and profoundly mentally retarded children; to the Committee on Education and Labor.

By Mr. KOCH (for himself and Mr. HARRINGTON):

H.R. 15214. A bill to amend certain provisions of the Controlled Substances Act relating to marihuana; to the Committee on Interstate and Foreign Commerce.

By Mr. MONAGAN:

H.R. 15215. A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code in the case of certain contributions of literary, musical, or artistic composition, or similar property to the Committee on Ways and Means.

By Mr. OBEY:

H.R. 15216. A bill to provide continued rail transportation in rural America; to the Committee on Interstate and Foreign Commerce.

By Mr. RARICK:

H.R. 15217. A bill to amend the Judiciary and Judicial Procedure Act of 1948; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 15218. A bill to amend the Internal Revenue Code of 1954 to provide that the requirement of filing certain returns and the tax on unrelated business income shall not apply to certain nonprofit social clubs, domestic fraternal societies, and veterans' organizations; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas:

H.R. 15219. A bill to provide for disclosure designed to inform Congress and the public of the identity of persons who for pay or with funds contributed to them seek to influence the legislative process, the sources of their funds, and their areas of legislative activity, and for other purposes; to the Committee on Standards of Official Conduct.

By Mr. VIGORITO:

H.R. 15220. A bill to authorize the Corps of Engineers to cooperate with the States and subdivisions thereof in the enforcement of State and local laws and ordinances in lands owned by the United States and developed by the Corps of Engineers for public use; to the Committee on Public Works.

H.R. 15221. A bill to authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa.; to the Committee on Public Works.

By Mr. WIDNALL:

H.R. 15222. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. MINSHALL:

H. Con. Res. 623. Concurrent resolution expressing the sense of the House of Representatives with respect to the withdrawal of all American forces from Vietnam; to the Committee on Foreign Affairs.

By Mr. RODINO:

H. Con. Res. 624. Concurrent resolution expressing the sense of Congress with respect to the failure of the Government of Paraguay to control the international traffic in narcotic drugs; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

394. The SPEAKER presented a memorial of the Legislature of the Commonwealth of Masachusetts, relative to the war in Indochina, which was referred to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 15223. A bill for the relief of Mrs. Bruna Turni and Miss Graziella Turni; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 15224. A bill for the relief of Leon Z. Dimapilis; to the Committee on the Judiciary.

By Mr. TEAGUE of California:

H.R. 15225. A bill for the relief of Larry C. Runkle; to the Committee on the Judiciary.

By Mr. VAN DEERLIN:

H.R. 15226. A bill for relief of Kazuko Nishioka Dowd; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

243. By the SPEAKER: Petition of Frank Clapp, Beverly Hills, Calif., relative to a resolution of the City Council of Beverly Hills concerning American involvement in Indochina; to the Committee on Foreign Affairs.

244. Also, petition of the Town Board, Cheektowaga, N.Y., relative to the construction of sewage treatment facilities; to the Committee on Public Works.

SENATE—*Tuesday, May 30, 1972*

The Senate met at 12 noon and was called to order by Hon. STUART SYMINGTON, a Senator from the State of Missouri.

PRAYER

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

O God our help in ages past, our hope for years to come, we thank Thee for Memorial Day, for sacred memories of valiant men of the past who gave their last full measure of devotion to preserve the peace and further the Nation's welfare. We would remember also all those in perilous places, now daily sacrificing for the Nation—the duty bound, the wounded, the widowed, and the prisoners of war. Be to them their strength, their comfort, their healer, and their deliverer.

We especially thank Thee this day for the new promise of peace between the nations and the prospects of its achievement in our age. May conflict everywhere be diminished and violence abated and in the climate of good will be replaced by peaceful adjudication. Guide the leaders of the nations to the time when "nations study war no more" and all men live as brothers in Thy kingdom of justice and righteousness.

We pray in Thy holy name. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 30, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. STUART SYMINGTON, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. SYMINGTON thereupon took the chair as Acting President pro tempore.

REPORTS OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of May 25, 1972, the following reports of a committee were submitted, on May 26, 1972:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. 3463. A bill to amend section 906 of title 44, United States Code, to provide copies of the daily and semimonthly Congressional Record to libraries of certain United States courts (Rept. No. 92-805);

S. Con. Res. 79. Concurrent resolution authorizing the printing of additional copies of Senate hearings entitled "Amphetamine Legislation 1971" (Rept. No. 92-806);

S. Res. 293. Resolution authorizing the printing of additional copies of the committee print entitled "Hunger and the Reform of Welfare: A Question of Nutritional Adequacy" (Rept. No. 92-811);

S. Res. 301. Resolution relating to the printing and distribution of legislative proceedings with respect to the death of former Senator James F. Byrnes (Rept. No. 92-812);

S. Res. 302. Resolution authorizing supplemental expenditures by the Committee on Finance for the procurement of consultants (Rept. No. 92-813);

H. Con. Res. 483. Concurrent resolution providing for the reprinting of a House document entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission" (Rept. No. 92-807); and

H. Con. Res. 545. Concurrent resolution authorizing the printing of additional copies of hearings on "American Prisoners of War in Southeast Asia, 1971—Part 2" by the Subcommittee on National Security Policy and Scientific Developments (Rept. No. 92-808).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

S. Res. 300. Resolution authorizing supplemental expenditures by the Select Committee on Equal Educational Opportunity (Rept. No. 92-814);

H. Con. Res. 530. Concurrent resolution to reprint brochure entitled "How Our Laws Are Made" (Rept. No. 92-809); and

H. Con. Res. 552. Concurrent resolution to provide for the printing of the Constitution of the United States together with the Declaration of Independence (Rept. No. 92-810).

By Mr. CANNON, from the Committee on Rules and Administration; original resolutions reported:

S. Res. 306. Resolution relating to the printing and distribution of legislative proceedings with respect to the death of former Senator Dodd (Rept. No. 92-815);

S. Res. 307. Resolution authorizing additional expenditures by the Secretary of the Senate in connection with his duties under the Federal Election Campaign Act of 1971 (Rept. No. 92-816);

S. Res. 308. Resolution to pay a gratuity to Katheryn Sames;

S. Res. 309. Resolution to pay a gratuity to Mary Ann D. Price; and

S. Res. 310. Resolution to pay a gratuity to Lewis Mance, Mary L. Allen Abney, and Lina Bridges.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 25, 1972, be dispensed with.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations for the U.S. Tax Court only.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, under the U.S. Tax Court only, will be stated.

U.S. TAX COURT

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Tax Court.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with Calendar No. 770.

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

PROVISION FOR COPIES OF THE CONGRESSIONAL RECORD TO LIBRARIES OF CERTAIN U.S. COURTS

The bill (S. 3463) to amend section 906 of title 44, United States Code, to provide copies of the daily and semimonthly CONGRESSIONAL RECORD to libraries of certain U.S. courts, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That that clause of section 906 of title 44, United States Code, relating to the furnishing of bound copies of the Congressional Record to libraries of the United States courts of appeals and certain other courts, is amended by inserting immediately before "one bound copy" the following: "one copy of the daily, one semimonthly copy, and".

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF "AMPHETAMINE LEGISLATION 1971"

The concurrent resolution (S. Con. Res. 79) authorizing the printing of additional copies of Senate hearings entitled "Amphetamine Legislation 1971," was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary five thousand additional copies of the hearings of its Subcommittee To Investigate Juvenile Delinquency during the Ninety-second Congress, first session, on S. 674, to amend the Controlled Substances Act to move amphetamines and certain other stimulant substances from schedule III of such Act to schedule II, and for other purposes.

PROVISION FOR REPRINTING "REPORT OF SPECIAL STUDY OF SECURITIES AND EXCHANGE COMMISSION"

The concurrent resolution (H. Con. Res. 483) providing for the reprinting of a House document entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission," was considered and agreed to.

ADDITIONAL COPIES OF "AMERICAN PRISONERS OF WAR IN SOUTHEAST ASIA, 1971—PART 2"

The concurrent resolution (H. Con. Res. 545) authorizing the printing of additional copies of hearings on "American Prisoners of War in Southeast Asia, 1971—Part 2" by the Subcommittee on National Security Policy and Scientific Developments, was considered and agreed to.

REPRINTING OF "HOW OUR LAWS ARE MADE"

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 530) to reprint brochure entitled "How Our Laws Are Made," which had been reported from the Committee on Rules and Administration with an amendment, on page 2, after line 2, insert a new section, as follows:

SEC. 2. There shall be printed for the use of the Senate fifty-one thousand five hundred additional copies of the document specified in section 1 of this concurrent resolution.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

PROVISION FOR PRINTING OF THE CONSTITUTION OF THE UNITED STATES TOGETHER WITH THE DECLARATION OF INDEPENDENCE

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 552) to provide for the printing of the Constitution of the United States together with the Declaration of Independence which had been reported from the Committee on Rules and Administration with an amendment after line 8, insert a new section, as follows:

SEC. 2. There shall be printed for the use of the Senate fifty-one thousand five hundred additional copies of the document specified in section 1 of this concurrent resolution.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF "HUNGER AND THE REFORM OF WELFARE: A QUESTION OF NUTRITIONAL ADEQUACY"

The resolution (S. Res. 293) authorizing the printing of additional copies of the committee print entitled "Hunger and the Reform of Welfare: A Question of Nutritional Adequacy" was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Select Committee on Nutrition and Human Needs five thousand additional copies of its committee print of the Ninety-second Congress, second session, entitled "Hunger and the Reform of Welfare: A Question of Nutritional Adequacy".

