point out that it would require long and costly proceedings to determine "just compensation," during which time the owners would be deprived of funds necessary for plant upkeep and rehabilitation, working capital, servicing of debt, and other essential purposes.

The following dialogue took place at the *1971 Hearings*, between Representative Harvey and Jerre Williams, Representative of the ABA:

"Mr. HARVEY. You stated to my colleague from Michigan that management itself particularly opposes seizure as an alternative. We are on the committee and we are aware of that. We are mindful, if I am not mistaken, that every seizure case in the history of the United States has resulted in a law suit. If my recollection is correct, every single case has wound up in the courts and some have taken 10 and 15 years and longer before reaching a final settlement. How can the ABA come in and make a recommendation to us like that to solve these disputes? I have trouble, and I am a member of the association, understanding the value of the recommendation.

"Mr. WILLIAMS. Again I speak personally, but I think it may be almost speaking for the other neutral members of the committee as well. Let me say this: If the parties want to tie us up in litigation in court for 15 years after a seizure, that is too bad and I am sorry the courts are tied up. But the settlement of the dispute to protect the public interest is the most important thing. This was our thinking on the committee.

"That is the No. 1 issue. If the parties want to waste time in court fussing around after it is over that is all right because the public is not hurt by it to any significant extent. That is the critical thing." *1971 Hearings* at 630.

[127] ". . . The willingness of those who have created labor-dispute emergencies to pursue their economic goals to the bitter end, to turn their economic weapons against the president in an effort to obtain his aid against their opponents, and to interfere deliberately with presidential measures to maintain uninterrupted production under terms consistent with the nation's emergency policies, has been a characteristic of the majority of federal seizure operations." Blackman, *supra* note *121* at 23.

[128] *See*, Curtin *supra* note *27* at 202.

Suspension of union security and/or automatic dues checkoff forces the union to collect directly from the individual. This would have a direct effect on the union's pocketbook and its control over members. It is difficult to understand how the comtemporaneous "seizure" of the union could provide any more positive pressure on the union to settle than this provision, coupled with the provision against interference with the receiver's operation of the business. *But see*, Reilly, "The ABA Report: A Sword of Damocles Overhanging the Transportation Industry," 58 *Geo. L.J.* 273. (1969).

Committee member Reilly dissented from this recommendation on the ground that if carriers are to be placed in receivership, unions representing the employees of such carriers should also be placed in receivership for a coterminous period in order to insure equality of treatment.

In 1952, Rep. Howard W. Smith (D., Va.) introduced H.R. 7647, a bill which would have authorized the federal judiciary to appoint receivers for *both* the union and the struck companies in the event that the dispute lasted beyond the 80-day injunction period of Taft-Hartley. The House Armed Services Committee held hearings on the bill, but no final action was taken.

[129] Early in 1967, Sen. Javits introduced S. 1456, a revision of a similar bill he had introduced in the 89th Congress. In introducing the legislation, Sen. Javits stated that it is: ". . . premised on the belief that whatever solution is adopted must serve to encourage the parties to find their own solution through free collective bargaining rather than discourage the collective bargaining process. This is why I believe limited seizure, rather than compulsory arbitration, is the best answer. Seizure leaves the parties free to settle the dispute on their own terms and encourages them to do so, since seizure itself is distasteful to both sides. Compulsory arbitration, on the other hand, encourages the parties not to compromise, in the hope that an award will be somewhere between the last offers by the parties." 113 *Congressional Record* S4680 (daily ed., April 6, 1967).

[130] *ABA Report* § B (1) (d)

[131] In his appeal to Congress for legislation enabling seizure of the steel industry, President Truman succinctly articulated that the requirements and benefits of such a law, ". . . if properly drafted, can achieve the objectives of assuring steel production, treating both parties fairly, and encouraging collective bargaining. The key requirement of such a law, if it is to accomplish these ends, is to provide for fair and just compensation to the owners for the use of their property during a seizure, and fair and just compensation for the work of the employees.

"In order to be fair, the law must provide for a method of determining just compensation for the owners and the workers during the period of Government operation. This can be done by the establishment of special boards to work out specific proposals for the purpose, within the general framework of the Government's stabilization policies. In this way, the legislation can assure continued steel production, and fair treatment for both parties during Government operation." 98 *Congressional Record* 6929 (June 10, 1952).

[132] "Seizure should not, of course, be regarded as a means of determining the issues in dispute between management and the union. Those issues will have to be settled by the parties through their own collective bargaining. Legislation providing for Government operation will not prevent collective bargaining. As a matter of fact, the type of legislation I have described will undoubtedly increase the incentives for the parties to settle their differences through bargaining. The companies will face the possibility of receiving something less than their normal profits as just compensation. And the workers will face the prospect of getting less than they think they are entitled to." *Id.*

"The expectation," writes Professor Neil W. Chamberlain, "is that both parties would be less than satisfied with the government's performance—the unions because they would be given less than they wanted and management because it stood to lose profits and perhaps even incur losses. Hence, the parties would be driven to agreement as the only means of ridding themselves of the government albatross around their joint necks."

N. Chamberlain, "The Problem of Strikes." *Proceedings of New York University Thirteenth Annual Conference on Labor* (New York: Matthew Bender, 1060) p. 435.

[133] *See 1971 Hearings*. Statement of Hon. James Harvey, A Representative in Congress from the State of Michigan at 147.

[134] Aaron, *supra* note *92* at *473*.

[135] One writer believes seizure would seriously interfere with the rights of the affected employees. Seizure would "compel employees to continue working under unsatisfactory conditions; in this respect they would, in effect, simply continue for an indefinite period injunctions already in effect. The rights of employees of the seized enterprise under workman's compensation, unemployment insurance, and other social legislation would be jeopardized." Aaron, *supra* note *92* at *473*.

[136] See Appendix A, *infra*.

E.g. S. 594, H.R. 2357.

H.R. 2357, introduced by Mr. Pickle, and referred to the House Committee on Interstate and Foreign Commerce, provides for seizure: (1) Management of carriers is continued by Secretary of Commerce; (2) All corporate activities continue as in the normal course of business; and (3) Working conditions remain the same unless the President imposed the Emgy Bd recommendations.

[137] See *1971 Hearings*, Statement of Jerre S. Williams, Professor of Law, University of Texas Law School, on behalf of ABA.

"So that we have had the two management representatives opposing the Executive receivership, the two labor representatives opposing the presidential arbitration board, and, very frankly, the public members thinking we probably have gotten a pretty good balance." *Id.* at 627.

[138] Aaron, *supra* note *92* at *463*.

[139] 117 *Congressional Record* S8370 (daily ed., February 4, 1971.)

[140] *Id.*

[141] S. 594 is very similar to an earlier bill, S. 1456, introduced by Senator Javits in 1967. S. 1456 authorized the President to "ascertain the amount of just, fair, and reasonable compensation to be paid as rental for the appropriation . . ." and gives the employer the right to sue the United States to recover such further sums—if any—as the court may determine necessary to constitute just, fair, and reasonable compensation.

[142] Aaron *supra* note *92* at *463*.

[143] *Id.*

[144] H.R. 9088 referred June 14, 1971 to House Committee on Interstate and Foreign Commerce. Identical bills include H.R. 9089, H.R. 9571, H.R. 9820, H.R. 10433, H.R. 10491, H.R. 10781, H.R. 11242, and S. 2655 (referred October 5, 1971 to Senate Committee on Labor and Public Welfare). H.R. 9088 is a modification of an earlier proposal, H.R. 8385. Representative Harvey, on October 18, 1971, introduced a revision of H.R. 9088. The revised bill, H.R. 11281, permits regulated and limited selective strikes, prior to the 60-day cooling off period, if negotiations with Federal mediation have

failed to produce an agreement. On January 27, 1972, Mr. Harvey introduced H.R. 12702 which essentially combines H.R. 11281, (applicable to railroads and airlines) and amendments to Sections 206–210 of the Taft-Hartley Act (containing procedures similar to the Administration's bill i.e., (1) 30–day extension of cooling-off period; (2) partial operation; and (3) final offer selection). See Appendix A, *infra*. Mr. Harvey made the following statement concerning H.R. 12702:

"Briefly, this proposal maintains the legal divisions that already exist in labor legislation in the transportation industry by amending both the Railway Labor Act and the Taft-Hartley National Labor Relations Act of 1947. The significant difference between this bill and the several others that have previously been introduced is that each of the laws is amended separately, in a different title of the new legislaiton." 118 *Cong. Rec.*, H1 (daily ed., January 27, 1972).

[145] The legislative proposal submitted by Representative Harley Staggers (D., W. Va.), H.R. 3595, is the only other bill which expressly authorizes a selective strike in the railroad industry after the emergency dispute procedures of the Railway Labor Act have failed to produce a settlement. Since H.R. 3595 only recommends the addition of this procedure, and since it is not considered a serious contender due to its pro-union imbalance, it does not warrant extensive treatment in the text.

The selective strike procedure of the Staggers bill differs from that of the Harvey bill in the following ways: (1) it permits a strike of all carriers, subject to limitations of partial operation; (2) it defines a selective strike as one that involves no more than three carriers in any one railroad region and not more than 40 percent of the revenue ton miles transported in that region; (3) it authorizes the Secretary of Transportation to direct the maintenance of essential transportation during a selective strike; and (4) it makes it unlawful for any carrier at *any time* to lockout employees.

It is unclear whether the Administration's bill, S. 560, would permit selective operation. See notes *82–84 supra* and accompanying text. Presumably, selective operation would fall within the Presidents authority under the Javits bill, S. 594.

[146] *1971 Hearings* at 147.

[147] *Id.* at 314–15.

[148] It is unclear whether the Administration's bill, S. 560, would permit selective operation. *See notes 82–84 supra* and accompanying text.

[149] *See* note *82 supra* and accompanying text.

[150] *See* United Transportation Union v. Burlington Northern, Inc. 325 F. Supp. 1125 (D.D.C., March 8, 1971); Delaware and Hudson Ry. Co. v. United Transportation Union, 76 L.R.R.M. 2900 (D.C. Cir., March 31, 1971).

[151] 117 *Congressional Record* S1386 (daily ed. February 17, 1971).

[152] Congressman Adams (D., Wash.) describes negotiations in the railroad industry in the following way: ". . . when one multiplies the number of people, the unions and the carriers involved in any particular dispute, this multiplies the number of problems which must be solved all at once. In the particular dispute before us one set of unions has one set of problems with one set of railroads and another set of unions has another set of problems with another set of railroads, and the more one builds up one big package the more it becomes apparent that one cannot break that down into small enough pieces so that one can settle it . . ." 117 Congressional Record H210 (daily ed., January 26, 1971).

[153] Delaware and Hudson Ry. Co. v. United Transportation Union, 76 L.R.R.M. 2900 (D.C. Cir., March 31, 1971), *reversing*, Delaware and Hudson Ry. Co. v. United Transportation Union, (D.D.C., March 10, 1971), 76 L.R.R.M. 2898. One U.S. District Court has also ruled that selective strikes are legal; *see* United Transportation Union v. Burlington Northern, Inc. 325 F. Supp. 1125 (D.D.C., March 8, 1971). (involves a dispute between the UTU and the carriers over the "fireman manning" issue). For a comprehensive treatment of the legality of the selective strike, see Newborn, "The Validity of the Selective Strike Under the Railway Labor Act," 60 *Geo L.J.* 583 (1972).

[154] *1971 Hearings* at 327.

[155] See Appendix A *infra*.

[156] Mr. Harvey made the following statement concerning Title II of H.R. 12702, and his replacement of partial operation for selective strike:

"Title II of this bill amends the Taft-Hartley Act in essentially the same fashion. If, after the 80-day injunction, the parties have not reached an accord, the President would have three alternative courses of action—final offer selection, an additional 30-day cooling-off period, and the imposition of partial operations—which would be used until a settlement is reached. We have replaced the selective strike option of title I with partial operations because of the nature of the industries regulated by Taft-Hartley. While a working definition of a selective strike, with limits and public safeguards, can be made for the railroad industry, similar attempts in the other transportation fields would result in confusion and invite disaster. As in title I, the amendments to the Taft-Hartley Act would also guarantee a solution by providing finality and guarding against future destructive strikes." 118 *Congressional Record* H 1 (daily ed., January 27, 1972).

[157] Proponents of such legislation argue that the "NLRB has fallen into nearly total disrepute; it has become little more than a prounion, policymaking apologist for organized labor. It ought to be dissolved altogether, and its judicial functions put in the hands of judges." James J. Kilpatrick, "Congression Treads a Legislative Graveyard," *The Washington Evening Star*, November 7, 1967.

[158] Two such bills were introduced in the 90th Congress; S. 176, introduced by the then Senator Smathers (D., Fla.), and a nearly identical bill, H.R. 11471, introduced by Rep. Clark MacGregor (R., Minn.).

[159] See the following bills, all introduced in 1967: S. 1353, introduced by Sen. Robert R. Griffin (R., Mich.); H.R. 8640, by Rep. O. C. Fisher (D., Tex.); and H.R. 9695, by Rep. Albert W. Watson (R., S.C.). See also S. 103 by Sen. Griffin and H.R. 453 by Rep. Fisher, introduced in 1969.

[160] *See* S. 103, introduced by Senator Griffin (R., Mich.); H.R. 453 introduced by O. C. Fisher (D., Tex.).

[161] *See* note *109–117 supra* and accompanying text.

[162] *See* Statement of Henry Weiss, General Counsel of the Air Line Pilot's Association, before the Senate Subcommittee on Improvements in Judicial Machinery, October 17, 1967. Testifying in opposition to S. 176, Weiss remarked that "[t]he very existence of a permanent judicial body to determine disputes will discourage the substantive and procedural innovation and experimentation which sometimes leads to strikes, but more often results in imaginative and constructive solutions to difficult problems." *Id.* at 37.

"The plain fact is that it is difficult to develop or continue constructive private collective bargaining relationships where the true locus of power is outside the relationship. In such cases, both parties are under constant pressure to 'make a record'—to shape their entire strategy and policy with an eye on the outside agency which may finally settle the dispute. Neither party thus is forced to face up to reality and the necessity of solving the actual problems at hand." *Id.* at 36–37.

Similar testimony in opposition to S. 176 was heard from representatives of the Allied Pilots Association and the Railway Labor Executives' Association. Mr. Martin Seham, General Counsel to the Allied Pilots Association, stated:

"You will undoubtedly hear other labor representatives object strongly to S. 176 and any other measure which substitutes the coercion of government decision making for the free play of collective bargaining, and we, would, in general, subscribe to those views. Indeed we would assume that there would be general agreement even among carrier representatives that the underlying philosophy of our government must be that decision making is to be left in the hands of private groups as long as possible." Statement of Martin C. Seham before the Senate Subcommittee on Improvements in Judicial Machinery, October 17, 1967, at 1–2.

[163] *See* Statement of Henry Weiss before the Senate Subcommittee on Improvements in Judicial Machinery, October 17, 1967.

Testifying in opposition to S. 176, Mr. Henry Weiss, General Counsel of the Air Line Pilots Association, told the Subcommittee that:

"Compulsory adjudication or arbitration of contract terms is generally distasteful to both American labor and American management. Long range ramifications, such as price and dividend controls, are not acceptable to the public or compatible with our economic system." *Id* at 40.

Mr. Leser P. Schoene, testifying against S. 176 on behalf of the Railway Labor Executives' Association, stated:

". . . To invest any governmental institution with the power to determine the wages and conditions of employment under which some people must work for others is less justifiable than to determine the terms on which people must buy and sell. Any system under which this kind of power is exercised by government is totalitarian." Summary of statement of Lester P. Schoene before the Senate Subcommittee on Improvements in Judicial Machinery, October 17, 1967, at 2.

[164] In his testimony at the Senate Subcommittee hearings on S. 176, Archibald Cox stated:

"In any difficult labor negotiations the parties' willingness to compromise hinges largely on the absence of acceptable alternatives. If there is any other recourse—if there is a way to buy time or evade responsibility for making a concession—there is great pressure to choose the alternative. This would be true of any provision for the final and binding settlement of any labor dispute.