PRINTING AND DISTRIBUTION OF LEGISLATIVE PROCEEDINGS WITH RESPECT TO THE DEATH OF FORMER SENATOR JAMES F. BYRNES

The resolution (S. Res. 301) relating to the printing and distribution of legislative proceedings with respect to the death of former Senator James F. Byrnes was considered and agreed to, as follows:

Resolved, That the legislative proceedings of the Congress relating to the death of the former Senator from South Carolina, James F. Byrnes, ordered by the Senate on May 1, 1972, to be bound and printed as a Senate document, shall be prepared, printed, bound, and distributed, unless and to the extent otherwise provided by the Joint Committee on Printing under chapter 1 of title 44, United States Code, in the same manner and under the same conditions as memorial addresses, on behalf of Members of Congress dying in office, are printed under sections 723 and 724 of such title, except that the number of copies to be printed and the distribution thereof are to be as follows:

(1) One hundred copies to the family of the said James F. Byrnes, bound in full

morocco, with gilt edges, suitably lettered as may be requested by that family;

(2) One hundred copies to each Senator from the State of South Carolina;

(3) Two copies to the Vice President and each other Senator;

(4) Ten copies to each member of the House of Representatives from the State of South Carolina; and

(5) One copy to each other Member of the House of Representatives, including the Resident Commissioner from Puerto Rico and each Delegate.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON FINANCE FOR THE PROCUREMENT OF CONSULTANTS

The resolution (S. Res. 302) authorizing supplemental expenditures by the Committee on Finance for the procurement of consultants was considered and agreed to, as follows:

Resolved, That the Committee on Finance is authorized from the date of agreement to this resolution through February 28, 1973, to expend not to exceed $5,000 for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946, as amended).

SEC. 2. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee.

SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

The Senate proceeded to consider the resolution (S. Res. 300) authorizing supplemental expenditures by the Select Committee on Equal Educational Opportunity which has been reported from the Committee on Rules and Administration with an amendment in line 6, after the word "thereof", strike out "$123,000" and insert "$107,500", so as to make the resolution read:

Resolved, That Senate Resolution 247, Ninety-second Congress, agreed to March 6, 1972, is amended as follows:

(1) In subsection (a) of the first section, strike out "May 31, 1972" and insert in lieu thereof "June 30, 1972".

(2) In section 2, strike out "$104,000" and insert in lieu thereof "$107,500".

(3) In section 3, strike out "May 31, 1972" and insert in lieu thereof "June 30, 1972".

The amendment was agreed to.

The resolution, as amended, was agreed to.

PRINTING AND DISTRIBUTION OF LEGISLATIVE PROCEEDINGS WITH RESPECT TO THE DEATH OF FORMER SENATOR DODD

The resolution (S. Res. 306) relating to the printing and distribution of legislative proceedings with respect to the death of former Senator Dodd was considered and agreed to, as follows:

Resolved, That the legislative proceedings of the Congress relating to the death of the former Senator from Connecticut, Mr. Dodd, ordered by the Senate on February 3, 1972, to be printed as a Senate document, shall be prepared, printed, bound, and distributed, except to the extent otherwise provided by the Joint Committee on Printing under chapter 1 of title 44, United States Code, in the same manner and under the same conditions as memorial addresses, on behalf of Members of Congress dying in office, are printed under sections 723 and 724 of such title.

AUTHORIZATION FOR ADDITIONAL EXPENDITURES BY THE SECRETARY OF THE SENATE IN CONNECTION WITH THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

The resolution (S. Res. 307) authorizing additional expenditures by the Secretary of the Senate in connection with his duties under the Federal Election Campaign Act of 1971 was considered and agreed to, as follows:

Resolved, That in addition to the authority contained in Senate Resolution 267, agreed to March 1, 1972, the Secretary of the Senate, in carrying out the duties imposed by the Federal Election Campaign Act of 1971 (Public Law 92-225, approved February 7, 1972), is authorized until June 30, 1972, or until the date on which the Legislative Branch Appropriations Act, 1973, becomes law (whichever date is later), (1) to employ personnel on a temporary basis, including microfilm camera operators and key tape terminal operators on a contract basis subject to the prior approval of the Committee on Rules and Administration, (2) with the prior approval of the Committee on Rules and Administration, to contract for the systems requirements and functional design of an automated statistical reporting system, and for the processing, duplication, and magazine loading of microfilm.

SEC. 2. The expenses of the Secretary of the Senate under this Resolution, which shall not exceed $25,000, in addition to the amount provided by Senate Resolution 267, agreed to March 1, 1972, shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.

KATHERYN SAMES

The resolution (S. Res. 308) to pay a gratuity to Katheryn Sames was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Katheryn Sames, mother of Mary A. Sames, an employee of the Senate at the time of her death, a sum equal to one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

MARY ANN D. PRICE

The resolution (S. Res. 309) to pay a gratuity to Mary Ann D. Price was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary Ann D. Price, widow of William R. Price, an employee of the Senate at the time of his death, a sum equal to six and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

LEWIS MANCE, MARY L. ALLEN ABNEY, AND LINA BRIDGES

The resolution (S. Res. 310) to pay a gratuity to Lewis Mance, Mary L. Allen Abney, and Lina Bridges was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Lewis Mance, brother; and to Mary L. Allen Abney and Lina Bridges, sisters of Lila M. Griffin, an employee of the Senate at the time of her death, a sum to each equal to one-third of six and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

PRESIDENT NIXON'S ACCOMPLISHMENTS IN MOSCOW

Mr. MANSFIELD. Mr. President, President Nixon has left Moscow. He is now in Iran. Tomorrow he will visit Poland. On Thursday, he will return to the United States.

I want to take this occasion to commend the President for the substantial successes he was able to achieve in Moscow at the summit meeting which was attended by the General Secretary, Mr. Brezhnev; the Premier, Mr. Kosygin; and the President of the U.S.S.R., Mr. Podgorny.

While it may be true that many of these agreements were reached before hand, I am certain in my own mind that all of them cannot be placed in that category.

I think, also, that the true purpose of a summit meeting has been achieved because, to me, a summit is a place not necessarily for conversation or contact but for the placing of the imprimatur of the heads of the respective states-nations concerned—in this case, a series of bilateral agreements between the U.S.S.R. and the United States. That was done.

I am happy that there is to be a joint effort in space flight beginning in 1975, that exchange agreements have been achieved in science and technology, medicine and health, and the environment as well as on harassment at sea and most important of all, that a SALT agreement has been entered into. I do not intend to get euphoric over what was accomplished in the achievement of this first step, but it could possibly lead to a diminution of the arms race and a stop to the spiral of arms expenditures which have marked the histories of our two nations in recent years.

Let me say that the first step is the hardest and sometimes the longest. On the basis of what the President has been able to achieve of substance, I think, this is a first step that has been well worthwhile. I hope that the President will consider the possibility of addressing a joint session of the Congress on his return so that he can tell us collectively what he has been able to do, what his expectation and hopes are, and through such a joint session to report likewise to the people of this country.

So, again I want to say that I am happy that the President has gone to Moscow, as I was happy that he went to Peking. I think that in both areas he accomplished much in the area of better understanding and certainly, as far as the Moscow summit meeting was con-

cerned, he achieved much in a way that was substantial.

Mr. SCOTT. Mr. President, the distinguished majority leader always puts the country first. And I would plead for the Senate to follow that leadership and do the same. There are a few skeptics on the right who have fears which would have been justified in an earlier climate. There are some tremulous souls of the neoisolationist left who are fearful of almost anything and everything that goes "bump" in the night. However, these are few and, I believe, they do not represent the sentiment of the Senate or of the two-thirds of the Senate required to ratify these numerous treaties.

These are good treaties. It is quite true that some of them might have been accomplished without the Moscow meeting. I think the SALT agreement itself, however, required a summit to bring about this last and ultimate solution of most difficult questions, including particularly the installation of radar sites.

Therefore, the great deal of hard work which has been carried on by Ambassador Gerard Smith and the Russian Ambassador Semyonov and all of their aides has come to fruition. It is a strong step, a step that recognizes the balance of terror that has for too long frightened the rest of the world.

I welcome the suggestion of the distinguished majority leader that the President be invited to address a joint session of the Congress in addition to meeting with the bipartisan leadership of both Houses, which I am sure he will do. I think that both are good ideas.

I recall what Mr. Suslov, the No. 3 in the Russian hierarchy in the sense of being head of the foreign affairs section, and I discussed this last August when I said, "No matter what your associates tell you, no matter what your allies tell you, and no matter what our allies tell us in the way of support, the truth is that the whole issue is scaring the hell out of us and the rest of the world." And I asked the translator to translate that literally.

He said that he felt that was true. And that is reflected in the statements made by Brezhnev, Kosygin, and Podgorny, as well as the President's very moving address to the Soviet people.

There is a tradition in Russia where a visitor is presented upon his entry into that country with bread and salt. This is a gesture of friendship and hospitality, a a sign that the guest is welcome. I think it is symbolic here. I think we have an agreement that embodies the very bread of life and the very salt of security.

While there is much more to be done, we have exchanged with the Russians at long last our bread and salt. Let us hope that what will come from it will be life, the security of life, a better life, reduction of tensions, and our ongoing example to other nations of the world that power need not breed distrust, but that power may be used wisely for peaceful pursuits of men and that, as the Bible instructs us, we may follow after the ways that lead to peace.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes with statements limited therein to 3 minutes.

THE RESIGNATION OF DR. VON BRAUN

Mr. ALLEN. Mr. President, on last Friday, May 26, Dr. Wernher von Braun announced that he is retiring from the National Aeronautics and Space Administration to enter private industry.

In his statement, Dr. von Braun said—

I leave NASA with a deep feeling of gratitude for the wonderful and unique opportunities the agency has given me during the last 12 years.

Mr. President, I consider as one of the most profound understatements of all time the fact that this man is thanking his country for opportunity. To the contrary, it is we, the people of America, who should thank Dr. von Braun for giving us the inspiration, the challenge, and the drive to accept man's greatest opportunity, the exploration and development of space and the planets.

We all know the history of how, even before the final defeat of Germany in World War II, Dr. von Braun came to the United States with a team of his fellow German rocket scientists and engineers; how this team set up temporary quarters at Fort Bliss, Tex., until they moved to their permanent work station in Huntsville, Ala., where they adapted their knowledge and ability to help the U.S. Army develop its rocket programs at Redstone Arsenal. It was here that our Nation's first long-range military rockets were developed, then turned over to the Air Force to become the beginning of what is now our powerful intercontinental ballistic missile force.

Certainly we remember the terrifying announcement in 1957 that the Russians had launched the world's first satellite—the sputnik. After an initial period of floundering through interservice rivalries, the order was given the Army's missile team under Dr. von Braun to launch America's first satellite. Beating his own deadline, Dr. von Braun directed the modification of an Army missile called the Redstone and guided its launching at Cape Canaveral, Fla.—now Cape Kennedy—putting into perfect orbit an Explorer I satellite. This was the beginning of the Space Age—American style.

It was following this triumphant success with Explorer I that American policy dictated the establishment of an agency for the exploration of space for peaceful purposes. The National Aeronautics and Space Administration was created and the Army team at Redstone Arsenal was broken apart. Thereafter, Redstone Arsenal would become the Army's missile and rocket research and development center while NASA created the George C. Marshall Space Flight Center at Huntsville to develop rockets for space exploration purposes not related to military needs. Dr. von Braun was selected to become Director of this Center, remaining in that position until 1970 when he was named Deputy Associate Administrator for Planning at NASA headquarters in Washington.

Mr. President, I have been privileged to know Dr. von Braun personally for many years, working with him in creating the Alabama Research Institute at the University of Alabama in Huntsville, and in building the Alabama Space and Rocket Center, also in Huntsville, with its magnificent collection of historic space-related equipment and, not so incidentally, a vast collection of personal papers donated by Dr. von Braun. It was my privilege to have served as chairman of the State commission which planned and built this center and still to be a member of the commission.

I have had the opportunity to see Dr. von Braun in action. He has been an outstanding citizen of his adopted home State of Alabama, lending not only his stature and his influence but, most important of all, lending his knowledge and ability to ventures for the betterment of his community, his State and his Nation.

Dr. von Braun's move from Government to private enterprise is a startling climax to the long fight by some against this country's space ventures. Also symptomatic of the effect this whittling away process is having is the announcement this past weekend of the retirement of a number of our astronauts. They are leaving because they see little prospect for being able to contribute to manned space exploration because of the drastic reduction of funds for this purpose and because of the annual battle over funds for any further space programs.

Mr. President, I do not imply that Dr. von Braun's departure from NASA is because of the withering away of the Agency's vine. I accept his announcement at its face value, that he has decided to retire from NASA so that he can now devote his time to help implement some space projects which he feels are of particular importance and because he thinks he can do this best in private industry where the tools of progress are being made.

Dr. Wernher von Braun is a byword throughout the world. I speak for all Alabamians in thanking Dr. von Braun for his contributions toward a better life and in wishing him every success in whatever adventures he finds along his chosen path. We know that he has provided the leadership to bring us where we are. We know that the world will never be the same because of him. I have every confidence that we will continue to look ahead, with the stars guiding us toward the peaceful conquest of space and the use of knowledge for the betterment of all mankind.

Mr. President, in the Saturday, May 27, edition of the New York Times there appears a well-documented article by John Noble Wilford entitled "Von Braun's Departure Marks the End of an Era," and another by Harold M. Schmack, Jr., entitled "Von Braun Will Leave NASA for Job in Aerospace Industry." I ask unani-

mous consent that these articles be printed in the RECORD.

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

[From the New York Times, May 27, 1972]

VON BRAUN'S DEPARTURE MARKS THE END OF AN ERA

(By John Noble Wilford)

In July 1969, the time of the first landing on the moon, Dr. Wernher von Braun reflected on his germinal role in space exploration and on the infinite opportunities. He quoted from the late Dr. Robert H. Goddard, the American rocket experimenter, who had written:

"There can be no thought of finishing, for aiming at the stars, both literally and figuratively, is the work of generations, but no matter how much progress one makes there is always the thrill of just beginning."

Now, having known the "thrill of just beginning" and realizing there can be no "finishing" for him or his pioneering generation, Dr. von Braun, at the age of 60, is leaving the National Aeronautics and Space Administration for private industry.

His departure marks the end of an exciting era—the era of tinkering with rockets that often fizzled, of shepherding a team of German missilemen who would be a nucleus of the American space program, of firing the enthusiasms of earth-bound minds, of rushing to catch up with the Russians after Sputnik 1, of building the mammoth rocket that would put men on the moon, fulfilling the dream of centuries and a national commitment of the decade.

The departure of Dr. von Braun, whose name, more than any other, became synonymous with space, is a reminder of how many others who forged the American space effort in the last 15 years have left the scene.

John H. Glenn, Jr., is an Ohio businessman with political ambitions. Frank Borman is a vice president of Eastern Airlines, Neil A. Armstrong is a professor at the University of Cincinnati, James E. Webb, the NASA administrator who built the Apollo team, is a Washington lawyer-consultant. Thomas O. Paine, the administrator in charge at the time of the moon landing, is a vice president of the General Electric Company.

Dr. Robert R. Gilruth, who gathered the manned space flight team while Dr. von Braun was building the rockets, recently stepped down as director of the Manned Spacecraft Center in Houston. Others of space's first generation have scattered to industry or are close to retirement.

118-MAN TEAM

Of the original 118 German-born engineers who came to the United States with Dr. von Braun after World War II, only 35 remain at the Marshall Space Flight Center in Huntsville, Ala. This is NASA's chief rocket development center, which until 1970, Dr. von Braun headed. One of his protégés, Dr. Eberhard Rees, another of the Peenemünde V-2 rocket Germans, is the current director.

Another six of the original team are with NASA at other centers, including Dr. Kurt H. Debus, director of the Kennedy Space Center at Cape Kennedy. Twenty-two others are in industry, 12 are deceased, 16 returned to Europe years ago, and 27 have retired.

Dr. von Braun has been more than an able engineer. He provided the American space program with more than his knowledge of the V-2 technology.

The tall, hearty, articulate Dr. von Braun is one of those rare engineers with charisma. "Working for the Government, you don't wind up a rich man," one of his associates at Huntsville once said. "But working for him, you feel you're a member of a great team."

Waitresses at Cape Kennedy ask Dr. von Braun to autograph their menus, while not even recognizing the higher NASA brass at the table. Around the country, people who have forgotten the names of most of the astronauts and never knew those of other NASA officials, think of Dr. Braun as NASA and ask all sorts of questions about him as a man and about his ideas for space.

INSPIRED ENGINEERS

One of Dr. von Braun's principal contributions was his belief in space exploration long before it became a reality. His belief, expressed personally in lectures and conferences and books, attracted and inspired many of the young engineers who would be ready to take up the Soviet challenge in 1957, the year of the first Sputnik launching.

In 1956, for example, Dr. von Braun coauthored an imaginative book on the exploration of Mars. It may have seemed frivolous at a time when most people were preoccupied with Suez and Hungary.

But later the next year, a nation startled into the space age by Sputnik would turn to Dr. von Braun, and he was ready. In fact, his associates insist that if it had not been for a Washington edict favoring the Navy's Vanguard project, Dr. von Braun's team could have put up the first man-made satellite months before Sputnik 1, which was launched Oct. 4, 1957.

REDSTONE LAUNCHED

In any event, Dr. von Braun's team rushed into action and on Jan. 31, 1958 fired a Redstone, a rocket that owed much to V-2 technology, and launched Explorer 1 into an orbit of earth. It was the first of many successes for Dr. von Braun and the nation.

The Saturn 5 moon rocket was Dr. von Braun's major engineering achievement. Its design bears the clear von Braun imprint, a combination of lessons learned at Peenemünde and of the precision technology of a computer age. In 11 launchings, this biggest of rockets has performed flawlessly—something that cannot be said for any other rocket—and has sent 10 men to walk on the moon.

But the Redstones have long since been museum pieces, and Saturn 5's work will come to an end with the launching of Apollo 17 in December and the Skylab space station next spring. So perhaps it is understandable that Dr. von Braun would decide to leave NASA at this time.