"Under S. 176 the tendency would be greater both because of the judicial quality which the bill apparently intends to impart to the judgments of the proposed court and because of the breadth of its proposed jurisdictional standards. This inference is confirmed by the provision for a full-time chief judge and four associate judges. Because it is to be a continuing body and also because it is to be a court of law, the tribunal would inevitably establish a uniform pattern of decisions; indeed, any obvious lack of uniformity would quickly destroy it. No employer nor union supposing itself to be within the court's jurisdiction would agree to any settlement upon the terms less favorable than the court impose; it would simply refuse to agree with the opposing party and take the case to the court for an award. Or, if the parties did agree to what would be the inevitable judgment, the agreement would not be the result of their own negotiations" 113 *Congressional Record* S15453 (daily ed., October 27, 1967).

[165] One commentator has written:

"When the parties to a labor dispute know that the government will intervene to impose a settlement the effect must be an inhibition of genuine give-and-take bargain-

ing. The union will ask for more than it is willing to accept and the employer will offer less than it is willing to concede—both parties naturally assuming that the only settlement which can come from government is one which "splits the difference."

"It can never be emphasized too much that the best government can do is split the difference. There is no such thing as an objectively "right" or "just" wage—at least there is none known to mortal man. Consequently, all a government agency has to guide it are the demands and offers of the parties to the dispute. At best, the government agency will split right down the middle; at worst it will favor one or the other party, usually because of political considerations. In either case, the result of negotiations conducted in the shadow of government power will always be a standoff, and that of course means the end of collective bargaining." Sylvester Petro, "The Government and National-Emergency Strikes," *Committee on Public Affairs*, 3 (June, 1961).

[166] Archibald Cox has described the difficult role of a labor court in the following way:

"Although a few unusually skilled individuals can combine the roles of mediator and arbitrator or mediator and fact finder on special occasions, the processes of mediation and conciliation, on the one hand, and judicial adjudication, on the other hand, cannot be mixed over any substantial period without substantial injury to both. The approach of the mediator is necessarily different from that of judge. The mediator is seeking to suggest *some* basis for agreement. He is particularly concerned with finding the points at which compromise is most likely. He must seek to appraise relative power of the parties rather than find an objectively fair and equitable decision. What he does as mediator and especially what he learns as mediator may rise to plague him as judge. Conversely, either his own or the parties' knowledge of the precedent and other limitations which will circumscribe him as judge will impair his effectiveness as a mediator." 113 *Congressional Record* S15453 (daily ed., October 27, 1967).

The confusion, Cox warns, "will rub off upon the entire judicial process," ultimately impairing its image in the eyes of the public.

[167] *1971 Hearings*, Statement of Hon. John J. Rhodes, Representative from the state of Arizona, at 244.

[168] *Id.*

[169] "My thesis, boldly and broadly stated, is that with equality now reached by labor unions in nearly every industry, and insured for the future by our many labor laws, their right to strike should be curtailed when it is in conflict with the public interest, and that *some form of final compulsory decision must be formed.*" Samuel I. Rosenman, "Labor Courts as Way to Handle Strikes," *The Washington, D.C. Sunday Star*, July 16, 1967, §B, col. 1, at 2. See also 113 *Cong. Rec.* S15017 (daily ed., October 19, 1967).

[170] *Id.*

[171] *See* notes 42–44 *supra* and accompanying text.

[172] *See* R. Givens, "Dealing with National Emergency Disputes," 34 *Temple L. Q.* 17 (1960): M. Denbo, "Labor Exemption—An Anti-View," 20 *Fed. Bar. J.* 30 (1960); J. McDowell, "Labor and Antitrust: Collective Bargaining or Restraint of Trade?" 20 *Fed. Bar J.* 18 (1960). See S. 10 introduced by Senator McClellan in the 89th Congress, which would have subjected unions to antitrust laws.

[173] Today, it has been said, labor unions have "virtually a monopoly of the workers in whole industries or regions and [are] able to draw upon and obtain support from affiliated unions." J. Morse, "The Third Seat at the Bargaining Table: A Management Point of View," 14 *Labor Law Journal* 9, 12 (1963).

"Consequently, labor now has the muscle to impose terms and conditions of employment which appear to be inconsistent with our national welfare," and, when these terms are not met in basic industries, "the effects are likely to be so far-reaching as to produce a national emergency." B. Patch, "Industry-Wide Bargaining and Industry-Wide Strikes," 1 *Editorial Research Reports*, 259, 265 (1953) *See generally, Multiemployer Association Bargaining and its Impact on the Collective Bargaining Process*, Report of the General Subcommittee on the Labor of the House Committee on Education and Labor, 88th Cong., 2d Sess. (Comm. Print 1965), 41–42.

[174] *See* Wisehart *supra* note *25* at 1719. *See also* A. Marshall, "New Perspectives on National Emergency Disputes," 18 *Lab. L.J.* 451, 552–56 (1967); A. Sloane, "Presidential Boards of Inquiry in National Emergency Disputes: An Assessment After 20 Years of Performance," 18 *Lab. L.J.* 665 (1967).

[175] *See* "Proposals to Deal with National Emergency Strikes", *American Enterprise Institute* 72–73 (1969). *See also* T. Iserman, *Changes to Make in Taft-Hartley* 139 (1953).

[176] *See* C. Sandberg, "Emergency Labor Disputes and the National Interest," 16 *Lab. L.J.* 359, 365 (1965).

"A unique approach to the resolution of labor disputes is the statutory strike. In this plan, when labor disputes remain unsettled, the workers do not strike and the plant does not close or stop production. During the statutory strike, while all operations continue as usual, economic penalties are imposed which stimulate the financial losses of a strike or lockout. Both profits and wages are withheld, thus providing powerful economic pressure for the efficient resolution of labor problems. Statutory strikes have the important advantages of serving the public interest in continued production and of permitting collective bargaining." *Id.* at 365. Marceau and Musgrave, "Strikes in Essential Industries: A Way Out," *Harvard Business Review*, 286–292 (1949); Goble, "The Non-Stoppage Strike," 12 *Current Economic Comment* 3 (1950); McCalmont "The Semi-Strike," 15 *Ind. and Lab. Rel. Rev.* 191 (1962).

[177] See A. Marshall, "New Perspectives on National Emergency Disputes," 18 *Lab. L. J.* 459 (1967); Cushman, "Voluntary Arbitration of New Contract Terms," 16 *Lab. L. J.* 765 (1965); W. Feldman, "Another Approach to Strikes: Inducements to Voluntary Arbitration," 33 *Geo. Wash. L. Rev.* 457–66 (1964). See *1971 Hearings* Statement of Lyle L. Fisher, on Behalf of the National Association of Manufacturers.

"In a few instances labor leaders and management themselves have decided to forego the use of strikes or lockouts (economic force) as the terminal point of collective bargaining disputes. As a substitute terminal point, the parties themselves have agreed in advance that if their impending collective bargaining should produce an impasse on certain issues, such issues would be submitted for final and binding decision by a panel of arbitrators voluntarily established and named by the parties for that purpose. Thus through the process of collective bargaining, the parties themselves have protected the employees, the companies, the union, and the public generally against the damages caused by strikes or lockouts." *Id.* at 549.

[178] *See* Statement by Theodore W. Kheel on Emergency Disputes Legislation Before Senate Subcommittee on Labor, March 14, 1972. Mr. Kheel advocated the amendment of the RLA to model its procedure after the Taft-Hartley Act instead of wasting "time on ingenious but unworkable devices that substitute compulsion for collective bargaining." *See* Wisehart *supra* note *25* at 1712.

[179] *See 1971 Hearings* Statement of Lyle H. Fisher on Behalf of the National Association of Manufacturers:

"The need is not for new measures or an arsenal of measures to deal with national emergency disputes. The real need is for a thorough examination of these concentrations of labor power, examination of their roots and consequences and the establishment of a legislative framework which will create a proper relationship of bargaining strength among employees, their employers, and unions and, as aforementioned, at a power level which our economy can tolerate so as to enable and foster meaningful and free collective bargaining.

"Pending such investigation and legislative formulation, we believe the national interest will be served by a program wherein the national emergency provisions of the Taft-Hartley Act would remain unchanged. Where used, they have generally worked out." *Id.* at 540. *See* Wisehart *supra* note *25* at 1710.

[180] *See* note *104–106 supra* and accompanying text.

[181] *ABA* Report § A(2)(a).

[182] *See* H. Crossland, "Public Interest Labor Disputes: An Economic and Legal Analysis Beyond the Pale of Title II of the Taft-Hartley Act," 12 *Wayne L. Rev.* 780, 793 (1966).

The author describes the Taft-Hartley definition as flexible and elastic; since in 1948 alone the President found seven occasions where a national emergency existed. *Id.* at 793. The author listed four economic criteria which have been used to warrant the invocation of the Taft-Hartley emergency procedures: (1) The impacts of the dispute must be national rather than purely local; (2) The product or service must be essential in the sense that its use cannot be dispensed with or postponed without quickly and seriously impairing the safety or health of the nation; (3) The dispute must embrace all or a substantial part of the industry; and (4) The emergency must be imminent or actual, rather than an ultimate prospect if the stoppage were to last an indefinitely long period. *Id.* at 794.

For a comprehensive discussion of the problems involved in defining an emergency labor dispute, see J. Jones, "Toward a Definition of 'National Emergency Dispute,'" 1971 *Wisc. L. Rev.* 700.

[183] *See* Cullen *supra* note *13* at 125.

[184] RLA Section 10, 29 U.S.C. § 160.

[185] When Senator Packwood introduced his bill, S. 3232 (*See* note *75 supra*) he emphasized the need for applying emergency procedures to regional disputes:

"Nevertheless, the language of the Taft-Hartley Act still presents a barrier to relief of severe economic hardship when bargaining or local governmental efforts cannot suffice, merely because the direct impact of the emergency is geographically limited. . . . Even when direct ties cannot be shown, infliction of serious harm on any substantial part of the Nation is the concern and ultimately the loss, of all. While the first resort is, and will remain, action by communities, by State and by local governments, there will continue to be cases where only the Federal Government, with the overarching power and control, can achieve the needed results. Too often we have had to watch the havoc caused by regional transportation disputes that were beyond the reach of effective governmental action. Now that we are giving the Federal Government the tools, we must allow them to be used." 118 *Cong. Rec.* S1441 (daily ed., February 8, 1972).

[186] Cullen *supra* note *13* at 108.

[187] *See 1971 Hearings*, Statement of Hon. James Harvey, A Representative in Congress from the State of Michigan at 155.

APPENDIX A—COMPARISON OF MAJOR PROVISIONS OF LEGISLATIVE PROPOSALS INTRODUCED IN 92D CONGRESS FOR RESOLVING EMERGENCY LABOR DISPUTES

S. 560 AND H.R. 3596 (IDENTICAL H.R. BILLS 901, 3639, 4116, AND 5377)

Coverage

Transportation industries.

Standard to invoke provisions

Threatened or actual strike or lockout affecting an entire industry or a substantial part thereof . . . [engaged in interstate or foreign commerce] will, if permitted to occur or continue, imperil the national health or safety.

Provisions

Repeals emergency disputes, procedures of RLA, and brings disputes involving railroads and airlines under emergency provisions of LMRA.

Permits 1, but only one, of 3 new options following 80-day cooling-off period:

(1) 30-day extension of cooling-off period; (2) strike with partial operation up to 180 days; (3) final offer selection.

Miscellaneous

Administration proposal first introduced in 1970.

Identical bills in 91st Congress

S. 3526, H.R. 16226, H.R. 16272, H.R. 16273.

S. 832 AND H.R. 3595 (IDENTICAL H.R. BILLS 3985, 4620, 4996, 5870)

Coverage

Railroad Industry. Coverage of airlines open to question.

Standard to invoke provisions

Threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service.

Provisions

Amends Section 10 of RLA; Permits national strikes, selective strikes with partial operation; no restrictions on length of strike.

Miscellaneous

Supported by railroad unions and AFL–CIO.

Identical bills in 91st Congress

H.R. 19922.

S. 1093

Coverage

Railroad Industry.

Standard to invoke provisions

Same standard as S. 832 above.

Provisions

Amends Section 10 of RLA to permit individual rail carrier to revise or abolish work rules affecting operating employees, without collective bargaining if (1) cost savings shared equally by carrier and operating employees; and (2) any reduction in operating employees is accomplished by attrition.

Prohibits lockouts, strikes or work slowdowns because of dispute subject to provisions of this bill.

Miscellaneous

Identical bills in 91st Congress

S. 2060 AND H.R. 9989

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

If a dispute between a carrier and its or their employee is not adjusted under . . . [Amended provisions of Railway Labor Act]

Provisions

Upon failure of NMB to resolve dispute, Adhoc Transportation Panel shall recommend 1 of these: (1) take no further action; (2) appoint neutral board to make non-binding recommendations; (3) final and binding arbitration; (4) final-offer selection. Also includes several revisions of RLA not directly related to dispute settlement.

Miscellaneous

Proposal of Air Transpotration Ass'n; Ass'n of American Railroads; and Nat'l Railway Labor Conference.

S. 594

Coverage

Any industry affecting commerce.

Standard to invoke provisions

Threatened or actual strike or lockout which imperils the health or safety of the Nation, or a substantial part of the population or territory thereof.

Provisions

Abolishes emergency provisions of RLA and brings railroads and airlines under emergency provisions of LMRA. Permits several options to President such as fact-finding, partial operation, mediation to finality, arbitration, final offer selection, additional injunctive relief. Permits emergency boards to make recommendations.

Miscellaneous

This proposal is a "choice of procedures" approach in its broadest meaning.

Identical bills in 91st Congress

S. 1088 AND H.R. 2373 (IDENTICAL H.R. BILLS 2489, 5712, 6066)

Coverage

Industries substantially affecting commerce.

Standard to invoke provisions

Adverse effect on the nation's general welfare, health or safety.

Provisions

Provides for compulsory arbitration of national emergency disputes through establishment of a U.S. Court of Labor-Relations.

Miscellaneous

Identical bills in 91st Congress

H.R. 15956, H.R. 16632.

S. 1934

Coverage

Any industry affecting commerce.

Standard to invoke provisions

Affects an entire industry or substantial part thereof [engaged in interstate or foreign commerce] . . ., will, if permitted to continue, imperil the national health or safety.

Provisions

Repeals emergency provisions of LMRA and RLA. Provides for conciliation, mediation, and compulsory arbitration of national emergency labor disputes through establishment of seven member Management-Labor Com'n and Management-Labor Court Suspends NLRB proceedings in disputes over which Com'n has jurisdiction.

Miscellaneous

Modeled after Australian industrial relations system.

Identical bills in 91st Congress

H.R. 9245.

H.R. 2357

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

NMB reports to President if dispute threatens substantially to interrupt interstate or foreign commerce to a degree such as to deprive any section of the country of essential transportation service; but if President determines dispute immediately imperils the national defense health or safety he may bypass Emergency Brd. and cooling-off period and proceed under provisions listed below.

Provisions

Permits (1) Special Board-binding arbitration; (2) seizure of concerned carriers; (3) ad hoc Congressional remedy.

Miscellaneous

This "arsenal-of-weapons" approach is intended to create uncertainty and motivate good-faith bargaining, as in other "arsenal of weapons" approaches.

APPENDIX A—COMPARISON OF MAJOR PROVISIONS OF LEGISLATIVE PROPOSALS INTRODUCED IN 92ND CONGRESS FOR RESOLVING EMERGENCY LABOR DISPUTES—Continued

Identical bills in 91st Congress

H.R. 5347

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

Same standard as S. 832 above.

Provisions

Amendments to Section 10 of RLA. Provides for NMB to take secret ballot on carriers' last offer; strikes permitted with partial operation. President may direct carriers to transport any goods or personnel if necessary to protect the health, welfare, safety or public interest of the Nation.

Miscellaneous

S. 2583

Coverage

Any industry affecting Commerce.

Standard to invoke provisions

Imperil the health and safety of the Nation or a major portion thereof.

Provisions

Extends dispute settlement provisions of LMRA to strikes and lockouts under the above standard.

Miscellaneous

Present law applies if dispute will imperil the "national health or safety" of the Nation or a major region thereof.

S. 2959

Coverage

Industries affecting commerce, including rail and air.

Standard to invoke provisions

Imperils the health or safety of the Nation or a substantial part of its population or territory, or which deprive any section of the country of essential transportation services.

Provisions

Repeals emergency provisions of RLA. Brings railroads and airlines under Taft-Hartley emergency provisions. Such procedures are amended so that upon receiving the report from a board of inquiry, the Secretary of Labor has these new options at his disposal and 1 or more may be utilized:

(1) A cooling-off period not to exceed 30 days, (2) partial operation, provided that it not place a greater economic burden on any party than would total shutdown, (3) final offer selection, (4) an 80-day cooling-off period.

Miscellaneous

Permits employers to unilaterally make work rule changes, provided cost savings are shared with employees and any resultant reduction in work force is accomplished by attrition.

S. 2060 AND H.R. 9989

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

If a dispute between a carrier and its or their employee is not adjusted under . . . [Amended provisions of Railway Labor Act]

Identical bills in 91st Congress

H.R. 8446.

S. 2655 AND H.R. 9088 (ID. H.R. BILLS 9089, 9571, 9820, 10433, 10491, 10781, AND 11242

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

Threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service.

Provisions

Permits 3 new options: (1) selective strike, with partial operation; (2) 30-day cooling-off period; (3) final-offer selection. Selective strike option is to be chosen first unless President finds that the national health and safety would be immediately imperiled.

Miscellaneous

Has 73 sponsors from both parties. H.R. 9088 modifies earlier proposal H.R. 8385. Precedence given to selective strike apparently intended to appeal to union to obtain labor's consent to final offer selection procedure. A later version of H.R. 9088, H.R. 11281, adds provisions permitting and defining selective strikes after negotiations and federal mediation have failed, but before the 60-day cooling-off period under RLA procedures.

S. 3232

Coverage

Transportation industries.

Standard to invoke provisions

Threatened or actual strike or lockout affecting an entire industry or a substantial part thereof [engaged in interstate or foreign commerce] . . . will, if permitted to occur or to continue imperil the national health or safety or, when the strike or lockout is in [(1) railroads, (2) airlines, (3) maritime, (4) longshore, and (5) trucking industries] . . . imperil the health or safety of a substantial sector of the Nation.

Provisions

Repeals emergency disputes procedures of RLA, and brings disputes involving railroads and airlines under emergency provisions of LMRA. Permits President 3 new procedures:

(1) 15-day extension of "cooling-off period"; (2) strike with partial operation up to 180-days; (3) final offer selection. President may invoke any or all procedures upon the termination of previous procedure selected. However, once final offer selection is invoked, no other procedures can be selected.

Miscellaneous

Similar to Administration's bill (S. 560, H.R. 3596) except that (1) S. 3232 permits use of emergency dispute procedures in regional, as well as national transportation emergencies; and (2) S. 3232 permits President to make more than one procedure.

S. 3243

Coverage

Railroads and airlines.

Standard to invoke provisions

Disputes that imperil national health or safety; disputes that deprive any section of the country of essential transportation service.

Provisions

(1) Retains existing emergency provisions of RLA. Permits selective strikes within certain limits in any dispute. (2) Any settlement won by selective strike must be offered to those not struck. (3) President has option to seize where dispute imperils national health or safety or will deprive any section of country of essential transportation service to an extent beyond selective strike limits.

Miscellaneous

H.R. 2357

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

NMB reports to President if dispute threatens substantially to interrupt interstate or foreign commerce to a degree such as to deprive any section of the country of essential transportation service; but if President determines dispute immediately imperils the national defense health or safety he may bypass Emergency Brd. and cooling-off period and proceed under provisions listed below.

APPENDIX A—COMPARISON OF MAJOR PROVISIONS OF LEGISLATIVE PROPOSALS INTRODUCED IN 92ND CONGRESS FOR RESOLVING EMERGENCY LABOR DISPUTES—Continued

Provisions

Upon failure of NMB to resolve dispute, Adhoc Transportation Panel shall recommend 1 of these: (1) take no further action; (2) appoint neutral board to make non-binding recommendations; (3) final and binding arbitration; (4) final-offer selection. Also includes several revisions of RLA not directly related to dispute settlement.

Miscellaneous

Proposal of Air Transportation Ass'n; Ass'n of American Railroads; and Nat'l Railway Labor Conference.

Identical bills in 91st Congress

H.R. 5347

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

Same standard as S. 832 above.

Provisions

Amendments to Section 10 of RLA. Provides for NMB to take secret ballot on carriers' last offer; strikes permitted with partial operation. President may direct carriers to transport any goods or personnel if necessary to protect the health, welfare, safety or public interest of the Nation.

Miscellaneous

S. 2369

Coverage

Industries covered by Taft-Hartley Act.

Standard to invoke provisions

Imperils national health or safety.

Provisions

Provides that injunction issued under sec. 208 of Taft-Hartley be dissolved only upon the settlement of the dispute.

Provisions

Permits (1) Special Board-binding arbitration; (2) seizure of concerned carriers; (3) ad hoc Congressional remedy.

Miscellaneous

This "arsenal-of-weapons" approach is intended to create uncertainty and motivate good-faith bargaining, as in other "arsenal of weapons" approaches.

Identical bills in 91st Congress

H.R. 8446.

S. 2655 AND H.R. 9038 (IDENTICAL H.R. BILLS 9089, 9571, 9820, 10433, 10491, 10781, AND 11242)

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

Threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service.

Provisions

Permits 3 new options: (1) selective strike, with partial operation; (2) 30-day cooling-off period; (3) final-offer selection. Selective strike option is to be chosen first unless President finds that the national health and safety would be immediately imperiled.

Miscellaneous

Has 73 sponsors from both parties. H.R. 9088 modifies earlier proposal H.R. 8385. Precedence given to selective strike apparently intended to appeal to unions to obtain labor's consent to final offer selection procedure. A later version of H.R. 9088, H.R. 11281, adds provisions permitting and defining selective strikes after negotiations and federal mediation have failed, but before the 60-day cooling-off period under RLA procedures.

S. 2583

Coverage

Industries covered by Taft-Hartley Act.

Standard to invoke provisions

Imperils health or safety of Nation or a major region thereof.

Provisions

Extends present dispute settlement provisions of Taft-Hartley to strikes and lockouts that imperil health or safety of a major region of the country.

H.R. 12702

Coverage

Industries subject to RLA and Taft-Hartley Act.

Standard to invoke provisions

Title I of bill: Disputes that imperil national health or safety; disputes that deprive any section of the country of essential transportation service.

Title II of bill: Disputes that imperil national health or safety or a substantial part of its population or territory, or deprive any section of the country of essential transportation services.

Provisions

Title I of this bill amends RLA and contains identical provisions of H.R. 11281, above. Title II of this bill amends Sections 206–210 of Taft-Hartley Act and authorizes President to appoint Board of Inquiry to investigate and report on dispute.

Emergency Procedures: (1) 30-day extension of cooling-off period; (2) partial operation; and (3) final offer selection.

Miscellaneous

This bill is one of several introduced by Mr. Harvey, (R. Mich.). H.R. 12702 is essentially a combination of H.R. 11281 (which amends the RLA) and amendments of the Taft-Hartley Act which provide for emergency procedures similar to the Administration's bill, S. 560.

H.R. 11281

Coverage

Railroads and airlines.

Standard to invoke provisions

Disputes that imperil national health or safety; disputes that deprive any section of the country of essential transportation service.

Provisions

Selective strikes: When RLA mediation efforts fail, employees may strike selectively, but President may require partial operation to extent that services cannot be provided by other means, and their termination would imperil national health or safety. Any agreement won by selective strike must be offered to those not struck.

Emergency procedures: If dispute threatens to deprive any section of country of essential transportation service, President may invoke emergency proceedings, terminating all strikes for 60 days. At end of 60-day period, President would have following options to be used in any sequence: (a) an additional cooling-off period of not more than 30 days, (b) a selective strike subject to the limitations specified in the bill, (c) final offer selection.

Miscellaneous

This bill is one of several introduced by Mr. Harvey (R. Mich.). H.R. 11281 is a later version of H.R. 9088, and adds provisions permitting and defining selective strikes after negotiations and Federal mediation have failed but before the 60-day cooling-off period under RLA procedures.

ABA PROPOSAL

Coverage

Transportation industries.

Standard to invoke provisions

Dual standard procedure 1) RLA standard as initial jurisdictional test before invoking procedure—i.e. thereafter substantially to interrupt interstate commerce to such a degree as to deprive any section of the country of essential transportation service; 2) LMRA standard as more stringent test before invoking any procedure severely curtailing right to strike or lockout—i.e. threatened or actual strike or lockout affecting an entire industry or a substantial part thereof . . . will, if permitted to occur or continue, imperil the national health or safety. . . .

Provisions

RLA implementing statute leaves LMRA emergency procedures in effect for all other industries. After 60-day status quo period, President chooses 1 of 4 new options:

(1) meditation board make public recommendations for settlement;

(2) binding arbitration;

(3) executive receivership to operate industry;

(4) no further action.

Creates industry commissions comprised of labor and management representatives with the authority to implement its own changes in its bargaining procedures within 8 month period before the above emergency dispute provisions would apply to that industry.

Miscellaneous

Approved by ABA House of Delegates, August 1970.

APPENDIX B

RAILWAY LABOR ACT, SECTION 10

SEC. 16. If a dispute between a carrier and its employees be not adjusted under the foregoing provisions of this chapter and should, in the judgment of the Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service, the Mediation Board shall notify the President, who may

thereupon, in his discretion, create a board to investigate and report respecting such dispute. Such board shall be composed of such number of persons as to the President may seem desirable: *Provided, however,* That no member appointed shall be pecuniarily or otherwise interested in any organization of employees or any carrier. The compensation of the members of any such board shall be fined by the President. Such board shall be created separately in each instance and it shall investigate promptly the facts as to the dispute and make a report thereon to the President within thirty days from the date of its creation.

There is hereby authorized to be appropriated such sums as may be necessary for the expenses of such board, including the compensation and the necessary traveling expenses and expenses actually incurred for subsistence, of the members of the board. All expenditures of the board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman.

After the creation of such board and for thirty days after such board has made its report to the President, no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose. [May 20, 1926, c. 347, § 10, 44 Stat. 586; June 21, 1934, c. 691, § 7, 48 Stat. 1197; 45 U.S. Code, Sec. 160.]

APPENDIX C

LABOR MANAGEMENT RELATIONS ACT, 1947, AS AMENDED BY PUBLIC LAW 86–257, 1959

NATIONAL EMERGENCIES

Sec. 206. Whenever in the opinion of the President of the United States, a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public.

Sec. 207. (a) A board of inquiry shall be composed of a chairman and such other members as the President shall determine, and shall have power to sit and act in any place within the United States and to conduct such hearings whether in public or in private, as it may deem necessary or proper, to ascertain the facts with respect to the causes and circumstances of the dispute.

(b) Members of a board of inquiry shall receive compensation at the rate of $50 for each day actually spent by them in the work of the board, together with necessary travel and subsistence expenses.

(c) For the purpose of any hearing or inquiry conducted by any board appointed under this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C. 19, title 15, secs. 49 and 50, as amended), are hereby made applicable to the powers and duties of such board.

Sec. 208. (a) Upon receiving a report from a board of inquiry, the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof, and if the court finds that such threatened or actual strike or lockout—

(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce; and

(ii) if permitted to occur or to continue will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate.

(b) In any case, the provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," shall not be applicable.

(c) The order or orders of the court shall be subject to review by the appropriate circuit court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 29, secs. 346 and 347).

Sec. 209. (a) Whenever a district court has issued an order under section 208 enjoining acts or practices which imperil or threaten to imperil the national health or safety, it shall be the duty of the parties to the labor dispute giving rise to such order to make every effort to adjust and settle their differences, with the assistance of the Service created by this Act. Neither party shall be under any duty to accept, in whole or in part, any proposal of settlement made by the Service.

(b) Upon the issuance of such order, the President shall reconvene the board of inquiry which has previously reported with respect to the dispute. At the end of a 60-day period (unless the dispute has been settled by that time), the board of inquiry shall report to the President the current position of the parties and the efforts which have been made for settlement and shall include a statement by each party of its position and a statement of the employer's "last offer" of settlement. The President shall make such report available to the public. The National Labor Relations Board, within the succeeding 15 days, shall take a secret ballot of the employees of each employer involved in the dispute on the question of whether they wish to accept the final offer of settlement made by their employer as stated by him and shall certify the results thereof to the Attorney General within 5 days thereafter.

Sec. 210. Upon the certification of the results of such ballot or upon a settlement being reached, whichever happens sooner, the Attorney General shall move the court to discharge the injunction, which motion shall then be granted and the injunction discharged. When such motion is granted, the President shall submit to the Congress a full and comprehensive report of the proceedings, including the findings of the board of inquiry and the ballot taken by the National Labor Relations Board, together with such recommendations as he may see fit to make for consideration and appropriate action.

Labor Management Relations Act, 1947 (61 Stat. 136), as amended by the Labor-Management Reporting and Disclosure Act, 1959 (73 Stat. 519), 29 U.S.C. 141–88, Title II.

APPENDIX D

TABLE 1.—STRIKES AND SETTLEMENTS IN NATIONAL EMERGENCY DISPUTES, 1947–68

Strikes and settlements	Number of disputes	Number of workers[1]
Total	29	2,076,100
Settlements without strike	5	344,800
Settlements after strike	24	1,731,300
Within 80-day injunction period	13	1,316,600
After 80-day injunction:		
Without strike	3	15,700
After strike	[2] 7	316,000
No injunction issued	1	83,000
Strike occurred	24	1,731,300
Before 80-day injunction	16	1,332,300
After 80-day injunction	[2] 2	73,000
Before and after 80-day injunction	5	243,000
No injunction issued	1	83,000

[1] The number of workers refers to those in the bargaining unit or to those directly involved in the strike.

[2] 1 stoppage involved 6 maritime unions and the International Longshoremen's and Warehousemen's Union on the Atlantic, Gulf, and Pacific Coasts, and the Great Lakes. Settlements were reached for the Atlantic and Gulf Coasts and the Great Lakes during or immediately after the injunction period. The ILWU and several maritime unions struck on the Pacific Coast after the injunction had expired

TABLE 2.—NATIONAL EMERGENCY DISPUTES BY INDUSTRY, 1947–68

Industry	Number of disputes	Number of strikes[1]	Vote on employer's final offer		
			Number	Accepted	Rejected
Total	29	24	15	0	12
Stevedoring	7	7	5	0	5
Aircraft-aerospace	5	4	[2] 2	0	1
Atomic energy	4	2	3	0	3
Bituminous coal mining	3	2			
Maritime	3	3	[3] 3	0	1
Nonferrous smelting	2	2	1	0	1
Meatpacking	1	1			
Fabricated metals	1	1			
Basic steel	1	1	1	0	1
Shipbuilding	1	1			
Telephones	1	0			

[1] Stoppages halted by an injunction and resumed after the injunction expired are counted as 1 strike.

[2] In 1 situation, vote was held, but results were not officially announced.

[3] In 1 election, the ballot was boycotted by 1 union and not completed by the other unions before the injunction was dissolved. In the 2d election, ballots were mailed, but the results were not certified because settlement was reached before the end of the voting period.