For NASA, however, the timing may be not so opportune. The space agency is struggling to win support for new post-Apollo programs, particularly the reusable shuttle system. It will miss Wernher von Braun's flare for the dramatic, his ability to articulate the adventure of space that often gets lost in the nuts-and-bolts of spaceflight.

[From the New York Times, May 27, 1972]

VON BRAUN WILL LEAVE NASA FOR AEROSPACE INDUSTRY

(By Harold M. Schmeck, Jr.)

WASHINGTON, May 26.—Dr. Wernher von Braun, one of the chief architects of man's first landing on the moon, is retiring from the National Aeronautics and Space Administration.

The German-born rocket expert, who has worked for the United States Government since the end of World War II, will leave the space agency July 1 to become corporate vice president for engineering and development of Fairchild Industries, a major aerospace company.

"Dr. von Braun's decision to retire from NASA is a source of great regret to all of us at the agency," said Dr. James C. Fletcher, NASA's administrator.

"For more than a quarter of a century he has served the United States as the leader in space rocket development," Dr. Fletcher said in the announcement. "His efforts first put the United States in space with Explorer 1. As director of the Marshall Space Flight Center for over 10 years, he directed the development of the world's most powerful rocket, the Saturn V—which has taken 10 American astronauts to the surface of the moon."

Two of those astronauts, Neil A. Armstrong, the first man to set foot on the moon, and Edwin E. Aldrin Jr., his companion on the historic Apollo 11 moon landing, Capt. Edgar D. Mitchell of Apollo 14 and Lieut. Col. James B. Irwin of Apollo 15, plan to retire July 1. The moon exploration program comes to an end, for the time being, in December when Apollo 17 is scheduled to complete the series.

Explorer 1, the first successful United States satellite was launched in January, 1958, by a rocket system developed under Dr. von Braun's direction. His group was given the job after the Soviet success with Sputnik in October, 1957.

Dr. von Braun's leading role in American space rocket development continued until early 1970, when he left the Marshall Space Flight Center in Huntsville, Ala., to come to Washington as deputy associate administrator for planning at the space agency.

In announcing that move, Dr. Thomas O. Paine, who was then NASA's administrator, said Dr. von Braun "has an unmatched record of looking to the future to choose the most promising avenues of technical advance."

In a comment released today by the space agency, the 60-year-old Dr. von Braun said he was "leaving with the knowledge that NASA has enough well-thought out plans to keep it moving ahead for many years to come, even though some of these may have to be deferred because of budget constraints."

"I would like to devote my time now to help implement some space projects I feel are of particular importance," he said. "I think I can do this best in private industry where the tools of progress are being made."

Dr. von Braun was one of the early and most persistent advocates of manned space flight. He was active in rocketry since 1930 and was one of the pioneers in that field in Germany.

In 1937, after five years as chief of a small rocket development station near Berlin, he became director of the Peenemune rocket center, where German experts developed the V-2 missile that bombarded London during the closing months of World War II.

When the war ended, Dr. von Braun and about 100 other German rocket specialists surrendered to the Western powers. He and his group came to the United States in September 1945, under contract to the Army.

They are credited with major contributions to United States rocket development for the military and for NASA.

Said Dr. von Braun in the announcement of his retirement:

"I leave NASA with a deep feeling of gratitude for the wonderful and unique opportunities the agency has given me during the last 12 years."

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. SYMINGTON) laid before the Senate the following letters, which were referred as indicated:

REPORT ON PROPOSED USE OF CERTAIN RESEARCH AND DEVELOPMENT FUNDS

A letter from the Administrator, National Aeronautics and Space Administration, reporting, pursuant to law, on the use of certain research and development funds appropriation to that Administration; to the Committee on Aeronautical and Space Sciences.

REPORT ON SETTLEMENT OF CERTAIN INDIAN CLAIMS

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, the proceedings have been concluded with respect to docket Nos. 18–E and 58, Bay Mills Indian Community, Sault St. Marie, Arthur Lawrence Lablanc, Daniel Edwards and John L. Boucher, and Ottawa and Chippewa Indians of Michigan, et al., Plaintiffs, v. The United States of America, Defendant (with accompanying papers); to the Committee on Appropriations.

REPORTS OF THE FEDERAL POWER COMMISSION

A letter from the Chairman of the Federal Power Commission submitting two reports; one entitled "Depreciation Practices of Natural Gas Companies, 1969"; and the other "Statistics of Publicly Owned Electric Utilities in the United States, 1970" (with accompanying reports); to the Committee on Commerce.

SEMIANNUAL CONSOLIDATED REPORT OF BALANCES OF FOREIGN CURRENCIES ACQUIRED WITHOUT PAYMENT OF DOLLARS

A letter from the Secretary of the Treasury, transmitting, pursuant to law, a report of balances of foreign currencies acquired without payment of dollars, as of December 31, 1971 (with an accompanying report); to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Audit of Federal Deposit Insurance Corporation for the Year Ended June 30, 1971, Limited by Agency Restriction on Access to Bank Examination Records" (with accompanying report); to the Committee on Government Operations.

REPORT ON THE UPPER IOWA RIVER, IOWA

A letter from the Secretary of the Interior, reporting, pursuant to law, on the Upper Iowa River, Iowa (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED CONTRACT FOR RESEARCH PROJECT WITH FMC CORP., SAN JOSE, CALIF.

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with FMC Corp., San Jose, Calif., for a research project entitled "Improved Sensors and Fire Control Systems for Mining Equipment" (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED CONTRACT WITH MINE SAFETY APPLIANCES CO., PITTSBURGH, PA.

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Mine Safety Appliances Co., Pittsburgh, Pa., for a research project entitled "Design, Develop, Fabricate and Demonstrate a Battery Powered Manually Operated Underground Mine Rescue Team Vehicle" (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED GRANT WITH PENNSYLVANIA STATE UNIVERSITY, UNIVERSITY PARK, PA.

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed grant with the Pennsylvania State University, University Park, Pa., for a research project entitled "Interrelating Data for Technical Products with Federal Standard Industrial Classification (SIC)" (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend the National Environmental Policy Act of 1969 to provide a temporary partial exemption from the requirements for the issuance of environmental impact statements (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT ON THE LIBRARY OF CONGRESS

A letter from the Librarian of Congress, transmitting, pursuant to law, a report on the Library of Congress, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Rules and Administration.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. SYMINGTON):

A resolution of the Senate of the State of Louisiana; to the Committee on Foreign Relations:

"SENATE RESOLUTION No. 18

"A resolution to express to the President and the Congress of the United States the support of the Senate of Louisiana for the recent action taken by the President in the Vietnam conflict

"Whereas, there are some 60,000 American troops engaged in the Vietnam conflict and fourteen to fifteen hundred American soldiers remain confined in prisoner-of-war camps in Vietnam, who have loved ones in the United States anxiously awaiting their return; and

"Whereas, the interests of world peace and the welfare of all peoples make it imperative that the Government of the United States do everything possible to protect the lives and safety of our troops and of our allies in South Vietnam because men cause wars, weapons do not; and

"Whereas, there is a need to terminate this terrible war but in an honorable manner.

"Therefore, be it resolved by the Senate of the Legislature of Louisiana that the member of the Senate do hereby express to the President and the Congress of the United States their support for the recent action taken by the President in the Vietnam conflict.

"Be it further resolved that a copy of this Resolution shall be sent to the President of the United States, the members of the Louisiana Congressional delegation, the Department of Louisiana Veterans of Foreign Wars and the Department of Louisiana American Legion, the latter two both located at the Old State Capitol in Baton Rouge."

Lieutenant Governor and President of the Senate.

A concurrent resolution of the Legislature of the State of Delaware; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION No. 47

"Relating to the proposed amendment to the Constitution of the United States declaring equal rights for men and women

"Whereas, at the first session of the 92nd Congress of the United States of America, begun and held at the City of Washington on the 21st of January, 1971, and at the second session of the 92nd Congress of the United States of America begun and held at the City of Washington on the 18th of January, 1972, it was resolved on October 12, 1971 by the House of Representatives and on March 22, 1972, by the Senate of the United States in Congress assembled (two-thirds of each House concurring therein), that the following Article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

" 'ARTICLE —

" 'SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

" 'SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this Article.

" 'SEC. 3. This amendment shall take effect two years after the date of ratification."; and

"Whereas, the citizens of the State of Delaware desire to re-affirm their belief that men and women shall have equal rights under the law. Now, therefore,

"Be it resolved by the Senate of the 126th General Assembly of the State of Delaware, the House of Representatives concurring therein:

"1. That the said proposed amendment to the Constitution of the United States be, and the same is hereby ratified by the General Assembly of the State of Delaware and shall be, to all intents and purposes, a part of the Constitution of the United States.

"2. That certified copies of this Concurrent Resolution shall be forwarded by the Secretary of this State to the Secretary of State of the United States; to the presiding officer of the United States Senate; to the Speaker of the House of Representatives of the United States; to the Administrator, General Services Administration, Washington, D.C.; and to all other appropriate Federal officials.

"3. That the Secretary of the Delaware Senate and Clerk of the Delaware House of Representatives be, and they are hereby directed to deliver copies of this Resolution to the Delaware Secretary of State at their earliest convenience."