APPENDIX D

HIGHLIGHTS OF NATIONAL EMERGENCY DISPUTES, 1947–68

Industry and date of dispute[1]	Strike status: Number of workers involved[2]	Strike status: Approximate calendar duration (days)	Strike status: In progress before injunction	Strike status: Halted by injunction	Settlement reached: Without injunction	Settlement reached: With injunction: Within 80-day cooling-off period	Settlement reached: With injunction: After 80-day cooling-off period: Without strike	Settlement reached: With injunction: After 80-day cooling-off period: After strike	Last offer ballot
Bituminous coal mining:									
Mar. 15–Apr. 12, 1948	320,000	41	×	[3]		×			None.
June 19–24, 1948		No strike			×				Do.
Sept. 19, 1949–Mar. 5, 1950	337,000	116	×	[4]		×			Do.
Meatpacking: Mar. 15–June 5, 1948	83,000	82	No injunction		×				Do.
Atomic energy:									
Mar. 5–June 15, 1948		No strike					×		Rejected.
July 6–Nov. 7, 1954	4,500	4	[5] ×	[5] ×			×		Do.
July 6–Aug. 18, 1954		No strike			×				None.
May 10–Aug. 5, 1957	1,500	6	×	×			×		Rejected.
Basic steel: July 15, 1959–Jan. 28, 1960	519,000	116	×	×		[6] ×			Rejected.[7]
Nonferrous smelting:									
Aug. 27–Nov. 5, 1951	40,000	12	×	×		×			Do.[8]
Sept. 30, 1966–Feb. 3, 1967	2,000	83	×	×		×			None.
Fabricated metal products: Aug. 29, 1952–Feb. 20, 1953	1,600	106	×	×		×			Do.
Aircraft-aerospace:									
Apr. 2–Aug. 12, 1962	8,800	76	×	×		×			Do.
Nov. 28, 1962–Jan. 27, 1963	20,000	2	[9] ×	[9] ×		×			Do.
Jan. 23–May 10, 1963		No strike					×		[10].
Oct. 17–Dec. 11. 1966	6,100	2	×	×		×			None.
Apr. 15–July 3, 1967	2,400	1	×	×		×			Rejected.
Shipbuilding: Nov. 4, 1966–July 18, 1967	9,700	130	×	×			[11] ×		[11].
Maritime:									
June 3–Nov. 25, 1948	[12] 28,000	95				[13]	[14]	[15] ×	[16].
June 16–Sept 21, 1961 [17]	2,700	32	×	[18] ×		[19] ×		[19]	Rejected.[20]
Mar. 16–July 16, 1962 [21]	5,000	27	×	×		×			[22].
Stevedoring:									
Aug. 17–Nov. 28, 1948	45,000	18						×	Rejected.
Oct. 1, 1953–Dec. 31, 1954	30,000	34	×	×				×	None.
Nov. 16, 1956–Feb. 22, 1957	60,000	20	×	×				×	Rejected.[23]
Oct.–Dec. 26, 1959	52,000	8	×	×		×			Do
Oct. 1, 1962–Jan. 26, 1963	50,000	39	×	×				×	Do.
Sept. 30, 1964–Mar. 13, 1965	53,000	62	×	×				×	None.
Sept. 30, 1968–Feb. 25, 1969	[24] 50,000	70	×	×				×	Rejected.
Telephones: May 18–June 4, 1948		No strike			×				

[1] Defined as from the beginning of a strike or the appointment of a Board of Inquiry to date of settlement.
[2] Refers to those in a bargaining unit or to those directly involved in the strike.
[3] Strikers returned to work about 3 weeks after a temporary restraining order was issued.
[4] Injunction issued. In contempt proceedings, the union was found not guilty of ordering continuation of the strike.
[5] Strike halted voluntarily before injunction was issued.
[6] 1 large and a number of minor producers reached agreement after the injunction was dissolved.
[7] Rejected by employees of 4 small companies.
[8] 1 major producer settled before the injunction was issued, and the other major producers settled within the injunction period. The last offer ballot was held in plants of 8 companies.
[9] Strike halted, on request of mediators, before injunction was issued.
[10] NLRB election held, but results not officially announced.
[11] Some issues were settled before and during the injunction period. Parties agreed to (1) submit unresolved issues to Board of Inquiry, (2) extend no-strike period beyond injunction period, and (3) request NLRB supervised last-offer before reactivating strike. Settlement, reached after injunction period without strike, ratified in NLRB ballot.
[12] Dispute involved the ILWU on the Pacific Coast and 6 maritime unions on the Atlantic, Gulf, and Pacific Coasts, and the Great Lakes. A strike occurred only on the Pacific Coast after the injunction was dissolved.
[13] On the Atlantic and Gulf Coasts.
[14] On the Great Lakes after the injunction was dissolved.
[15] On the Pacific Coast.
[16] Ballot was boycotted by the ILWU and not completed for off-shore union before the injunction was dissolved.
[17] Involved 7 maritime unions on the Atlantic, Gulf, and Pacific Coasts.
[18] Settlements with a number of the unions were concluded before the injunction was issued.
[19] 6 of the 7 unions had settled before the expiration of the injunction period; 1, on the Pacific Coast, settled later after a strike.
[20] By 1 union.
[21] Involved 3 divisions of 1 union on the Pacific Coast and Hawaii.
[22] Ballot mailed but results not certified because settlement was reached before end of voting period.
[23] Last offer rejected in West Gulf Coast Ports.
[24] Most ports had settled by March 1969. Still on strike at this time were Boston, Jacksonville, Fla., Baton Rouge, La., and West Gulf Coast Ports.

Source: U.S. Department of Labor. Bureau of Labor Statistics. "National Emergency Disputes, Labor Management Relations (Taft-Hartley) Act 1947–68." Washington, D.C., 1969. BLS Bulletin No. 1633.

APPENDIX E.—COMPARISON OF RAILROAD LABOR LAWS

	Act of 1888	Erdman Act (1898)	Newlands Act (1913)	Transportation Act (1920)	Railway Labor Act (1926 as amended in 1934)
Provisions outlawing blacklisting, yellow-dog contracts, and antiunion discrimination	No	No [1]	No	No	Yes.
Enforceable duty to bargain	No	No	No	No [2]	Yes.
Noninterference with choice of bargaining representative	No	No	No	No	Yes.
Designation of bargaining representative	No	No	No	No	Yes.
Determination of bargaining unit	Np	No	No	No	Yes.
Mediation	No	Yes	Yes	No [3]	Yes.
Compulsory factfinding	Yes	No	No	Yes	Yes.
Status quo periods	No	Limited	No	No	Yes.
Enforcement of bargaining agreements: grievance arbitration	No	No	No	Nonenforceable determinations.	Yes.
Arbitration of terms of new contracts	Voluntary	Voluntary	Voluntary	do	Voluntary.

[1] Provisions outlawing blacklists and yellow-dog contracts were held unconstitutional in Adair v. United States, 208 U.S. 161 (1908).
[2] See Pennsylvania R.R. v. United States Railroad Labor Board, 261 U.S. 72 (1923).
[3] The Board of Mediation and Conciliation established under the Newlands Act was still in existence.

Source: A. Wisehart, "Transportation Strike Control Legislation: A Congressional Challenge," 66 Mich. L. Rev. 1967, 1702, n. 29 (1968).

MAINTENANCE OF FEDERAL-AID HIGHWAYS

(Mr. HEINZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HEINZ. Mr. Speaker, one of the major costs to local communities, counties, and States comes from the maintenance of roads. Although the construction of roads is an age-old process, we in this automobile-oriented Nation still have much to learn in the way of constructing roads suited to the varying climatic conditions, topography, and terrain, in this vast Nation.

As a Member of Congress who represents part of the Pittsburgh area—sometimes known as the pothole capital of America—I am today introducing legislation to provide for a 2-year, $20 million

demonstration project in maintaining Federal-aid highways, other than interstate, by the most feasible and economical methods.

I want to make it clear at the outset that this is a project to aid States in reorganizing their methods of road maintenance and construction so that they can economize on their road costs. What the project can accomplish is to provide communication between Federal authorities who have the know-how with respect to roads and State commissions which have the manpower.

To strengthen my case on the need for this legislation, I point to the recent suggestion of the National Academy of Engineers which stated that instead of continuing a losing race to eliminate traffic jams, the Nation must find ways to build urban transportation systems that will create more livable cities. By the start of the 21st century transportation will require about one-fourth of the Nation's badly strained sources of energy.

We have begun to move in the direction of developing alternate modes of transportation, and I support giving more attention to mass transit systems. However, since highways are the backbone of the Nation's transportation system they need to be constantly improved. Our highways carry about 90 percent of the people and more than 20 percent of the freight that moves between cities and an even higher percentage of that which moves inside cities. And despite the increasing Federal interest in railroads and other transportation systems, we will continue to rely heavily on our highways for the near future.

Many highway defects pose an undesirable potential threat or hazard to the unwary motorist. Pavement deficiencies, including slippery surfaces, potholes, pavement dropoffs, low shoulders, poor drainage and trapped water, blind intersections, and improper pavement marking are problems that are shared by every State in the United States today.

Testifying before a House subcommittee last month, representatives of those concerned with building highways detailed both what they think the country needs to spend and what they think the Federal Government ought to do about it. The needs, as they see them, were summed up by James O. Granum, an officer of the Highway Users Federation for Safety and Mobility, this way:

> The grand total 20-year (1970–1990) needs cost for all 3.9 million miles of roads and streets of the nation is about $600 billion to cover improvements required to meet conservatively estimated traffic growth and physical deterioration to 1990, as well as catch up with a large backlog of currently poor and unsafe facilities. $260 billion is needed just for that existing backlog alone . . . The costs would buy, at 1969 prices, all those things essential to develop, from what we have now, into modern and safe highways, roads and streets, consistent with traffic needs and other factors. But no maintenance or administrative cost are included. While these estimates are understandably on the high side they give some indication of the potential scale of the problem we face.

Last year the Federal Government spent $4.5 billion on highway improvements and $107 million on traffic and highway safety, but none of it was used for the maintenance of roads or to provide information to the States on how to best maintain their roads.

The lack of proper repair of our Nation's deteriorating and neglected highway system is costing our States millions of dollars each year and consequently destroying their tax base.

The Pennsylvania Statistical Abstract reports that in 1969 alone non-Federal governmental units spent a total of $4,496,149,000, which breaks down as follows:

Amount and type of road	
County and township	$1,391,828,000
State	23,806,000
Municipalities	1,136,019,000
State	15,677,000
State	1,928,819,000

At a time when the Federal Government is assisting the States in completing the Interstate System and other major highways, the proper maintenance of primary and secondary roads has not received the attention it deserves.

After a careful study of the problems of road maintenance and consultation with various highway officials and engineers, I have come to the conclusion that often pavements deteriorate because maintenance crews do not recognize the beginning signs of pavement stress soon enough. And in many cases, when it is discovered the State highway departments do not know the proper procedure for road repair because most suffer from a lack of properly trained personnel.

If this trend in highway maintenance continues, the States may very well be seeking Federal funds for the reconstruction of the roads that they failed to properly maintain.

At the present time there are an estimated 200,000 miles of obsolete primary highways in the United States, and thousands of miles more that are on the verge of becoming obsolete, causing hazardous driving conditions for the over 108 million registered vehicles in the United States.

It seems to me that the States need some guidance in the field of road maintenance. The bill I introduce today will provide the type of guidance the States need at a minimum cost to the taxpayers. It seems to me that the only solution to this growing problem is for the Federal Government to go to the field and find out just what needs to be done for the benefit of Federal, State, and local governments.

This legislation would create 10 project demonstration sites across the country for the purpose of demonstrating different maintenance techniques for all the States. The sites selected will be determined by choosing those States that will provide various classes of highways, types of pavements, bases, and subbases, and those with different terrain, topography, and climatic conditions. One county will be selected in each of the 10 States chosen for this project. The roads used for the demonstration will be limited to 50 lane miles of Federal-aid roads in each State excluding the Interstate System. It is estimated that such a project would cost at least $20,000 per lane mile.

Standards for the project will be set by the Secretary of Transportation, which will include but not be limited to the periodic inspections by the Secretary, test control sites for comparisons, and appropriate recordkeeping requirements.

This demonstration project will provide to the States the most recent information on the best and most economically feasible techniques for maintaining our Nation's highways.

It occurs to me that if we can afford to spend so much money on highway construction, we should at least see to it that our State highway departments get the best possible information on road maintenance. It is this type of demonstration project that can best provide data on the problems and solutions for road maintenance. It is the only course the Federal Government can afford to take. Once the program is complete, the States must be self-sufficient enough to maintain their own roads.

With almost 272,000 deaths caused by accidents on our Nation's highways in the past 5 years, there should be no further proof required to show that our highway safety must be improved and we begin by improving construction and maintenance.

SUCCESS STORY OF THE NATIONAL PUBLIC RADIO NETWORK

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, I wish to call to the attention of our colleagues the success story of the National Public Radio Network.

May 3 marked the first anniversary of the National Public Radio network, the first and only noncommercial national radio network broadcasting over 130 stations serving 42 States, the territory of Puerto Rico, and the District of Columbia.

The creators of this noncommercial network were convinced that radio can act as more than the simple "companion" it has been in the past. In the 1 year that the network has existed, NPR has demonstrated how radio can be used in a totally unique and distinctive manner to provide the public with meaningful, varied, and informative programing. It has proven itself time and time again to be a valuable news and information source.

A truly unique public service provided by National Public Radio has been its live coverage of almost 100 hours of hearings held by the U.S. Senate and the House of Representatives.

Before NPR was officially on the air, it was broadcasting live the Senate Foreign Relations Committee hearings on Vietnam, and continued with such hearings as the Senate hearings on China, nutrition, amnesty, and drugs; and the House freedom of information hearings, the Black Caucus hearings, and most recently, the House Committee on Interior and Insular Affairs hearings on the American energy crisis. These hearings, covered by Jeff Rosenberg, were intended to inform the Congress and the public of the dimensions of the energy crisis and the alternatives to further crisis over the next 15 years.

NPR extended its live coverage of

hearings to include hearings held by various Government organizations, including the FCC fairness doctrine hearings. Robert Lewis Shayon, columnist for the Saturday Review, wrote in the April 20, 1972, issue:

The public interest, some recent appeals court decisions have held, is not fully served unless partisan voices have a right to initiate controversy on the air in their own words, pictures, styles, and accents. That is what the Fairness Doctrine panel discussions were all about, and, predictably, they were carried only by National Public Radio. It was a monumental service.

Financed by the Corporation for Public Broadcasting, established by the Congress in 1967 to promote the development of noncommercial radio and television, NPR began broadcasting 1 year ago today with the premier of "All Things Considered."

"All Things Considered" is National Public Radio's 90-minute weeknight public affairs and news program. It does more than report the news headlines; its indepth approach to news gathering makes it a valuable supplement to the accounts in the morning paper or the noon headline news.

As one radio columnist commented shortly after its premier:

The program is recommended for the working newsmen, for the broadcast journalism student, and for persons with news interest enough to subscribe to Time, Newsweek and U.S. News and World Report.

Another critic comments:

"All Things Considered" tries to give a balanced presentation through interviews and comment by specialists in the field, and has some of the best investigative reporting on radio today.

NPR balances the presentations on "All Things Considered" with a unique concept in broadcasting: a two-way network. Not only does the network supply the stations with "All Things Considered" and the rest of its programing, but the stations in turn submit reports for broadcast on "All Things Considered," thereby providing the rest of the country an accurate picture of how the world looks to people in, for example, Ames, Iowa, or Seattle, Wash.

Reports from member stations are supplemented with such national news sources as the Christian Science Monitor, Associated Press and Reuters News Service; and reports from such international sources as the Canadian Broadcasting Corp., the British Broadcasting Corp., Radio Nederland, and Agence France Presse.

The program segments aired on "All Things Considered" have included exclusive reports on the members of the first delegation to the United Nations from the People's Republic of China, the Minuteman ICBM missile system, consumerism and the environment, America's prison system, and health insurance.

The network has provided such special broadcasts as live coverage of all the President's addresses to the Nation, live coverage of the United Nations debate on admission of the People's Republic of China, the annual meeting of the American Association for the Advancement of Science in Philadelphia, live coverage of the last two annual draft lotteries, and speeches by members of the President's Cabinet. Comprehensive coverage of the flights of Apollo 15 and 16 has also been an important part of NPR programing.

Lecture series from the Institute of World Affairs at the University of Wisconsin-Milwaukee, the Ford Hall Forum in Boston, concerts, recitals, and programs from Europe and Canada, have been part of NPR's first year of programs; regular programs broadcast by the network in addition to "All Things Considered" include live broadcasts of more than 60 of the "National Press Club Luncheons" here in Washington, and "Firing Line," William F. Buckley's award-winning interview program featuring discussions ranging from the conflict in Northern Ireland to black economic power here in the United States.

"To All Concerned" has been another NPR public affairs program, featuring exchanges of opinion between experts in the Washington studios and the studios of local member stations on such issues and community concerns as garbage collection, year-round schooling, traffic safety, and civil defense. Produced in cooperation with the National Association of Counties, this program has helped listeners familiarize themselves with the issues and solutions to problems confronting them and other communities around the country.

NPR also offers more than 200 noncommercial stations around the country extensive programs from its scheduled tape service, making available such programs as concerts, lectures, interviews with public figures, radio dramas, and duplicates of programs already broadcast over the NPR network.

Since its first day of broadcast, NPR has opened regional offices in San Francisco and Atlanta, and a bureau in New York City. The number of stations broadcasting NPR programs has grown from 90 to 130.

In a joint experiment with the National Aeronautics and Space Administration, NPR has been broadcasting "All Things Considered" via the ATS–1 communications satellite to member station KUAC–FM in College, Alaska.

With an inventive spirit, combined with the philosophy of its conception, and with its unique approach to broadcasting and networking, NPR has shown that the radio medium can be transformed into a superior public servant.

As NPR President Donald Quayle has said:

National Public Radio's commitment is to provide excellence and diversity to noncommerical radio broadcasting, nationwide. Two years ago there was not one national organization charged with the responsibility for production, acquisition and distribution of high-quality radio programming for this country's public radio stations—now there is.

The pioneering exhibited the last year by the National Public Radio network has required flexibility and excellence. And with the precedents that NPR has already established, this noncommercial network is fulfilling its obligations to the public with ingenuity and enthusiasm.

THE FOOD LABELING INFORMATION ACT OF 1972

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today, I am introducing a bill which would provide American consumers with the most comprehensive and up-to-date information about the food they are buying. The Food Labeling Information Act of 1972 would provide consumers with information about nutrition, quality, ingredients, perishability, potential hazards, unit pricing, and name of manufacturer.

Recent experiments in improved food labeling by a number of consumer oriented food firms have made the terms "nutritional labeling," "percentage ingredient labeling," unit pricing" and "open dating," important parts of food shoppers' vocabulary. The innovations have had salutary effects for consumers and merchants alike. From the buyers' point of view, the advantages are clear—more information on ingredients, nutrition, price and so forth means a greater capacity to select the most nutritious, least expensive food. From the sellers' point of view, the information has enabled some companies to cut pricing errors, reduce spoilage and waste, and create a new competition based on quality and service, rather than just price.

Despite these advantages, the practice of expanding consumer information is not universal. This is most unfortunate because, above all, the consumers have a right to know what they are buying. The lack of knowledge was emphasized recently before a Senate Committee investigating this subject when Robert Choate, consumer advocate known for his attacks on nutritionless breakfast foods, disclosed that in some instances, consumers are paying as much as 3,000 percent of the manufacturer's cost for vitamin fortification and that many products on the market are composed chiefly of water.

Several weeks ago, the Food and Drug Administration announced plans to institute, on a wide scale, a nutritional labeling campaign. Its decision follows the success of a number of experiments in this area. While the FDA's action is commendable, the proposed program would not be mandatory, but would be open to firms on a voluntary basis only. The FDA has already ruled that it lacks the legal authority to require nutritional labeling by food companies.

The legislation I am introducing today, Mr. Speaker, would overturn that FDA opinion and establish a clear legislative mandate requiring nutritional labeling and other information programs. Under this legislation, consumers would have the right to know:

First, nutritional value. What good is food if it serves no nutritional value? Too often consumers are led to believe that they are buying nutritious foods when, in fact, they are not. As thousands of Americans are malnourished or undernourished, nutritional labeling is one of the most urgently needed consumer programs. Further, as many manufacturers claim their products have such desirable effects as "body-building," "energy-packed," et cetera, nutritional labeling would require them to establish their claim convincingly. Specifically, my bill would require the listing of the vitamins, minerals, calories, fats, and carbohy-

drates contained in the food. Combined with conscientious meal planning by the consumer, this information would enable millions of Americans to improve their diet immediately.

Second, quality. The present system of grading food is haphazard and confusing. Sometimes a consumer buys a grade A product, only to learn that it is actually second quality. To remedy this, my proposal would establish a uniform system of grading foods from "A to E" and "substandard." Products already graded by the Department of Agriculture would be exempt.

Third, percentage of every ingredient. Consumers should know exactly what is in the food they buy and the percentage of each ingredient. Some people must avoid certain additives or ingredients, others need this information to balance their diets, and, of course, everyone wants to know what they are paying for and eating. This bill would require not only the listing of every ingredient, but a disclosure of what percentage each ingredient comprises of the total. Thus, when manufacturers try to peddle a product composed mainly of water or sugar, consumers would know it. Also, with greater knowledge about ingredients, certain producers might find it harder to charge inflated food prices.

Fourth, effects of aging on products which can spoil and a "pull date." A complex code system has been devised which appears on can lids and elsewhere to reveal the freshness of products. But consumers find the numbers confusing and of little help. Even retailers have trouble decoding the system and, as a result, many food products spoil unnecessarily. My proposal would require "perishability information" disclosing the effects of aging and the risk of spoilage, and a "pull date" after which the product could not be sold. Experience has shown that this information would save consumers and merchants money in the buying and marketing food.

Fifth, harmful effects of ingredients. Many persons cannot eat certain food additives and ingredients for allergic, dietetic, or other health reasons. Others may wish to avoid foods with known side effects. Presently, there is no affirmative obligation on the producer to warn the consumer about harmful effects. However, the burden should be on the manufacturer to release information on known harmful effects. My proposal would provide just that.

Sixth, unit price. When food products are sold in packages of various shapes and sizes, consumers find it difficult to pinpoint the best bargains. Unit pricing, however, successfully enables consumers to select the most economically priced and sized products. My proposal would require that the unit price appear conspicuously along with the total retail price of the food item.

Seventh, identity of the manufacturer. Last November, I introduced legislation—H.R. 11583—to require the name of the manufacturer to appear on all can labels. This legislation was proposed after I learned that products made by the Bon Vivant Co., which had been improperly prepared and which contained a deadly botulism infection, were sold under various brand names and consumers had no way to associate the final product with Bon Vivant. Identifying the manufacturer would protect the consumers by enabling them to avoid products known to be contaminated. In the Food Labeling Information Act, I have improved that legislation by requiring a code to identify the site of the plant where the product was made. This would facilitate recall of tainted foods and offer even greater protection for the consumer. Incidentally, my original proposal, which was cosponsored by 35 Members of the House, had been endorsed by Consumer Union, the nonprofit consumer watchdog association. The text of their letter on this subject appears below.

Many of the concepts embodied in the bill I am introducing today have long been sought by concerned consumer organizations. For example, last December, the Community Nutrition Institute of Washington, D.C., and the Center for Consumer Affairs of the University of Wisconsin, held a conference on food labeling and concluded their deliberations by endorsing open dating, unit pricing, nutrient labeling and ingredient labeling. The text of their policy statement appears below.

Further, the Consumer Alliance of Palo Alto, Calif., has promulgated the "Declaration of Consumer Rights," which includes many rights embodied in my legislation. The text of the declaration also appears hereafter.

In the early sixties, President John Kennedy set as a goal the recognition of the "consumer's right to know." Despite notable efforts in the past years to expand shopper information, consumers still do not know much about what they are buying. With food buyers properly concerned about the quality and cost of food, there is an urgent need to insure that complete information is readily available to the consumer when he is in his grocery store. The Food Labeling Information Act would provide consumers with the essential information they have a right to, and without which they cannot make sensible choices in providing their family with the most wholesome and nutritious meals for the least possible cost.

The articles follow:

CONSUMERS UNION,
December 29, 1971.

Mr. ARNOLD P. LUTZKER,
Legislative Assistant, care of Representative Jonathan Bingham, Congress of the United States, House of Representatives, Washington, D.C.

DEAR MR. LUTZKER: Colston Warne, our president, asked me to respond to your inquiry about Consumers Union's views on H.R. 11583, amending the Fair Packaging and Labeling Act. It is my pleasure to do so.

Consumers Union has long taken the position that, as a matter of principle, buyers should be able to identify the manufacturer of products. We recently expressed ourselves on this matter in a communication to the Federal Trade Commission, which was and I believe still is considering the making public of the registration numbers of manufacturers of textile products so that the public may identify the manufacturers. Copies of the correspondence are enclosed.

In line with this position, we would favor a requirement such as that proposed in H.R. 11583.

As to the effects of such a proposal on pricing and competition, Consumers Union is not an authority on such matters. We have of course, observed the phenomenon of both low-priced and high-priced house brands and private-label brands in the course of testing foods and other products. There is no predictable relationship between price and quality, we have found.

It is fairly evident that the consumer, confronted with a national brand soup and a private-label soup revealed to have been packed by the brand-name manufacturer, could not be sure the two were identical in quality.

As I am sure you are aware, the Borden case beore the FTC and later the Supreme Court explored the question of price and marketing of a private label product to greater depth than any other public investigation. Brought under the Robinson-Patman Act, the Borden case involved alleged price discrimination in the wholesaling of Borden's canned evaporated milk. Borden argued that its brand name lent added value and therefore real superiority to the very same milk sold under a supermarket label. (FTC was arguing that by offering the milk at different prices to private label sellers and brand name sellers, Borden's was engaging in price discrimination.)

If we can assist further, please feel free to write again.

Sincerely,

ROBERT J. KLEIN,
Economics Editor.

CONSUMER POLICY STATEMENT ON FOOD LABELING

We, the undersigned consumers, having met and deliberated with other representatives of consumers, with representatives of the food industry, of government, and academia in a national seminar on a consumer policy on food labeling, and having been designated as a drafting committee, unite in this consumer policy statement.

We believe that consumers have a right to all information which enables them to choose the best marketplace value among food products.

We believe that consumers need more specific information about food products—quantity, type, and proportions of ingredients, quality, nutrient value, wholesomeness, and relative price—to protect their economic interest and safeguard their health.

We assert, further, that the public has a right to participate in decisions relating to standards, procedures, and rules used to determine and deliver this information to consumers and that prior to the adoption of any standard procedure or rule, consumers have a right to review the proposed determination in public hearings.

To protect these public rights, we propose:

First, to develop and support a comprehensive national food marketing program, encompassing advertising, which will achieve nutrient labeling, percentage ingredient labeling, open dating, grading and unit pricing of consumer-purchased food products.

Second, to seek establishment of an independent national commission with a majority of consumer representatives to review: (1) shelf-life standards for food products, (2) standards for preparing, packaging, storing, transporting, displaying, and advertising food products, (3) rules for unit pricing and rules for percentage ingredient and nutrient labeling, (4) food grade terminology.

Third, to form, as an outgrowth of this National Seminar, a National Ad Hoc Committee on Food Labeling with a majority of consumer members, but including representatives of the food industry, to advance the following proposals:

OPEN DATING

We assert that the public has a right to know the age and quality conditions of purchased food products. All food products after

some length of time lose both appeal and nutritional value.

We believe consumers have a right to know the date food products are prepared, the date they are first offered for sale, and/or the last date on which the purchaser can reasonably expect that the quality of the products has not deteriorated.

All dates used on food packages should be actual calendar dates (example, 12-10-71 or December 10, 1971). It should be clearly indicated on the package what the date represents. For example: packed on 12-10-71; or not to be sold after 12-10-71; or for best quality use before 12-10-71.

All dates used on food packages should be clear and conspicuous and uniform in style of presentation.

Federal standards should be set to determine the length of time packaged food products can be legally offered for sale.

Federal standards should be set for preparing, packing, grading, storing, transporting, displaying, and advertising food products when such conditions significantly relate to maintaining food quality, including nutritional quality.

Legislation should provide for adequate enforcement of food product standards with suitable penalties against manufacturers, processors, wholesalers, retailers and other handlers for violations of any federal food standards.

Codes now used by the food products industry to conceal the dating of food products and formulas should be immediately disclosed to the consuming public.

UNIT PRICING

We assert that the public has a right to know the unit price of competing items offered for sale in the marketplace.

We believe that standard units of weights and measures are essential to a competitive market system and that competitive pricing is now threatened by the use of multiple-size, non-standard packages; package sizes now used frequently disguise rather than disclose weights and volumes.

Market surveys show that price comparisons of many packaged products are almost impossible without unit prices. The inability of consumers to compare food product prices increases family food costs unnecessarily, contributes to inflated living costs, and erodes the price mechanism in a competitive market. Knowledge of quality is not enough to make value judgments. Knowledge of unit price is equally necessary.

In recent years efforts have been made by supermarkets, state legislatures, and municipal governments to provide unit price information in various ways. Still, most consumers lack that information about packaged food products.

We believe that the need for standardized unit pricing practices is now undeniable, and that, because of the national scope of the problem, federal legislation is the most effective solution, though private, state and local efforts should not be discouraged.

We believe that federal legislation should require unit pricing of packaged food products at the immediate point of consumer selection and in advertisements which specify prices of such products. This legislation should establish that:

1. "Unit pricing" should be used as the term to identify the practice of pricing by units of weight and volume.

2. The unit-price information should be clearly, uniformly, and conspicuously displayed.

We believe that federal regulatory agencies should then establish:

1. Rules for unit price label information, for standard units of measure for product categories, and for locating unit price labels with the purpose of maximizing the usefulness of unit pricing for American consumers.

2. Provisions for exemptions of retail units and product categories, as minimally necessary, for implementation dates and for enforcement procedures and penalties for violations.

NUTRIENT LABELING

We assert that the public has a right to know nutrient values of food products offered for sale.

We believe that the statement of nutrient value should appear on the labels of packaged food products and should appear in displays of non-packaged food products.

We believe that nutrient information for food products should include nutrient composition, calories, and the serving basis for these claims.

We resolve that:

1. Nutrient information should be stated in easily understood units as a portion of the Recommended Daily Dietary Allowance serving size should be defined by both weight and measure.

2. Manufacturers and processors should be responsible for product analysis and for the accuracy of nutrient claims on the label.

3. Analysis of protein, carbohydrate, and fat proportions should be stated in the form of units. The nutritional worth should be stated in RDA's (recommended dietary allowance) for not less than eight nutrient categories, including: Vitamin A, riboflavin, thiamin, niacin, Vitamin C, calcium, and iron and protein. Protein claims should be adjusted to reflect relative quality. Calories per serving should be shown.

4. Nutrient information about all food products should be clearly, uniformly, and conspicuously displayed for consumers.

We further call for a joint statement of policy on nutrient labeling and advertising by the Food & Drug Administration, the Federal Trade Commission, the U.S. Department of Agriculture, and any other appropriate regulatory agency to be published by July 1, 1972, and a longer-range statement by appropriate regulatory agencies to be published by January 1, 1973.

INGREDIENT LABELING

We assert that the public has a right to know the ingredients of all packaged food products offered or advertised for sale to American consumers, whether or not a Standard or Identity has been set.

We resolve that the following actions should be taken, including any necessary enabling legislation, for the Food & Drug Administration, the Federal Trade Commission, the U.S. Department of Agriculture, and any other appropriate regulatory agency to require that:

1. The labels of all food products, including those for which a Standard of Identity has been set, list the common or usual names of all ingredients, including food additives, and their function. Where deemed helpful to consumers, it is urgent that product labels should list ingredients by percentage to aid consumers in assessing economic value and food quality.

2. Food ingredients to be identified in terms of their source, such as "wheat protein-hydrolysate" (rather than just "protein hydrolysate"), "potato starch" (rather than just "starch"), and "peanut oil" (rather than just "vegetable oil.").

3. We call for immediate revision and standardization of the presently complex and deceitful terminology used by the food industry and the Department of Agriculture in the grading of fruits, vegetables, eggs, dairy and similar products.

RECOMMENDATION

We recommend that the National Ad Hoc Committee on Food Labeling and Advertising meet in conference during the next six months to consider in detail the steps necessary to carry out the proposals presented above.

We recommend, further, that prior to that Conference, a task force be composed to prepare specific recommendations for action by the food industry, the professional community, the regulatory agencies, the legislative branches of government, and by consumers themselves and that these recommendations be reported to the Conference for action.

Submitted by: Rodney Leonard, Erna Carmichael, Albin Larson, Jan Rathe, Irene Malbin, Pat Young, Robert Choate, Jan Skakowsky, Edna Johnson, Mary Gullberg, Helen Nelson, Jennifer Gans, Roy Kiesling, Jr.

Lee Richardson, Vice-Chairman; Currin Shields, Chairman.

DECLARATION OF CONSUMER RIGHTS

Before the consumer buys any product he has a right to the following information:

1. The name and complete mailing address of the actual maker of the product.

2. A name and model number, clearly and permanently visible, that absolutely identify the product.

The same product will always be sold under the same name, and identical model numbers will be placed only on identical products.

3. A list of all ingredients of the product, in order of percentage contained, with the percentages stated.

4. A warning of known harmful effects of any ingredient.

5. Complete instructions for normal use of the product, and a statement of what it can actually and demonstrably do for its buyer.

6. Warnings of hazards of normal use, and of any hidden hazards of abnormal use.

7. A statement, in plain English, of the date of manufacture or packaging.

8. A statement of the expected life of the product, including shelf life, and a warning of conditions of use or storage that shorten its life.

9. Notice of the other models or formulas of the same product by the same maker, so that the full range of choice is disclosed.

10. An explanation in layman's terms of the working principles of the product.

11. All specifications and procedures necessary for adjustment and repair by a normally skilled repairman.

12. A list of parts, with current retail prices and an address from which they can be obtained by mail.

13. A clear notice on the package if the product cannot be used except in conjunction with some other product.

14. In the case of products sold by weight or volume, a statement of the unit price.

Furthermore, he has a right to demand that every product is designed to impose the minimum burden on the environment from its manufacture to its disposal.