A resolution adopted by the Legislation of Erie County, N.Y., praying for the enactment of legislation relating to water quality in the Great Lakes by December 21, 1975; to the Committee on Appropriations.

A resolution adopted by the city council of East Lansing, Mich., praying for an immediate cessation of all bombing of North Vietnam; to the Committee on Foreign Relations.

A letter, in the nature of a petition, from Frank Clapp, Beverly Hills, Calif., relating to the administration's Vietnam policy; to the Committee on Foreign Relations.

A resolution adopted by the board of directors of the Lake County Farm Bureau, Tavares, Fla., praying that more stringent action be taken to combat and reduce the wave of crime; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary:

Norman C. Roettger, Jr., of Florida, to be a U.S. district judge for the Southern District of Florida.

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of 57 flag and general officers in the Army and Navy. I ask that these nominations be placed on the Executive Calendar.

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

The nominations, ordered to be placed on the Executive Calendar, are as follows:

Brig. Gen. Constant Collin Delwiche, and sundry other U.S. Army Reserve officers, for promotion as Reserve commissioned officers of the Army;

Brig. Gen. David C. Matthews, and sundry other Army National Guard of the U.S. officers, for appointment as Reserve commissioned offiers of the Army;

Tom R. Stoughton, for reappointment to the active list of the Regular Army of the United States, with the grade of major general, Regular Army, and major general, Army of the United States;

Lt. Gen. George Irvin Forsythe, Army of the United States (major general, U.S. Army), to be placed on the retired list, in the grade of lieutenant general;

Eugene A. Grinstead, Jr., and sundry other officers, for promotion in the Navy;

Philip O. Geib, and sundry other officers, for promotion in the Navy;

Rear Adm. Robert E. Adamson, Jr., U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving;

Vice Adm. Frederick H. Schneider, Jr., U.S. Navy, for appointment to the grade of vice admiral, when retired;

Vice Adm. Nels C. Johnson, U.S. Navy, for appointment to the grade of vice admiral, when retired; and

Vice Adm. Evan P. Aurand, U.S. Navy, for appointment to the grade of vice admiral, when retired.

Mr. STENNIS. Mr. President, in addition I report favorably 48 Air National Guard officers for promotion in the Reserve of the Air Force in the grade of lieutenant colonel. Since these names have already appeared in the CONGRESSIONAL RECORD in order to save the expense of printing on the Executive Calendar I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

Roland E. Ballow, and sundry other Air National Guard of the United States officers, for promotion in the Reserve of the Air Force.

By Mr. PASTORE (for Mr. MAGNUSON), from the Committee on Commerce:

Richard E. Wiley, of Illinois, to be a member of the Federal Communications Commission;

Benjamin L. Hooks, of Tennessee, to be a member of the Federal Communications Commission; and

William R. Haley, of the District of Columbia, to be a member of the National Transportation Safety Board.

PUBLIC BUILDINGS AMENDMENTS OF 1972—CONFERENCE REPORT—REPORT OF A COMMITTEE

(S. REPT. 92-818)

Mr. ROBERT C. BYRD (for Mr. GRAVEL), from the committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1736) to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes, submitted a report thereon, which was ordered to be printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MANSFIELD:

S. 3648. A bill for the relief of Hong-To Lam and his wife, May-Fung Shum Lam. Referred to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 3649. A bill for the relief of Hwa-Ja Seon Yeong Moon. Referred to the Committee on the Judiciary.

By Mr. NELSON (for himself, Mr. MCGOVERN, Mr. HART, Mr. HUGHES, Mr. MONDALE, Mr. HUMPHREY, Mr. GRAVEL, and Mr. BAYH):

S. 3650. A bill to provide for transmittal of the Department of Defense 5-year defense program and for congressional deliberation of major mission and support functions of the 5-year defense program. Referred to the Committee on Armed Services.

By Mr. BAKER (for himself, Mr. HUMPHREY, Mr. ALLEN, Mr. ALLOTT, Mr. BEALL, Mr. BELLMON, Mr. BENNETT, Mr. BOGGS, Mr. BROCK, Mr. BROOKE, Mr. COOK, Mr. COOPER, Mr. CRANSTON, Mr. DOLE, Mr. DOMINICK, Mr. FANNIN, Mr. FONG, Mr. GRIFFIN, Mr. HART, Mr. HUGHES, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MATHIAS, Mr. MCGOVERN, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PERCY, Mr. PELL, Mr. ROTH, Mr. SAXBE, Mr. SCHWEIKER, Mr. SCOTT, Mr. SPARKMAN, Mr. STAFFORD, Mr. TAFT, Mr. THURMOND, Mr. TOWER, Mr. TUNNEY, and Mr. WILLIAMS):

S. 3651. A bill to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes. Referred to the Committee on Finance.

By Mr. BENNETT (by request):

S. 3652. A bill to clarify and regulate the powers of the States to tax commercial banks, to empower the States to tax national banks, to foster and promote the dual banking system by providing for equal State taxation of national and State banks, to promote the interstate flow of moneyed capital and the financial resources of insured banks, to foster and promote interstate and foreign commerce and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BURDICK:

S. 3653. A bill to improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. MCGOVERN, Mr. HART, Mr. HUGHES, Mr. MONDALE, Mr. HUMPHREY, Mr. GRAVEL, and Mr. BAYH):

S. 3650. A bill to provide for transmittal of the Department of Defense 5-year defense program and for congressional deliberation of major mission and support functions of the 5-year defense program. Referred to the Committee on Armed Services.

FIVE-YEAR DEFENSE PROGRAM

Mr. NELSON. Mr. President, we are looking at the wrong defense budget.

We will soon be looking at the defense budget for fiscal year 1973, when we should be looking at fiscal 1974 and beyond fiscal year 1973.

Time has already robbed the Congress of all of its flexibility to make major decisions on the level of defense spending in fiscal 1973. It is now already too late to make any but marginal changes of a few billion dollars in the fiscal 1973 defense budget. Before we have finished with the two basic defense bills—procurement authorization and appropriations—this year, we will have lost even more of our flexibility in making major decisions.

Meanwhile, the administration is already far along in planning the fiscal 1974 defense budget, and it has been making the basic decisions on that budget without any significant congressional guidance. By the time the fiscal 1974 budget reaches us for consideration the time squeeze again will have robbed Congress of its ability to change it.

The central point is that, in order to effectively make decisions on the level of defense spending, Congress must look ahead and plan ahead just as the military planners do.

The ability of Congress to work ahead in this fashion will not be developed overnight. I am proposing today one step—a beginning—in this direction. It is a bill requiring the President to transmit the Department of Defense's 5-year defense program to Congress for its deliberation.

The bill further instructs the Armed Services Committees of the House and Senate to:

Review the administration's planning of the defense program and budget for the next 5 years.

Examine the Department of Defense's 5-year budgetary information classified by missions—that is, by major force categories and support rather than according to the arbitrary budget categories which Congress has traditionally used.

Hear DOD testimony explaining national security objective and strategy, force unit missions and capabilities, areas of deployment and potential deployment of our force units, and associated U.S. commitments, relating to the use of America's defense resources—including manpower, weapons systems, organized units, and funds—in the 5-year defense program.

Report its findings and recommendations as part of the regular reports of the committees.

CONGRESS IS LATE

As the following table shows, the regular defense appropriations bills generally are passed by Congress about half way through the fiscal year to which they apply:

	Fiscal year [1]—				
	1968	1969	1970	1971	1972
Authorization act	June 5, 1967	Sept. 20, 1968	Nov. 19, 1969	Oct. 7, 1970	Nov. 17, 197
Regular appropriation act	Sept. 29, 1967	Oct. 17, 1968	Dec. 29, 1969	Jan. 11, 1971	Dec. 18, 1971
Last major supplemental appropriation	July 9, 1968	July 22, 1969	July 6, 1790	May 25, 1971	1972

[1] Fiscal year 1968 begins July 1 of calendar year 1967; fiscal year 1969 begins July 1 of calendar year 1968; and so on for each year

Midway in the fiscal year is very late to try to make substantial changes in a budget. Defense Department Comptroller Robert C. Moot discussed this in testimony before the Joint Committee on Congressional Operations last year:

By that time, the Department has been operating for six months based on the continuing resolutions. Plans and work schedules are in being, covering at least the next several months—this involves deployments, combat operations, training rates, re-

build and transportation schedules, manpower programs, ship and aircraft operations, and so forth. At the same time, contractors are at work producing goods and services for defense. Industry manpower is engaged, parts orders and subcontracts have been let, and work is proceeding. Large parts of the Defense program are not subject to orderly change if decisions are delayed until the middle of the fiscal year.

Even the very beginning of the fiscal year may be too late, for practical purposes, to make major changes in defense spending for that year. Late last June, Senators PROXMIRE and MATHIAS sought unsuccessfully to place a $68 billion ceiling on defense outlays for fiscal 1972—a $7 billion cut from the administration's budget, or 9 percent. The Proxmire-Mathias amendment was placed on the continuing resolution, at the start of the fiscal year, precisely to avoid the argument that such large changes could not be made late in the year. However, one of the main arguments raised against the amendment on the Senate floor was that even at that early date in the fiscal year, cuts that magnitude would be highly disruptive. Manpower would have to be reduced by layoffs rather than attrition. Contracts would have to be terminated with penalty payments and bases abruptly closed—all resulting in much inefficiency. The amendment was defeated 24 to 63. The incident seems to suggest that even at the beginning of the fiscal year Congress has lost must of its flexibility of decision.

By the time the Military Procurement Authorizations Act of 1973 reaches us—conceivably sometime in the fall—Congress can make marginal changes. For example, it might cut $2 or $3 billion—in the fiscal 1973 defense budget, which no doubt have already been taken into account in Pentagon planning. But we have already lost our chance to realistically consider more major changes.

PENTAGON PLANS AHEAD

While Congress is looking at the fiscal 1973 defense budget, the administration is already far along in planning the fiscal 1974 budget, and is doing so without any guidance from Congress.

According to the DOD's Program/Budget Review Schedule for calendar year 1972, the administration's annual defense budget planning process consists of 37 steps. Planning for fiscal year 1974 actually began last June—that is June 23, 1971—with the issuance of the Joint Strategic Objective Plan—JSOP—vol. I, a strategy paper by the Joint Chiefs dealing with a defense program from 1974 to 1981.

This January, the 5-year defense program inherited from the previous cycle was updated, and the 5-year defense program for fiscal years 1974–77 was updated in February. By the end of May 1972, 16 of the 37 steps had been completed. Included in the 16 completed steps were an analysis of strategic issues by the Joint Chiefs; strategic guidance by the Secretary of Defense fiscal guidance by the Secretary of Defense indicating how much money could be spent in 1974 and following years; an outline of forces by the Joint Chiefs within these constraints; and most recently, program objective memorandums from each of the services detailing changes in their force levels, support, and activities under these policies.

By the time the Defense Department appropriations bill for fiscal year 1973 reaches us the Secretary of Defense will have made program decisions leading to the further updating of the 5-year defense program to cover fiscal years 1974–77.

This will be followed by review by the Office of Management and Budget and presentation of the fiscal 1973 budget to Congress early in calendar year 1973. This process actually looks even farther ahead than 1978. Step. No 16, scheduled for June 1, consists of a strategy paper by the Joint Chiefs dealing with a defense program from fiscal 1976 to 1982.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a list furnished by the Department of Defense outlining these 37 steps as they were conceived at the beginning of the budget cycle.

With some minor changes, this list has been followed very closely through step 15 at the end of May. The actual completion dates of each step have been close to the planned action dates shown on the list.

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

(See exhibit No. 1.)

TRADITION

Mr. NELSON. Mr. President, while the Pentagon plans 5 years ahead, Congress sticks to a traditional, annual appropriation schedule. This procedure simply bars Congress from effective participation in defense planning.

This Pentagon planning process takes place with no formal participation by Congress. The documents involved are regarded as internal papers of the administration and are not furnished to congressional committees dealing with defense. Nor do these committees appear to have sought them. Some information from the document is reflected in testimony to these committees by administration witnesses in closed session.

The most basic of these documents in terms of looking ahead is the annually updated 5-year defense program. So far as I have been able to determine, this has not been furnished to congressional committees even on a secret basis. The 5-year program included money totals for the Defense Department for each of the 5 years. These figures have not been included in the Secretary of Defense's annual report to Congress even in its classified information form. The Senate Armed Services Committee has received classified information from the 5-year program but not the document itself.

REORGANIZATION ACT

Last September when I introduced amendment No. 425 to the Military Procurement Authorizations Act of 1972 calling on the Armed Services Committee to examine among other things the 5-year defense program, I noted that the Legislative Reorganization Act of 1970 requires legislative committees to estimate the 5-year costs of legislation they enact. I discussed the paucity of information forthcoming despite that act.

To comply with this provision, Chairman F. EDWARD HÉBERT of the House Armed Services Committee wrote Secretary Laird last May asking for 5-year projections. Mr. Laird replied by citing the difficulty of making such projections:

As you know, any projection of Defense financial requirements beyond the budget year is extremely tentative at best. Such programs as may be proposed by Defense components have not been approved by the President nor have they been subjected to the thorough review and analysis by my staff to assure that they represent firm requirements supportable within the dollar levels that might be expected to be available to the Department of Defense in future years.

Mr. Laird went on to say:

I can also provide the general estimate that to support the 5-year forces contained in my Defense report on the fiscal year procurement and RDT&E in the range of $22–23 billion (in fiscal year 1972 dollars) would be required for each of the next 5 years.

The estimate covers only procurement and research and development—about a third of the defense budget—because those are the only major items covered in the authorization bill. The Legislative Reorganization Act exempts appropriations committees from making 5-year estimates. This exchange—and a similar exchange between Mr. Laird and the Senate Armed Services Committee—appear to be the closest Congress had come yet to estimating defense costs over the next 5 years.

My amendment, No. 425, failed. But soon after, Senator STENNIS introduced legislation which was enacted as section 506 of Public Law 92–156. It requires the Department of Defense to submit a written report regarding development and procurement schedules for each weapon system for which any funds for procurement are requested. That and the annual military manpower requirements report in compliance with Public Law 92–129 are major strides toward the concept of Congress looking at the defense budget beyond the immediate budget year.

But Congress is still a long way off from reviewing the entire defense budget in as systematic a fashion as the budget is conceived and created in the Defense Department.

The Brookings Institution has perhaps come closest to such a systematic review of the defense budget in its recently published book, "Setting National Priorities: the 1973 Budget." Some of Brookings findings concerning the financial implications of the 1973 defense budget are rather startling. It states that—

By fiscal 1977 the current defense posture will cost $86.6 billion in funds authorized, an increase of $3.4 billion.

Using other assumptions, Brookings reports that funds could rise to $95 billion by 1977, an increase of $12 billion.

Further:

Since proposed defense outlays in 1973 are only $76.5 billion as against $83.2 billion in requested authorizations, the increase in actual defense spending between 1973 and 1977 could be $6 billion greater. This would mean that as expenditures rise gradually toward the level of authorizations, the increase in actual defense spending could range from $10 billion to $18 billion by 1977. Using the mid point of this range and allowing for the effects of continuing inflation, defense expenditures in current dollars could be approximately $100 billion in 1977.

This is an important revelation. It is all the more reason why Congress should be looking ahead. This information is vital to each Senator and Congressman when it comes time for him to vote on DOD appropriations this year.

The Brookings study is a major accomplishment and contribution to Congress' understanding of this year's budget. But Congress must not rely on others to do its work. It must conduct its own formal and official review of the Department of Defense 5-year defense program. Congressional deliberation should be structured according to force levels, manpower levels, and procurement schedules for each mission function rather than on the basis of the budget categories now in use. Starting next fiscal year, it should begin to authorize the 5-year defense program and each year bring it up to date with changes resulting from such things as new planning contingencies and improvements in efficiency. As a result, public debate and congressional deliberation shall be focused on the objectives of the defense program and how they are being carried out rather than on isolated, unrelated items in a defense budget of a given year. The Brookings study makes this point in support of the idea of Congress' authorizing the 5-year defense program. Mr. President, I request unanimous consent that a selected passage from the Brookings study entitled, "Reviewing the Defense Budget" be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. NELSON. Mr. President, passage of this bill would provide the impetus to start Congress and the public in the direction of advance planning of defense budgets.

Studying the 5-year prospects of the defense budget will bring the Armed Services Committees into a kind of advance planning which now only the administration is doing. It will be a healthy thing to have these committees review the administration's own planning. The committees do not have to come up with complete, detailed 5-year defense programs all by themselves. They would have great latitude as to the nature of their recommendations.

It is sometimes said that, in order to really tackle basic defense issues, Congress would have to build itself a vast establishment of planners and systems analysts like the administration has. In my opinion this is an exaggeration. The basic thing Congress needs is to address the real questions, which involves looking ahead. If it looks at these questions, it will find it already has within its own establishment vast resources to find the answers.

Mr. President, in order to further explain my proposal, I have asked that the following items be printed in the RECORD. The list of 37 steps in the program/budget review schedule for calendar year 1972 and the passage from the Brookings Institution study entitled "Reviewing the Defense Budget."

I ask unanimous consent that the text of the legislation I have introduced today be printed in the RECORD at this time.

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

S. 3650

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that expenditures by the Department of Defense constitute approximately 42 percent of the Federal budget and approximately 6.4 percent of the Nation's gross national product; that the executive branch of the Government plans for the defense of the United States on a five-year basis and the Congress authorizes funds for such defense on a one-year basis; that the executive branch structures its five year defense program to meet predetermined missions while the Congress authorizes funds for defense purposes on the basis of other criteria; and that a closer coordination between the executive and the legislative branches of the Government with respect to defense planning and authorization would result in a sounder and more economical defense program for the Nation.

SEC. 2. Beginning with calendar year 1973, the President shall, at the same time he submits the budget to the Congress (pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)), transmit to the Congress the five-year defense program of the Department of Defense for the five fiscal years beginning July 1 of the calendar year in which such report is transmitted to the Congress. Beginning with the budget submitted in the calendar year 1974, and each calendar year thereafter, the President shall also transmit to the Congress at the same time the budget is submitted to the Congress in such calendar year any proposed changes in the current five-year defense program together with cost estimates and other pertinent information reflecting recent information, possible changes in planning contingencies and improvements in efficiency.