THE ROLE OF BUSINESS—DOING WELL OR DOING GOOD

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, throughout the hemisphere, U.S. businesses are increasingly being forced to adjust to rapidly changing political and economic conditions and outlooks. While this is neither an easy nor perhaps pleasant task, it is a necessary one.

On April 13, one of this country's most distinguished international businessmen, Rodman C. Rockefeller, addressed himself to the need for business to undertake a critical reassessment of its own role both in our own society and abroad in a speech entitled, "The Role of Business—Doing Well or Doing Good."

In his speech honoring the 25th anni-

versary of the International Basic Economy Corporation, Mr. Rockefeller draws upon the experiences of his own company to develop new concepts of ways in which business can be responsive not only to individual corporate needs but also to the general purposes of the society of which it is an integral part.

Because of the cogency and timeliness of Mr. Rockefeller's remarks, I hope they will receive wide attention both in the Congress and throughout the American business community.

Text of the speech follows:

THE ROLE OF BUSINESS—DOING WELL OR DOING GOOD

(An address by Rodman C. Rockefeller)

Good evening and welcome. Thank you for joining us tonight to help celebrate the 25th anniversary of an idea. At the time, the idea was novel. Among other things, it encompassed a thesis that great business opportunities existed in areas that had largely been by-passed by private enterprise because they were thought to be more properly within the province of governmental action or of philanthropic support. These areas were principally developmental in nature because they dealt with the problem of supplying people with such basic human needs as adequate shelter and food.

Historically, businessmen have felt it more prudent to operate within existing proven markets than to create new ones. IBEC took a somewhat different approach. It was IBEC's idea that these perceived human needs could be converted into markets in a businesslike, profitable way. IBEC further believed that, by so doing, it could help hasten internal economic development, contribute materially to national progress, and by participating in this process at an early stage, assure itself of the support of the communities where it operated. This was to be done by introducing ideas, techniques or technologies already proven in more developed economies. This was considered by many a radical departure because its stated motivation was non-traditional, an overt recognition of the benefits possible to all participants in the experiment, employees, suppliers, customers and the economy at large.

The experiment was launched with great enthusiasm, and the results watched with anxiety. Would it take root? Would it find the kind of support that was necessary if it was to prosper and grow?

The experience of the past 25 years supplies its own answer. From a handful of operations in two countries, Venezuela and Brazil, we have become firmly established in 33 nations where we do business through more than 140 subsidiaries and affiliated companies with a combined staff of nearly 12,000 persons.

The idea of a quarter of a century has become a very solid reality. Our success is tangible, our idea has been accepted. There is no question that I view such an achievement as an occasion for extending congratulations to the many who have made it possible. On the other hand, I also must confess to a certain degree of concern. The very words "solid reality" can too easily conjure up the image of an enterprise that is satisfied with itself, pleased that it has been vindicated in the pursuit of what many once considered an impractical ideal. It is almost as though certain questions were asked 25 years ago to which we can now triumphantly say that we have the answers.

Perhaps we have found one answer, or part of it. Perhaps we have explored an approach, or mapped a part of it. But times are changing and conditions of doing business are altering so rapidly that we cannot afford to delude ourselves into thinking we have a set of all-encompassing answers. Besides, in the process of getting where we are today, we have raised a number of fundamental questions that have a direct bearing on the future welfare of IBEC and on the nature of the relationship between business and society generally.

In order to answer these questions in a satisfactory manner, I think it would be helpful to review what we have learned. What conclusions, if any, can we draw from IBEC's experience?

First of all that in order to survive and to flourish as a business, it is necessary to do the traditional things a businessman has always done. A professional manager has the obligation to run the enterprise under his supervision at a profit. Otherwise, his business will not survive. We have no trouble understanding this.

We businessmen, however, have had less training and experience in understanding how to deal practically with an equally important constraint. We are often less successful in adjusting our corporate goals in such a way that they unmistakably reflect and further the priorities and policies of the societies in which we operate. Yet, this is just as important, for the success of an enterprise also depends upon the support of the community in which it operates. If this support is withdrawn, the business will just as surely decline as if it had been subjected to bad management practices. Furthermore, if a deterioration of support turns into active hostility, the business could be legislated out of existence.

Within our ranks there are still those who would prefer to conduct business as totally inwardly oriented, as though it consisted only of production schedules, marketing forecasts, and financial planning. This orientation is essential to the successful conduct of business. But it is only part of the equation for total success. An external orientation and the world's attitude toward the business are also vital. Here is the area where many of us find ourselves on unsure ground.

I think very often we are unsure because we are reluctant to face up to the fact that business is an integral part of the political economy of the country. We are more comfortable with what I believe to be the outworn triangulation of power, with the three points of the triangle being government, business, and labor, each with its own separate interests and preoccupations, and each with its special contribution to make. But are the interests of business so different from those of labor, or of government? Does government make one kind of contribution to society, labor a second, and business a third?

I think not. At least, my experience as a businessman leads me to the conclusion that, in the case of business, things are not so neatly compartmentalized. Time and again, I have seen the extent of our company's impact upon a community and even upon a large sector of national life within a country. Time and again, the impact has been social as well as economic. By social impact, I mean that levels of education, shelter, health, and nutritional intake have been improved either directly or indirectly as the result of the success of our business venture.

Here are two supporting examples. One of our earliest concerns in Venezuela was to improve retail food marketing there. Our aims were to reduce prices, and to encourage local entrepreneurs to expand domestic supplies so that there would be less reliance on expensive imported items. That apparently altruistic motive led to the creation of what is today one of our most successful business ventures. Together with Venezuelan partners, we established a high-volume, low margin, cash-and-carry supermarket business that is known today as CADA. Like the idea of IBEC itself, no one had ever tried it in Venezuela.

Today, our stores are a familiar sight throughout the country, and the concept of one-stop, self-service shopping, entirely unknown 20 years ago, is now a familiar and accepted pattern for millions of families, who are served by five chains including our own.

It is an interesting comment that, while we helped to lower food prices substantially, we did not smother competition. Our presence seemed to provide many small store owners with fresh stimulus and they represent today a growing and healthy competition. While we helped to lower food prices, we also helped to greatly increase food volume, so that variety, quality and profitability throughout the industry have increased many fold. I am proud to say that the President of CADA and our Venezuelan partner, Sr. Jorge Blohm, is with us this evening.

Another founding venture was the association in Brazil with Sementes Agroceres S.A., a firm that was attempting to improve the country's all-important corn crop by introducing newer and better strains of hybrid seed. Traditionally, Brazilian farmers reserved some of their own seed to plant next year's crop, and so it was difficult for them to accept the idea of paying for something they had always been able to get for "nothing". Not only did Agroceres have genetic and production problems to deal with, it had to convince farmers that the new hybrid produced such a vastly superior crop that it was, in the long run, in their best interests to purchase it. Ultimately, the company succeeded. It is today the fourth largest hybrid corn seed company in the world, and the largest outside the United States. It is one of the most profitable ventures in its industry. I am equally proud to introduce our partner, Sr. Antonio Secundino, President and founder of Agroceres.

In the process of achieving all this, Sementes Agroceres established a number of production farms throughout Brazil, one of them in the town of Patos de Minas, a municipality in the interior. At that time—in 1948—Patos de Minas was a predominantly agriculture community of about 10,000 people, most of them tending either small plots of their own, or finding employment with the larger landowners. Their livelihood often was one of little more than subsistence. There was little education and the people had little hope of offering anything to their children because the agriculture they depended upon was so underdeveloped that only a little more than five per cent of the land was cultivated.

Patos de Minas has changed in the more than twenty years that Sementes Agroceres has operated there, during most of that time as the dominant business presence in the community. The area of land under cultivation doubled within the first ten years, and then nearly doubled again by 1970. The number of farmers using hybrid seed increased steadily until, today, it is estimated that more than 90 per cent of the farmers of the area use it.

In 1950, there was very little to distinguish Patos de Minas from hundreds of similar agricultural communities throughout Brazil. Today, it is known as the corn capital of the country, and the town has become one of the important rural trade centers in the interior.

Both of these examples illustrate the point that business activity can dramatically change patterns of life, and that trying to limit the role of business to an agent that exchanges certain goods and services for money is simply unrealistic.

I do not mean to imply that CADA and Sementes Agroceres were solely responsible for the changes that occurred.

Certainly, there were many forces at work to bring about that change. But just as certainly, both CADA and Sementes Agroceres were powerful and effective engines in helping to create it. Each recognized its role as one of the forces of the community that could aid in furthering a common objective. But each performed that function in a businesslike way by seeing a need and converting

that need into a profitable and growing market.

Both companies were, in other words, as successful in their external orientation as they were in their internal orientation. As a result, both companies are integral parts of the total economies of their communities. They serve as clear-cut examples of how private enterprise can act as an economic and social force in society, exerting an influence that is far broader than 19th century economists would have us believe.

If this broader role is the reality of corporate impact—and I firmly believe that it is—then it would seem that business, and particularly corporations, are obligated to conduct themselves as responsible, independent political bodies, and not merely as extensions of the desires of their owners.

Until comparatively recently, the creation of wealth was considered to be the only legitimate business of business. Business responded very well to this challenge. In fact, in this country, it has created so much wealth that ironically it has created its own crisis of credibility from, among others, affluent critics.

A recent editorial in a leading newspaper outlined the dimensions of a part of this crisis when it commented on a loss of public confidence in the probity of business.

Referring to a number of unfortunate business practices that have been uncovered within the past few years, it speculated whether or not, and I quote, "a new rot has infected the American political-economic system."

It went on to lay the blame for this state of affairs on two developments. The first is the general prosperity. "Long periods of boom," the editorial stated, "seem to undermine business and public morality." The second is the "growing inter-mixture of government with business and labor"—in other words, a misuse on the part of business of its responsibilities as an independent force within society.

It is a cliche to observe that the United States is the wealthiest nation in the world. But behind that cliche, lies the fact that this widespread prosperity has come about principally because of the efforts of private enterprise. It is business that has been largely responsible for the new leisure, the higher standards of education, the new freedom to re-examine human and national priorities. These were luxuries we could not afford at an earlier time. Too many things of a material nature had to be accomplished first. But now we can afford them, and it is truly ironical that it is largely business that has given us the freedom to examine our total life and environment, only to find much of it unsatisfactory.

So it seems that the outstanding success business had enjoyed in doing the thing it was traditionally supposed to do—that is, to create wealth—has brought about the groundswell of criticism that takes the view that the cost of producing all these material benefits may be too high, and that business is to blame for a whole host of serious problems.

Even as the proper role of business is being questioned in the United States, so is it being questioned abroad. U.S. corporations that operate overseas are coming under increasing attack as dominating national markets and unduly influencing economic development.

Once again, a major reason is that business, in some ways, has been too successful in discharging its original function. North American corporate activity in the Southern half of our hemisphere is an example. Since 1950, U.S. private enterprise has invested more than $8 billion in this vast and growing area. In addition to this infusion of capital, technical assistance and managerial development programs have helped to train thousands of workers and managers. Partly as a result of this, prosperity and confidence in national leadership have grown. So, by creating wealth, foreign business has helped to expedite the social, economic, and national independence which today is so evident. Business, U.S., European and national, is largely responsible for the new national assertions of perceived self-interest that are evident throughout the hemisphere.

Under these circumstances, what is a business to do? It seems a cruel state of affairs that business is being penalized both here and abroad, merely for doing the job it was supposed to do in the first place. What has gone wrong, and what can we do to set it right again?

First of all, it might be profitable to ask ourselves what this independent political entity known as private enterprise can contribute to society. What exactly are its strengths.

First of all, business has a well-determined purpose—the creation of wealth—not for itself alone, but for the society in which it operates. The amount of this wealth is directly measurable through the profit and loss statement and the balance sheet of the corporation. At the same time, it is indirectly measurable, in a more qualitative way, by noting the economic health of the communities in which the business is to be found.

Secondly, business is both a consumer and a producer. In its function as a producer, it is one of the most truly creative forces in society, and today we need all the producers we can find. It is truly creative because it produces considerably more than products and services. As the experience of Patos de Minas so eloquently points up, it is a prime innovator, one of the vigorous motors of change in our society, capable, I might add, of acting as a force for both good and bad.

Finally, one of the chief strengths of a business is a beautifully articulated way of measuring its own performance and imposing discipline upon itself. This is the double-entry bookkeeping system invented in the Middle Ages and first described by the Italian monk, Luca Pacioli. However, this process of measurement records only the internal aspects of performance. It tells an observer if the company is doing well. One cannot judge, by studying the ledger, if the company is doing good. It describes only the internal part of the equation I mentioned earlier.

I, too, am of the opinion that business should act for the common good, and I happen to think that it usually does. But I am disturbed by the fact that, all too frequently critics do not stop to think that unless business does well, it can do nothing at all. I also sympathize with those who are caught in the middle of this debate. On the one hand, there are those who warn us against a broader involvement, who tell us that the only proper role of a businessman is to do well. On the other, there are highly articulate demands that we concentrate only upon doing good. It is a difficult dilemma.

The root of the dilemma, it seems to me, can be traced to the original definition of the function of business. The job description was too narrow and, as a matter of fact, this narrow definition never represented reality. It is time to broaden it. As businessmen, we have spent too long measuring our success by adding up accounts. In the process, we have overlooked a major area of accountability. We have not sufficiently appreciated the importance of measuring external accountability as we have the internal side of our business ledger.

Corporations, like all institutions, rise and fall depending upon their contact with relevance. They must, of course, understand their markets. They must understand the aspirations of the society that gives them life. And they must understand that the social contract that gave corporations the power they enjoy today has changed, and that it will never be as it once seeemd to be.

At the same time, businessmen cannot allow themselves to be stampeded by these new pressures into abandoning the discipline that is a corporation's greatest strength. It remains fundamental that nothing can be accomplished without satisfactory operating and financial results. Is this enlarged responsibility too broad for businessmen to handle? Or are the systems of measuring results too narrow?

I recognize that businessmen are more action-oriented than they are philosophically inclined. I recognize that it might be burdensome for line management, charged as it is with the responsibility for day-to-day operations, to have to try to measure social impact as well as to monitor financial and operating results.

However, every corporation has a board of directors whose function is to evaluate the overall performance of the enterprise. The board acts as agent for the corporation's constituencies, including the shareholders of the company. Within a corporation, it has the best perspective to establish the kind of relevancy that will, in the long run, be best for the owners of the enterprise, for the many who depend upon it for their livelihood, for all those whose lives are affected by it, and for the continuing health and vigor of the corporation itself.

How well do most boards discharge this function? According to a study on boardroom management published by McKinsey and Company in 1969, not very well. It concluded, "U.S. boards of directors in general are ineffective." It went on to say that "The fundamental cause of board ineffectiveness appears to be the failure of boards to define their role adequately, and a parallel failure to design the board's structure, composition, and practices to enable the board to fulfill its role." The study concluded that "the concept of the board of directors requires rethinking in most companies."

IBEC is fortunate in its board of directors. It is composed of individuals who perform an active role in evaluating corporate priorities. Yet we too must rethink the role of our board in these times of change. The board has the unique charge for continuing objective survey, and I shall shortly recommend that survey be formally extended to include our outside orientation. We hope to form a Committee on Accountability to be made up of IBEC board members who will undertake the task of monitoring even more closely the nature and quality of our external impact, and who will attempt to assess the larger social influence of our operations to make certain they remain relevant to the needs of society. We, of course, do not yet have the tools to measure with financial accuracy how our businesses' external results progress. This weakness or lack is being attacked by many thoughtful people, as it is more clearly needed. However, the Committee on Accountability hopes to discover a way to perform this useful measurement.

This, I think, is entirely in keeping with the principles that led to the formation of IBEC 25 years ago, and represents further proof that we have not stopped asking questions of ourselves, that we are not satisfied with any one set of answers.

I think also that this action is representative of something much larger. It is a recognition that in times like these, times of rapid and unsettling change, the solution of current problems requires the best of all of us. They demand a fresh commitment to a posture that combines enlightened self interest with a public morality. The newspaper editorial I quoted earlier called for reforms to do away with the corruption it noted. "Such reforms," it stated, "cannot be achieved unless leaders in politics and within business, press, education, and community groups are determined to insist upon and themselves practice high standards of ethical conduct in this massive, organizational society." In other words, we can no longer pursue narrow preoccupations in isolation from the concerns of the world around us.

On the other hand, to attack and to accuse solves nothing. Confrontation usually

breeds more confrontation. Those who criticize the private enterprise system would do well to look realistically at its positive accomplishments and to speculate upon its enormous potential for beneficial change. Private enterprise has been more responsible for the progress of society over the past fifty years than any other force I can think of. Furthermore, I believe it has proved itself to be so effective because of its unique ability to measure its performance and to impose discipline upon itself.

We all tend, at times, to be overwhelmed by the magnitude and sheer number of our problems. It seems that a solution in one area precipitates a crisis in another, until we have no idea of how well we are doing, uncertain as to whether or not we are making any real headway. We need some way of knowing more precisely where our successes lie and where we have failed.

This is precisely the sort of yardstick business can provide. The ability to do this well is the greatest strength of the private enterprise system. Beset as we are by uncertainty, we must not lose sight of the fact that business has been perhaps the most essential ingredient of human, social, and economic development, and that by doing well, externally as well as internally, it can do tremendous good wherever it operates.

REPRESENTATIVE TALCOTT INTRODUCES LEGISLATION TO AUTHORIZE THE RECOMPUTATION OF RETIRED PAY FOR MILITARY PERSONNEL

(Mr. TALCOTT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. TALCOTT. Mr. Speaker, on April 26, 1972, I introduced H.R. 14643, to authorize the recomputation of retired pay for military personnel. This bill, when enacted, will allow those who retired prior to January 1, 1971, the privilege of recomputing their retired pay at age 60 if they have less than 25 years service and at age 55 with more than 25 years of service.

Mr. Speaker, my bill is intended to partially rectify a long-standing inequity and to partially reinstate an agreement, once broken by our Government, with our retired military personnel. I urge the committee to schedule hearings on this proposal at the earliest opportunity. At this point in the RECORD, I insert the text of my bill:

H.R. 14643

A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Retired and Retainer Pay Equalization Act".

SEC. 2. (a) Notwithstanding any other provision of law, a member or former member of a uniformed service who is entitled to retired or retainer pay computed under the rates of basic pay in effect after September 30, 1949, and before January 1, 1971, is entitled to have that pay recomputed under the rates of basic pay in effect on January 1, 1971, as follows:

(1) Such a member or former member who is entitled to retired pay for physical disability under title IV of the Career Compensation Act of 1949 (63 Stat. 816–825), as amended, or chapter 61 of title 10, United States Code, and whose disability was finally determined to be—

(A) of a permanent nature; and

(B) at least 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of that determination;

is entitled to have that pay recomputed, on the effective date of this section.

(2) Such a member or former member, other than one covered by clause (1) of this subsection, is entitled to have his retired or retainer pay recomputed, as follows:

(A) If he has 25 or more years of service, he is entitled to have that pay recomputed—

(i) on the first day of the month in which he becomes 55 years of age; or

(ii) on the effective date of this section, if he is at least 55 years of age.

(B) If he has less than 25 years of service, he is entitled to have that pay recomputed—

(i) on the first day of the month in which he becomes 60 years of age; or

(ii) on the effective date of this section, if he is at least 60 years of age.

(b) A member or former member of a uniformed service—

(1) who was retired for physical disability;

(2) who is entitled to retired pay computed by "method" (a) of section 511 of the Career Compensation Act of 1949 (63 Stat. 829); and

(3) who, under section 411 of that Act (63 Stat. 823) did qualify for disability retired pay and his disability was finally determined to be at least 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of determination;

is entitled, on the effective date of this section, to have that pay recomputed in accordance with section 402(d) of that Act (63 Stat. 818), using the rates of basic pay which became effective on January 1, 1971, or continue to receive the retired pay to which he was entitled, whichever pay is greater.

(c) A member or former member of a uniformed service who—

(1) is entitled to retired pay computed by "method" (a) of section 511 of the Career Compensation Act of 1949 (63 Stat. 829);

(2) was retired for physical disability; and

(3) under section 411 of that Act (63 Stat. 823)—

(A) did not qualify for disability retired pay; or

(B) did qualify for that pay, but his disability was finally determined to be less than 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of that determination;

is entitled to have that pay recomputed by "method" (b) of section 511 of that Act (63 Stat. 829), using the rates of basic pay in effect on January 1, 1971, under the same conditions as those set forth in clauses (A) and (B) of subsection (a)(2) of this section, or continue to receive the retired pay to which he was entitled, whichever pay is greater.

(d) A member or former member of a uniformed service who—

(1) was retired other than for physical disability; and

(2) is entitled to retired pay computed by "method" (a) of section 511 of the Career Compensation Act of 1949 (63 Stat. 829);

is entitled to have that pay recomputed by "method" (b) of that section using the rates of basic pay that became effective on January 1, 1971, under the same conditions as those set forth in clauses (A) and (B) of subsection (a)(2) of this section, or continue to receive the retired pay to which he was entitled, whichever pay is greater.

(e) A member or former member of a uniformed service whose retired or retainer pay is recomputed under this section is entitled to have that pay increased by any applicable adjustments in that pay under section 1401a of title 10, United States Code, which occur after January 1, 1971.

(f) In this section, except with respect to a member retired under chapter 67 (relating to retired pay for non-regular service) of this title, "years of service" means the years a member or former member of a uniformed service is using, or would be entitled to use, as a multiplier in recomputing his retired pay under this section. With respect to a member retired under chapter 67 of this title, "years of service" means the years computed under section 1332 of this title.

(g) A member or a former member of a uniformed service is not entitled to recomputation of his retired pay under this section while his name is carried on the temporary disability retired list.

SEC. 3. An officer who is entitled to receive pay and allowances under—

(1) the Act of March 23, 1946, chapter 112 (60 Stat. 59);

(2) the Act of June 26, 1948, chapter 677 (62 Stat. 1052); or

(3) the Act of September 18, 1950, chapter 952 (64 Stat. A224),

shall be entitled to an increase in the basic pay to which he is currently entitled so that the total amount of his pay and allowances shall be equal to the retired pay to which an officer with over 30 years of service who had served as Chairman of the Joint Chiefs of Staff would be entitled under the rates of basic pay in effect on January 1, 1971.

SEC. 4. The enactment of this Act does not reduce the monthly retired or retainer pay to which a member or former member of a uniformed service was entitled on the effective date of this Act.

SEC. 5. This Act becomes effective on July 1, 1972.

RUSSIAN DESTROYER OFF COAST OF CUBA

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, today a shocking announcement was made by Mr. Friedheim, Deputy Assistant Secretary of Defense for Public Affairs, who today acknowledged that a diesel powered ballistic missile submarine, reportedly with the capability of a 650-mile reach, along with a Russian destroyer and a new tender, are making a port call at Nipe Bay on the north coast of Cuba. The destroyer has been in Cuba's waters since March of this year and the tender is training with Soviet cadets aboard.

It has been apparent now for some time that the Russians have been building up a very formidable military establishment in Cuba which poses as a threat to the security of the United States, and today's announcement is a new and appalling escalation of Soviet military incursion in the Western Hemisphere. This is a clear violation of the agreement between Russia and the United States that Russia would put no nuclear weapons in Cuba. This recent development is simply the culmination of Russia's attempt to establish greater and greater military, naval, and now nuclear forces in Cuba. Our Government must demand that Russia discontinue this aggressive policy which threatens our very security and is in violation of her agreement with us and in violation of the Monroe Doctrine. Such offensive tactics by Russia, in conjunction with the Castro government, must be immediately brought to a halt.

RABBI IRVING LEHRMAN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on February 6 the Honorable Charles H. Silver delivered an address of appreciation in honor of Rabbi Irving Lehrman, spiritual leader of the Temple Emanu-El and national president of the Synagogue Council of America.

Most fitting was this eloquent tribute by Mr. Silver to Rabbi Lehrman, who is of a long line of Rabbis, a great scholar, a man of rare eloquence, and of deep dedication, not only to the cause of Israel but to the cause of humanity. Rabbi Lehrman is a man who stands tall above most men. He has long held up a great light of spiritual leadership, not only for those of his faith but of all faiths and the glow of the light he has cast has not only warned but illuminated innumerable minds and hearts. I deem it a great honor, therefore, Mr. Speaker to be able to offer to my colleagues and to my fellow countrymen this deserved tribute to Rabbi Lehrman and I ask that Mr. Silver's remarks appear in the RECORD immediately following my own:

RABBI LEHRMAN TRIBUTE

(Remarks by the Honorable Charles H. Silver at a dinner held at Temple Emanu-El, Miami Beach on February 6, 1972)

Most honored guests . . . and all of you—dear friends and neighbors—who have gathered to honor this great man of God.

In these days, so full of turmoil, so empty of trust, we seek—more and more—for the eternal truth—returning to the Torah—searching for God.

The synagogue is the force which has held us together as a people. It is the magic ingredient which preserved our Fathers through all the fearful horror of endless wandering, anguish and rejection.

The synagogue has been the cornerstone of our ethical and moral way of life through a long tormented history. From its altar flows the rich stream of our ancient tradition, our ethics, our philosophy, the words of fire that make ours a religion of law and of literature—and of love.

In this House of God burns the eternal light of Israel. Within its walls can be heard the thundering voice of wisdom. At this altar, we seek to guard the conscience of humanity.

And the keeper of the flame is a noble, warm and genuine human being, one truly inspired in his devoted service to God and man.

In all of my experience—in education, religion and social welfare—I have never encountered anyone who walked more firmly in the flame of his faith than the towering spiritual leader and dynamic guiding force of Temple Emanu-El.

For Rabbi Irving Lehrman is not only a scholar and teacher, but truly a practical visionary . . . devoted to the tradition and destiny of Israel, but dedicated to the wider service of all mankind.

In his duties as minister for more than a quarter of a century—he is never too busy to bring comfort and understanding to those who falter . . . to those who mourned . . . to those who needed the help he could give.

And he always gives generously of his own personality, strength and perception. He always has a solution. He always has time.

Through the darkest hours of Jewish suffering, during the tragic plight of our people, in the outrage and nightmare of Hitler, his voice was the voice of hope, his leadership was a beacon breaking through the blackest clouds.

And when the skies became brighter, he hailed a star of promise in the promised land and worked for the birth of the Republic of Israel as a member of the family of nations.

With a pure conscience and a proud but humble heart, he has been the warm and shining lesson of brotherhood for every being of every race and creed—rejecting and rebuking bigotry in any form.

The years go by and we often neglect those to whom we owe the most. We are all fortunate that this great spirit—who is a legend of his lifetime—can be recognized and honored during the vigorous days of his life while many of his most vital years lie ahead.

Rabbi Lehrman has taught us the meaning of religion in its most positive and active sense—the real meaning—the message and mission of the faith we follow.

He has taught us that we have a permanent obligation to concern ourselves with the welfare of others. Otherwise, the pages of our Holy Book are meaningless—our House of God becomes an empty shell—for He will not live in it.

Religion may begin in the church or temple, but it does not end there. It flourishes in the hearts of men of good will. It crosses the borders that separate us in small things. It brings us together to grapple with the larger goals of humanity—to rise nearer—to reach closer—to the Mind of God.

The faith reflected in the synagogue gives us the strength, the unity and courage to survive anguish and oppression—to endure all things, to resist all things, to overcome all things.

It spurs us to split again the sea of slavery and cross the seven oceans, settling on alien soil, making the barren desert bloom, mingling in many lands to enrich the culture, advance the science and increase the learning of all mankind for all time.

This is the eternal secret of the Jew's eternity—and it is the message that Rabbi Lehrman preaches so wisely—so movingly and so magnificently—from this pulpit.

Such wisdom—and such eloquence—are not gotten easily or in a single day. They must be harvested through a lifetime, fed by a mind passionately devoted to the quest for truth—by a heart ripe in the understanding of his fellow man.

Such a man respects himself as being made in the image of God. He carries a spark of that Divine Spirit deep within. He tackles his appointed task with skill and understanding, with loyalty and devotion to duty.

Such a man is Rabbi Irving Lehrman.

He has held high the sanctity of his calling with a dignity and dedicated responsibility that brings new greatness to the name of Rabbi.

Fearless and foremost in the fight for human rights, he is firm in his conviction that men who were created equal by God deserve equal treatment from other men.

He has done as much as any man to stir the conscience of the world on behalf of the homeless, the hopeless and the oppressed.

There is a magic about his very presence. It rises from the depths of his being . . . a hidden place where you know that truth and honor dwell.

Combining warmth and humanity with sincerity and strength, his words burn into the hearts of his hearers. They echo in many corners of the world, far beyond the walls of Temple Emanu-El.

There is no branch of community service, no broadening of opportunities for youth, no contribution to the social progress of our times and our people that have not known the benefit . . . yes, the blessing . . . of his energies, his wisdom and his spirit.

My dear friend and Rabbi, as I join your uncounted thousands of friends and admirers in this outpouring of friendship and appreciation, I fondly hope and firmly believe that you stand on the threshold of an even more brilliant career as a Jewish leader and Statesman.

RAVES ARE UNANIMOUS FOR SOUTHEASTERN'S "OF MICE AND MEN"

(Mr. ALBERT (at the request of Mr. DENHOLM) was granted permission to extend his remarks and include extraneous material in the body of the RECORD.)

Mr. ALBERT. Mr. Speaker, on Friday, April 28, Southeastern State College of Durant, Okla., presented John Steinbeck's "Of Mice and Men" at the Kennedy Center, as part of the American College Theater Festival, which brought together 10 of the Nation's best college theater productions. Southeastern's performance was superb and fully deserved the rave reviews it received from all three Washington daily newspapers.

Richard L. Coe, drama critic of the Washington Post, called the play an almost definitive production and "one of the series' major achievements." He wrote:

If rankings were given, Southeastern would be pretty much at the top.

Louise Lague, writing in the Washington Daily News, pronounced it "a perfect production in several ways." David Richards of the Evening Star termed it "a heartfelt revival," and called Frank Wade's Lennie "so astonishingly right that I cannot envision it better played by a professional actor anywhere." "Charles Warthen also registered firmly as George," he continued, "and with few exceptions the supporting cast handled the understated idiom of the field hands nicely."

Mr. Speaker, at no time in history has Southeastern been better represented nor deserved more national recognition. I am extremely proud of the entire group and am grateful for a memorable evening. I am pleased to share with my colleagues the remarkable notices they earned:

[From the Washington Post, Apr. 29, 1972]

IN PERSPECTIVE: A DEFINITION "OF MICE AND MEN"

(By Richard L. Coe)

If rankings were given in the American College Theater Festival (they aren't) Southeastern Oklahoma State College would be pretty much at the top. Its production yesterday of Steinbeck's "Of Mice and Men" could almost be called definitive.

For this there were several reasons. The play itself remains an exceptionally substantial work, near the end of the naturalism period and an early voice in the compassionate school. One doubts that it seemed to have this firm definition in the Forties, but thirty years later it has the best qualities of both.

Today hulking, childlike Lennie would be called "retarded," but "nuts" was what his fellows in the Oklahoma bunkhouse called him. His relationship with understanding George would be seen today by some as a plea for gay liberation. But to his realistic setting Steinbeck brought the eyes and ears of a poet and from today's perspective he was perscient.

This is a story of very simple men living in loneliness on the vast ranches. Steinbeck views them as men, not as case histories, and gives to each of his ten characters an individual dignity. In his direction, David B. Cook emphasizes this and at the matinee

hushes and responses showed complete audience involvement. (There were some young patrons who laughed at images of violence and one felt oddly sorry for them.)

Working in the American milieu, the players were far more secure than festival visitors appearing in adopted styles. One relished their ease in the script and settings, fine lumber walls strategically hammered into the right feel by designer Bill Groom and his crew.

Finally there were two exceptional performances of George and Lennie by Charles Warthen and Frank Wade. I question whether the originals could have been better. Warthen exhibited a wonderfully under stated style, in use of his hands, quiet speech, subtlest shadings of thought across his face. A huge fellow, Wade made crystal-clear Lennie's sad, wrenching innocence. Janie Freeman and Mike Dawson were outstanding in this skilled, admirable production.

COLLEGE THEATER FESTIVAL—"MICE AND MEN" COMES OUT COOL

(By Louise Lague)

"Of Mice and Men," the offering of Southeastern Oklahoma State College in the American College Theater Festival was a perfect production in several ways. Not only was it well done, but it was an ideal choice of play.