SEC. 3. (a) The Committees on Armed Services of the Senate and the House of Representatives acting separately, jointly, or both, shall each year conduct comprehensive studies of each such five-year defense program, transmitted to it pursuant to section 2 of this Act, including matters of force levels, manpower levels, and procurement schedules for each mission, function, or purpose.

(b) In carrying out such study with respect to any five-year defense program, such Committees shall, among such other matters as such committees deem appropriate, consider—

(1) the military forces needed, the combinations of such forces, the military and political purposes served by such military forces;

(2) the necessity for any new weapon system planned for in such program, and the time schedule on which any new weapon system is to be introduced and any existing weapon system that is to be phased out during the period covered by such program;

(3) the questions of efficiency and readiness of the support levels of the combat forces;

(4) the five year cost implications of such plan.

(c) The Committees on Armed Services of the Senate and the House of Representatives shall report the results of their study of the current five-year defense program together with such recommendations as they deem appropriate, including proposed legislation authorizing funds for a five-year defense program.

EXHIBIT 1

PROGRAM/BUDGET REVIEW SCHEDULE—CALENDAR YEAR 1972

Item	Action	Agency	Action date
1	Submit JSOP-Vol I (74–81) strategy and force planning.	J	June 23, 1971.
2	Provide comments on JSOP-Vol I to JCS	O	Aug. 4, 1971.
3	Issue defense policy and planning guidance (top secret).	O	Oct. 23, 1971.
4	Identify and issue selected analysis topics	O	Nov. 1, 1971.
5	Issue materiel support planning guidance	O	Dec. 7, 1971.
6	Submit comments on defense policy and planning guidance.	JC	Do.
7	Submit JSOP-Vol II (FY 74–81) analysis and force tabulations.	J	Dec. 23, 1971.
8	Submit comments on materiel support planning guidance.	JC	Dec. 30, 1971.
9	Update 5-year defense program through fiscal year 1973.	C	Jan. 10, 1972.
10	Update 5-year defense program for fiscal years 1974–77.	C	Feb. 4, 1972.
11	Issue planning and programing guidance memorandum.[1]	O	Mar. 9, 1972.
12	Submit joint research and development objectives document (JRDOD).	J	Feb. 22, 1972.
13	Provide selected analysis	JC	Prior to Mar. 31, 1972.
14	Submit joint force memorandum (JFM)	J	May 16, 1972.
15	Submit program objectives memorandum (POM)	C	May 30, 1972.
16	Submit JSOP-Vol I (75–82) strategy and force planning (calendar year 1973 cycle).	J	June 1, 1972.
17	Issue initial budget guidance for preparation of fiscal year 1974 budget estimates.	O	June 15, 1972.
18	Issue first "Issue Paper" (IP)	O	June 19, 1972.
19	Transmit first "Issue Paper" (IP) to Secretary of Defense.	O	June 23, 1972.
20	Issue last "Issue Paper" (IP)	O	July 17, 1972.
21	Transmit last "Issue Paper" (IP) to Secretary of Defense.	O	July 21, 1972.
22	Issue program decision memorandum (PDM)	O	Aug. 4, 1972.
23	Submit reclamas to PDMs	O	Aug. 14, 1972.
24	Issue reclamation decisions on PDMs	O	Aug. 24, 1972.
25	Issue defense policy and planning	O	Sept. 1, 1972.
26	Identify and issue selected analysis topics (calendar year 1973 cycle).	O	Do.
27	Issue materiel support planning guidance (calendar year 1973 cycle).	O	Sept. 5, 1972.
28	Submit annual budget estimates and backup information.	C	Oct. 2, 1972.
29	Start budget hearings	O	Oct. 9, 1972.
30	Submit comments on defense policy and planning guidance.	JC	Oct. 13, 1972.
31	Update 5-year defense program	C	Do.
32	Submit comments on materiel support planning guidance.	JC	Oct. 20, 1972.
33	Start issue of program/budget decisions (PBDs)	O	Nov. 6, 1972.
34	Provide comments (reclamas) on PBDs	C	Nov. 13, 1972.
35	Issue revised PBDs based on reclamation comments.	O	Dec. 1, 1972 to Dec. 18, 1972.
36	Conduct joint meetings with JCS and service secretaries to discuss major unresolved budget issues.	O	Dec. 15, 1972.
37	Submit JSOP-Vol II (FY 75–81) analysis and force tabulations (calendar year 1973 cycle).	J	Dec. 22, 1972.

[1] Includes (1) force planning (2) fiscal levels (3) POM guidance and (4) materiel support planning guidance.

Legend: O—Secretary of Defense; J—JCS; C—Military departments and defense agencies; JC—JCS, military departments, defense agencies.

EXHIBIT 2

SETTING NATIONAL PRIORITIES: THE 1973 BUDGET BY BROOKINGS INSTITUTION

REVIEWING THE DEFENSE BUDGET

Most public and congressional discussion of the baseline defense budget is concentrated on a surprisingly few issues, and even for these, important interrelationships are often overlooked. Examples in recent years are (1) the debates over whether to build the Safeguard system, or a new manned strategic bomber, or a new nuclear carrier; (2) the attention paid to cost overruns or mismanagement in the case of the C-5A transport, the F-111, and the F-14; and (3) the recurring controversy over maintaining large U.S. forces in Europe. These are indeed important questions. Individually or collectively, however, they affect only a small part of the defense budget. Moreover, issues of this kind are raised almost fortuitously instead of being the result of a systematic examination of the defense program. Too much attention is paid to a few individual defense issues that are generally unrelated, and too little to the objectives of the defense program and how they are being carried out.

Consideration of the national security options outlined in this chapter, or of the choices as to major force categories illustrated in Chapter 4, would require a very different approach to reviewing and approving defense spending. Major emphasis would be placed on the following factors:

Force levels. How many major force components are needed, in what combination, and to serve what political and military purposes?

Questions of force size and structure also involve the pace at which new weapons systems should be introduced and, equally, the pace at which older, less effective systems should be phased out.

Support levels. How should combat forces be supported? In part this is a question of efficiency. It also involves readiness—how quickly must U.S. combat forces respond to contingencies, and how long will they need to be sustained? Readiness requirements cannot be assumed to remain constant, for they change from time to time as changes in the international situation become reasonably well defined. Moreover, unless it is assumed that there are no constraints on total defense spending, the relationship between readiness and force levels must be regularly assessed, since the tradeoff inherent in this relationship is a fundamental factor in determining the defense posture. In general, the assessment of support levels requires examination of numerous diverse elements in the defense program that are small individually but together account for one-third of military spending. No other set of issues highlights so well the importance of the undramatic in reviewing the defense budget.

Short-term versus long-term implications. What time horizon should govern defense budget decisions? The deference posture is made up of weapon systems that require a long lead time to develop and procure, of forces whose training entails costly investments, and of forward deployments that are the product of political alignments developed over the years. Concentrating on current year outlays sharply limits the scope of the review and the opportunity to consider fundamental changes. Furthermore, changes that can result in savings over the longer term frequently involve initial one-time costs. A reluctance to accept such costs can mean forgoing opportunities to improve the defense program.

These factors are fundamental to the process of formulating the defense budget in the executive branch. Why, then, is there not a parallel examination outside the executive branch? In large measure, the answer lies in current congressional procedures, which determine not only the form and content of congressional scrutiny of defense appropriations, but also the character of the public debate.

The legislative process is in two stages, authorizations and appropriations, each of which is the responsibility of separate committees. Authorizations cover only selected aspects of the defense program, principally procurement of major weapon systems, research and development, and military manpower levels. Appropriations cover the entire defense budget, but in categories that are largely independent of those used by the executive branch for force planning purposes. Both the authorization and appropriation procedures tend to concentrate on the exceptional items of change in the current budget; neither focuses on the issues noted above—force levels, effectiveness, support, readiness, and the necessary tradeoffs among them. Furthermore, they are almost exclusively concerned with spending requests for the current fiscal year; the long-range consequences of spending decisions receive less attention.

This approach is the more surprising in that the congressional review process is initiated by the secretary of defense's report on the five-year defense program, which states the purposes of the program and outlines the force decisions needed to achieve them. Since 1971, moreover, the Defense Department has provided the Congress with an annual report on military manpower requirements for the coming fiscal year, based on major missions. And the presentation of both reports is preceded by the President's foreign policy report, which places defense requirements in the broader setting of the administration's assessment of the international situation and its statement of U.S. foreign policy objectives. These reports unfortunately are the only formal link between force planning in the executive branch and the congressional review of the defense budget. After the Congress receives them, the legislative process follows its separate path.

How could the Congress organize its review and approval of defense spending in terms of the purposes of U.S. military forces, as does the executive branch in formulating the defense program? Basing congressional authorization and appropriations on the five-year defense program would be one way to begin. This would require that congressional deliberation be structured according to force levels, manpower levels, and procurement schedules for each mission function rather than on the basis of the budget categories now in use. The Congress would continue to review and approve defense spending annually, but would do so with explicit awareness of the longer-term implications for costs and for force capabilities. Each year the executive branch would propose amendments to the five-year program that reflected the most recent information, possible changes in planning strategy, and estimates of requirements for the new final year of the planning period. The Congress, through its Armed Services Committees, would review the administration's recommendations and explicitly authorize a new five-year program. Subsequently, through its appropriation process, the Congress could decide on funding for the first year of the new program, with its five-year implications specifically in mind.