Because John Steinbeck's play is set in a California ranch, nobody had to learn any French or English accents and take the risk of botching it up. The Oklahomans looked right at home in earthy roles and the sentiments expressed were basic enough for college students to work with effectively.

The plot concerns George, an itinerant ranch hand, and his not-too-bright friend Lennie who travels with him. The two travel a lot because Lennie always gets in trouble for liking to touch soft things. He doesn't know his own strength and usually ends up killing them.

At the Salinas River valley ranch where the play takes place, the soft thing Lennie chooses to touch and kill is the boss' daughter-in-law.

Charles Warthen, did a fine job as George, to the point where it was almost impossible to believe he wasn't really George. The same was true of Frank Wade as Lennie, but his was the greater acting victory. Who could believe that that six-foot-nine giant of a man acting as a child, so afraid to even touch a beautiful collie for fear of a scolding from George, is in real life Dr. Frank Wade a professor of biology at Southeastern who had never been in a play before?

Other fine performances were put in by Don Hill, who played a marvelous stooped and aged Candy. Janie Freeman as the murder victim and John Waggoner as Carlson, who was just swaggering and tough enough to shoot a dog in the head.

Traditionally, the players in the American College Theater Festival are very good or they wouldn't be there in the first place. But the selection of the right play for the right cast is both very difficult and key in the success of the show. In this case, director David B. Cook hit the nail right on the head.

[From the Washington Post, May 1, 1972]

FESTIVAL: GOOD AVERAGES

(By Richard L. Coe)

With its audiences joining on stage for a final frenzied Charleston, "The Boy Friend" ended the American College Theater Festival Saturday night. Under Hank Diers' direction, with lively choreography by Paul Avery, the University of Miami's production was spirited in every way and audiences gave both performances rousing welcomes.

Miami's was the first production in four years to present an "artist in residence" and the idea was profitable. She was TV's Denise Lor, a favorite in the big summer theaters for star roles in "Annie Get Your Gun," "Gypsy" and "Funny Girl." Her strong professionalism proved catching, her nicely comic Mme. Dubonnet, headmistress of the French girls' school, becoming a mettlesome foil for Jack Metzger's fine Percival. Playing an older, stuffy type, the young actor benefitted immensely from having Miss Lor to play opposite. Her assurance bolstered all the leads appreciably and in this case, certainly, the "artist in residence" notion was an excellent one.

A further virtue of the production was its staging and dancing, creating an ensemble feel for both principals and chorus. While it can't be said that Marsha Sayet and Peter Heuchling have the voices for musical comedy careers, their playing of Polly and Tony had charm. As always with "The Boy Friend," the Maisie and Bobby, Pamela Talus and Dean Paulin, scored and deservedly. The staging also shifted the "Never Too Late" number to Lord Brockhurst, a role Bucketts Lowery hammed happily and in the tango number Jerry DiChiara and Kim Tuttle were fine.

Since the musical comedy stage actually offers more jobs than straight drama for young people, Miami was wholly justified in choosing that genre and, at that, a work offering many small opportunities. The Sandy Wilson musical is filled with the bounce of youth and not since Julie Andrews' introduction in it have I seen it so zestfully and effectively performed. To Miss Lor, Messrs. Diers and Avery and all hands, congratulations.

My admiration for Southeastern Oklahoma State College's "Of Mice and Men" appeared only in the early Saturday editions and for the record it should be noted as one of the series' major achievements.

With direction by David B. Cook in excellent sets by Bill Groom, the cast was powerfully headed by Charles Warthen and Frank Wade. I doubt the originals could have been a bit better. Their George and Lenny achieved a splendid relationship, Warthen being an actor who made small character choices count.

The Polish group excepted, Oklahoma's group stood at the top of the Festival's dramatic work along with the vastly larger University of Minnesota school.

Thus, the two-week series ended on two contrasting high points. The winnowing of productions from the regional festivals by the American Theater Association may seem quitoxic to those unaware of the complexities of college theater seasons, but the complexities must be understood before passing judgments.

At all events, one can look back on at least five rewarding performances out of 12, not an average to be scorned. One hopes that American Oil Company will continue to support these regional and Washington salutes to our creative American young. They could hardly invest in a worthier venture. These young are our theater's future.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BROOKS, for the period from May 9 through May 14, on account of official absence to attend committee meetings of North Atlantic Assembly in Brussels, Belgium, as U.S. delegate.

Mr. GUDE (at the request of Mr. GERALD R. FORD), from May 1 through May 8, 1972, on account of official business.

Mr. BIESTER (at the request of Mr. GERALD R. FORD), from May 1 through May 8, 1972, on account of official business.

Mr. KEE (at the request of Mr. O'NEILL), for today, on account of illness in the immediate family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCKEVITT) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 10 minutes, today.

Mr. ANDERSON of Illinois, for 30 minutes, today.

Mr. BLACKBURN, for 5 minutes, today.

(The following Members (at the request of Mr. DENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. MINISH, for 10 minutes, today.

Mr. RODINO, for 10 minutes, today.

Mr. ASPIN, for 10 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

Mr. MATSUNAGA, for 10 minutes, today.

Mr. BEGICH, for 5 minutes today.

Mr. BURKE of Massachusetts, for 10 minutes, today.

Mr. FUQUA, for 10 minutes, today.

Mr. REUSS, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MAHON and to include extraneous matter and tables.

(The following Members (at the request of Mr. MCKEVITT) and to include extraneous material:)

Mr. TALCOTT.

Mrs. HECKLER of Massachusetts.

Mr. RIEGLE.

Mr. SCHMITZ in four instances.

Mr. KEMP in two instances.

Mr. WYMAN in two instances.

Mr. ARCHER in two instances.

Mr. QUILLEN in two instances.

Mr. SCOTT.

Mr. HOSMER in two instances.

Mr. SHOUP.

Mr. ZWACH.

Mr. MCCLURE.

Mr. KUYKENDALL.

Mr. MALLARY.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous material:)

Mr. ADDABBO.

Mr. ALBERT.

Mr. WOLFF in three instances.

Mr. MOORHEAD.

Mr. CULVER in five instances.

Mr. DRINAN.

Mr. GONZALEZ in three instances.

Mr. RARICK in five instances.

Mr. ROGERS in five instances.

Mr. PUCINSKI in 16 instances.

Mr. WALDIE in six instances.

Mr. ROUSH.

Mr. HUNGATE in two instances.
Mr. DELANEY.
Mr. KASTENMEIER in three instances.
Mr. HANNA in three instances.
Mr. ST GERMAIN.
Mr. ASPIN in 10 instances.
Mr. MITCHELL.
Mr. CORMAN in six instances.
Mr. GRIFFIN in two instances.
Mr. DULSKI in six instances.
Mr. CAREY of New York.
Mr. STUCKEY in two instances.
Mr. DORN in two instances.
Mr. KLUCZYNSKI.
Mr. MURPHY of Illinois in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1140. An act to authorize the sale of certain lands of the Southern Ute Indian Tribe, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3380. An act to permit immediate retirement of certain Federal employees; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9019. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Jicarilla Apache Tribe in Indian Claims Commission docket No. 22–A, and for other purposes; and

H.R. 13753. An act to provide equitable wage adjustments for certain prevailing rate employees of the Government.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 641. An act for the relief of Luis Guerrero-Guadalupe Guerrero-Chavez, and Alfredo Guerrero-Chavez;

S. 1089. An act for the relief of Robert Rexroat;

S. 1675. An act for the relief of Antonio Plameras;

S. 1923. An act for the relief of Harold Donald Koza;

S. 2676. An act to amend the Public Health Service Act to provide for the control of sickle cell anemia;

S.J. Res. 173. Joint resolution to provide for the appointment of A. Leon Higginbotham, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 174. Joint resolution to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 175. Joint resolution to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 34 minutes p.m.), under its previous order, the House adjourned until Monday, May 8, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1933. A communication from the President of the United States, transmitting an amendment to the request for appropriations transmitted in the budget for fiscal year 1973 for the Department of Transportation (H. Doc. No. 92–289); to the Committee on Appropriations and ordered to be printed.

1934. A letter from the Assistant Administrator, Agency for International Development, Department of State, transmitting the semiannual report of the Agency on architectural and engineering fees in excess of $25,000, covering the period ended June 30, 1971, pursuant to section 102 of the Foreign Assistance and Related Programs Appropriation Act; to the Committee on Appropriations.

1935. A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting the semiannual report on the strategic and critical materials stockpiling program for the period ended December 31, 1971, pursuant to section 4 of the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

1936. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report for the third quarter of fiscal year 1972 on the total amount of assistance-related funds obligated in, for, or on behalf of Cambodia (Khmer Republic), pursuant to section 655 of the Foreign Assistance Act of 1971; to the Committee on Foreign Affairs.

1937. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize the appropriation for the contribution by the United States for the support of the International Agency for Research on Cancer; to the Committee on Foreign Affairs.

1938. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

1939. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

1940. A letter from the Chairman, U.S. Civil Service Commission, transmitting a report of the sums credited to the civil service retirement and disability fund under 5 U.S.C. 8348(g) (1) and (2) for fiscal year 1971; to the Committee on Post Office and Civil Service.

RECEIVED FROM THE COMPTROLLER GENERAL

1941. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Panama Canal Company for fiscal years 1970 and 1971, and on the examination of the financial statements of the Canal Zone Government for the same period; to the Committee on Government Operations and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MORGAN: Committee on Foreign Affairs. H.R. 14149. A bill authorizing continuing appropriations for Peace Corps, and for other purposes; with amendments (Rept. No. 92–1046). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS: Committee on Foreign Affairs. H.R. 14734. A bill to authorize appropriations for the Department of State and for the U.S. Information Agency (Rept. No. 92–1047). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of conference. Conference report on H.R. 9212 with amendment (Rept. No. 92–1048). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ANDREWS of Alabama:

H.R. 14778. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.R. 14779. A bill to amend the Federal Trade Commission Act in order to improve its consumer protection activities; to the Committee on Interstate and Foreign Commerce.

H.R. 14780. A bill to amend the Fair Packaging and Labeling Act to reveal the manufacturing source of products, to provide for a uniform system of quality grades for food products to provide for a system of labeling of food products to disclose the ingredients thereof and the percentage of ingredients, to provide for a system of national standards for nutritional labeling of food products, to provide for a system of labeling of perishable and semiperishable foods, to provide for a system of unit pricing and to provide for a system of labeling of food products to disclose harmful effects thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. COUGHLIN:

H.R. 14781. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. CULVER:

H.R. 14782. A bill to provide an immediate and effective response to the needs of older Americans for suitable housing and related services; to the Committee on Banking and Currency.

H.R. 14783. A bill to provide certain new transportation services to elderly persons, to authorize studies and demonstration projects for the improvement of transportation services to the elderly, and for other purposes; to the Committee on Banking and Currency.

H.R. 14784. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

H.R. 14785. A bill to provide financial assistance for the construction and operation of senior citizens' community centers, and for other purposes; to the Committee on Education and Labor.

By Mr. GIBBONS:

H.R. 14786. A bill to amend the Communications Act of 1934 to provide that renewal licenses for the operation of a broadcasting station may be issued for a term of 5 years and to establish certain standards for the consideration of applications for renewal of broadcasting licenses; to the Committee on Interstate and Foreign Commerce.

By Mrs. GRASSO:

H.R. 14787. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to stimulate and encourage industrial and commercial development in the United States by assisting and facilitating the development by small business concerns of new products and industrial innovations and inventions; to the Committee on Banking and Currency.

By Mr. HAYS:

H.R. 14788. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts:

H.R. 14789. A bill to strengthen and expand the Headstart program, with priority to the economically disadvantaged, to amend the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

By Mrs. HECKLER of Massachusetts (for herself, Mr. BEVILL, Mr. EDWARDS of Alabama, Mr. FRASER, Mrs. DWYER, Mr. KUYKENDALL, Mr. ST GERMAIN, Mr. BRADEMAS, and Mr. ZION):

H.R. 14790. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mrs. HECKLER of Massachusetts:

H.R. 14791. A bill to amend title II of the Social Security Act to provide that any individual may qualify for disability insurance benefits and the disability freeze if he has 20 quarters of coverage (and meets the other conditions of eligibility therefor), regardless of when such quarters were earned; to the Committee on Ways and Means.

By Mr. HEINZ:

H.R. 14792. A bill to create a demonstration project for the maintenance of safe Federal-aid highways, other than interstate, by the most feasible economical methods; to the Committee on Public Works.

By Mr. KLUCZYNSKI:

H.R. 14793. A bill to provide that a Federal building being constructed in the District of Columbia shall be named the "J. Edgar Hoover FBI Building"; to the Committee on Public Works.

By Mr. McCORMACK:

H.R. 14794. A bill to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

H.R. 14795. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on House Administration.

H.R. 14796. A bill to increase the contribution of the Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

H.R. 14797. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 14798. A bill to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McMILLAN:

H.R. 14799. A bill to amend the Internal Revenue Code of 1954 to exempt certain agricultural aircraft from the aircraft use tax, to provide for the refund of the gasoline tax to the agricultural aircraft operator with the consent of the farmer, and for other purposes; to the Committee on Ways and Means.

By Mr. MALLARY:

H.R. 14800. A bill to amend the Occupational Safety and Health Act of 1970; to the Committee on Education and Labor.

By Mr. MATSUNAGA:

H.R. 14801. A bill to promote the exploration and development of geothermal resources through cooperation between the Federal Government and private enterprise; to the Committee on Interior and Insular Affairs.

By Mr. MINSHALL:

H.R. 14802. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. OBEY (for himself, Mr. ABOUREZK, Mrs. ABZUG, Mr. COLLINS of Illinois, Mr. DRINAN, Mr. FRASER, Mr. HALPERN, Mrs. HANSEN of Washington, Mr. LINK, Mr. MITCHELL, Mr. STEIGER of Wisconsin, Mr. WALDIE, and Mr. ZABLOCKI):

H.R. 14803. A bill to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin; to reinstitute the Menominee Indian Tribe of Wisconsin as a federally recognized, soverign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; to the Committee on Interior and Insular Affairs.

By Mr. O'NEILL:

H.R. 14804. A bill to provide certain amounts of broadcast time for candidates for President and Vice President of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself and Mr. WOLFF):

H.R. 14805. A bill to amend the Internal Revenue Code of 1954 to allow a deduction in computing gross income for theft losses sustained by individuals, for certain amounts paid to protect against theft, for medical expenses caused by criminal conduct, and for funeral expenses of victims of crime; to the Committee on Ways and Means.

By Mr. REES:

H.R. 14806. A bill to amend the Export Administration Act of 1969 in order to promote freedom of emigration; to the Committee on Banking and Currency.

By Mr. SCHNEEBELI:

H.R. 14807. A bill to allow individuals a limited carryback of capital losses sustained upon the sale of securities received in certain taxable exchanges; to the Committee on Ways and Means.

By Mr. STRATTON (for himself and Mr. O'NEILL):

H.R. 14808. A bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. THOMSON of Wisconsin (for himself, Mr. FRASER, Mr. FRENZEL, Mr. KARTH, Mr. OBEY, Mr. QUIE, and Mr. STEIGER of Wisconsin):

H.R. 14809. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Saint Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mr. BURKE of Massachusetts:

H.J. Res. 1188. Joint resolution to authorize the President to issue a proclamation designating the week of October 15, 1972, through October 21, 1972, as "National Indian Week"; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.J. Res. 1189. Joint resolution declaring the policy of the United States with respect to the termination of hostilities in Indochina; to the Committee on Foreign Affairs.

By Mr. SHOUP:

H. Res. 966. Resolution expressing the sense of the House of Representatives that the full amount appropriated for the rural electrification program for fiscal 1972 should be made available by the administration to carry out that program; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COUGHLIN:

H.R. 14810. A bill for the relief of Bruce A. Feldman, lieutenant commander, Marine Corps, U.S. Navy Reserve; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 14811. A bill for the relief of Alfred Luna; to the Committee on the Judiciary.

By Mr. GREEN of Pennsylvania:

H.R. 14812. A bill for the relief of Margaret A. Wunderle; to the Committee on the Judiciary.

By Mr. HUNGATE:

H.R. 14813. A bill for the relief of Henry D. Espy, James A. Espy, Naomi A. Espy, Jean E. Logan, and Theodore R. Espy; to the Committee on the Judiciary.

By Mr. GREEN of Pennsylvania:

H. Con. Res. 602. Concurrent resolution expressing the sense of Congress in the case of Margaret A. Wunderle; to the Committee on the Judiciary.