Such a fundamental change would require a transition period for developing the necessary information and new procedures. From the outset, the Congress could authorize funds for the five-year defense program. Initially, however, it could continue within this five-year framework to authorize and appropriate funds according to existing budget categories such as procurement, military personnel, and military construction. The new budgetary information classified by missions—that is, by major force categories and support—would provide important new data that for the time being would be supplementary in character. Eventually, the Congress could begin authorizing and appropriating funds on the basis of the new categories, should that be justified by experience gained in the interim.

Even with the same planning information and following the same general approach, the Congress presumably would apply somewhat different criteria than does the executive branch to its evaluation of the defense program. But these differences would not detract from the basic advantage of reviewing the defense program in a long-term framework: the opportunity it provides to consider changes in planning contingencies and improvements in efficiency.

Moving in this direction would not in itself result in abrupt changes in the defense budget or in the way the government manages the defense program. To the contrary, the objective would be orderly change brought about by focusing public and congressional reviews of defense spending on the most important questions.

By Mr. BAKER (for himself, Mr. HUMPHREY, Mr. ALLEN, Mr. ALLOTT, Mr. BAKER, Mr. BEALL, Mr. BELLMON, Mr. BENNETT, Mr. BOGGS, Mr. BROCK, Mr. BROOKE, Mr. COOK, Mr. COOPER, Mr. CRANSTON, Mr. DOLE, Mr. DOMINICK, Mr. FANNIN, Mr. FONG, Mr. GRIFFIN, Mr. HART, Mr. HUMPHREY, Mr. HUGHES, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MATHIAS, Mr. MCGOVERN, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PERCY, Mr. PELL, Mr. ROTH, Mr. SAXBE, Mr. SCHWEIKER, Mr. SCOTT, Mr. SPARKMAN, Mr. STAFFORD, Mr. TAFT, Mr. THURMOND, Mr. TOWER, Mr. TUNNEY, and Mr. WILLIAMS):

S. 3651. A bill to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes. Referred to the Committee on Finance.

STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972

Mr. BAKER. Mr. President, on behalf of myself and Senator HUMPHREY, and for Senators ALLEN, ALLOTT, BEALL, BELLMON, BENNETT, BOGGS, BROCK, BROOKE, COOK, COOPER, CRANSTON, DOLE, DOMINICK, FANNIN, FONG, GRIFFIN, HART, HUGHES, JACKSON, JAVITS, KENNEDY, MATHIAS, MCGOVERN, MUSKIE, NELSON, PACKWOOD, PASTORE, PERCY, PELL, ROTH, SAXBE, SCHWEIKER, SCOTT, SPARKMAN, STAFFORD, TAFT, THURMOND, TOWER, TUNNEY, and WILLIAMS, I send to the desk a bill, entitled the "State and Local Fiscal Assistance Act of 1972" and ask that it be appropriately referred.

Mr. President, the bill that Senator HUMPHREY and I and 41 of our colleagues introduce today is a general revenue-sharing bill, identical to a bill reported by the Committee on Ways and Means of the other body on April 26, 1972. I ask unanimous consent that a brief analysis of the bill and a table estimating distributions under the bill for calendar year 1972 be printed at this point in the RECORD.

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

ANALYSIS OF STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972

The State and Local Fiscal Assistance Act of 1972 provides $29.575 billion in relatively

unrestricted aid to state, county, city and township governments over five years. Each year $3.5 billion is allocated to localities, and $1.8 billion is allocated to state government. The $1.8 billion grows by $300 million a year after the first year. Localities must establish a trust fund to spend the money and must establish that they will spend only for certain high priority purposes: maintenance and operating expenses for public safety, environmental protection, and public transportation and capital expenditures for sewage collection, refuse disposal systems, and public transportation. The final section of the bill provides for Federal collection of state imposed individual income taxes ("piggybacking") once five states comprising at least five percent of the tax returns have entered into an agreement with the Secretary of the Treasury. Eligible state individual income taxes are those that closely conform with the Federal individual income tax. Payments to states and local governments are scheduled to be made retroactive to January 1, 1972, while piggybacking is scheduled to begin January 1, 1974, once the five percent and five states have made the necessary agreement. The bill provides that the Secretary of the Treasury will administer the program and that no person be denied the benefits of the program on the ground of race, color, national origin or sex.

Allocation of the $3.5 billion each year is made directly to the local governments on the basis of population, urbanization, and need. Allocation of the $1.8 billion each year to the state governments is made half on the basis of total state and local taxes, and half on the basis of state individual income tax collections. The bill provides that no locality may receive more than 50 percent of its revenues.

ESTIMATED DISTRIBUTION OF FUNDS UNDER H.R. 14370 "STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972," BY STATE

[Amounts in millions of dollars]

	State share	Local share	Total
United States, total	1,800.0	3,500.0	5,300.0
Alabama	14.9	65.2	80.1
Alaska	3.5	3.1	6.6
Arizona	14.0	32.1	46.1
Arkansas	8.0	30.4	38.4
California	241.1	369.7	610.8
Colorado	20.3	39.1	59.4
Connecticut	21.0	51.7	72.7
Delaware	7.8	9.5	17.3
District of Columbia	10.8	15.2	26.0
Florida	31.9	118.1	150.0
Georgia	28.3	75.1	103.4
Hawaii	13.2	12.7	25.9
Idaho	5.8	9.6	15.4
Illinois	105.1	196.6	301.7
Indiana	31.0	82.8	113.8
Iowa	26.2	41.6	67.8
Kansas	13.8	34.0	47.8
Kentucky	19.2	52.6	71.8
Louisiana	18.4	64.8	83.2
Maine	5.6	14.2	19.8
Maryland	50.1	67.4	117.5
Massachusetts	74.6	104.4	179.0
Michigan	91.0	152.7	243.7
Minnesota	51.7	62.4	114.1
Mississippi	10.1	35.9	46.0
Missouri	27.9	79.6	107.5
Montana	6.9	9.9	16.8
Nebraska	9.7	24.8	34.5
Nevada	3.7	8.5	12.2
New Hampshire	3.3	10.2	13.5
New Jersey	44.7	135.0	179.7
New Mexico	6.5	16.0	22.5
New York	317.4	332.2	649.6
North Carolina	36.3	76.8	113.1
North Dakota	3.6	8.4	12.0
Ohio	49.5	177.8	227.3
Oklahoma	11.4	41.4	52.8
Oregon	24.8	35.2	60.0
Pennsylvania	98.4	202.5	300.9
Rhode Island	7.8	18.0	25.8
South Carolina	14.3	43.5	57.8
South Dakota	3.7	9.8	13.5
Tennessee	14.3	65.0	79.3
Texas	46.2	202.0	248.2
Utah	8.8	20.2	29.0
Vermont	5.7	5.3	11.0
Virginia	38.3	77.3	115.6
Washington	20.9	58.2	79.1
West Virginia	10.0	26.4	36.4
Wisconsin	65.9	71.1	137.0
Wyoming	2.2	3.9	6.1

Mr. BAKER. Mr. President, on March 9, 1967, I devoted my "maiden speech" as a freshman Senator to the introduction of S. 1236, 90th Congress, first session, a bill which was called "The Tax-Sharing Act of 1967." On September 23, 1969, I introduced S. 2948, 91st Congress, first session, the Nixon administration's "Revenue-Sharing Act of 1969." On February 9, 1971, I introduced Senate bill 680, 92d Congress, first session, the administration's revised "General Revenue Sharing Act of 1971."

Mr. President, on each of these occasions I have tried to stress in the strongest possible terms the need for broad, bipartisan support for revenue sharing. The urgent fiscal needs of State and local governments far transcend any partisan political credit that might inure to any individual or political party as the result of its enactment. I have stated this same appeal for bipartisan support in testimony before the Senate Subcommittee on Intergovernmental Relations and before the House Committee on Ways and Means. On April 26, 1972, the Ways and Means Committee, under the able leadership of its remarkable chairman, Representative MILLS, reported the "State and Local Fiscal Assistance Act of 1972," by a strong bipartisan vote of 18 to 7. Those of us on both sides of the Senate aisle who support the concept of revenue sharing regard this as a major step toward enactment of legislation before the 92d Congress adjourns sine die.

It is thus with particular pleasure that Senator HUMPHREY and I are able to introduce that bill in the Senate with such broad support from Members of both parties and from all over the ideological spectrum of both parties. It is our hope that the other body will act affirmatively and expeditiously on H.R. 14370, so that the Senate can proceed with final consideration of the measure.

It is important to note, I think, that cosponsorship of this bill in the Senate on the part of any given Senator does not necessarily mean that he supports every part and provision of the bill as presently written. This Senator himself expects to seek modifications in the bill, whether in committee or on the floor. What is important in the judgment of Senator HUMPHREY and myself is that the bill be formally before the Senate and that the wide support for it on both sides of the aisle be made known. We will, of course, welcome future cosponsorship of any other Senator who has not yet indicated his wish to be added to the bill.

Mr. President, to use the hackneyed phrase, revenue sharing with State and local governments is an idea whose time has long since come. Quite apart from the very real and important implications of the program for redressing an imbalance that some of us see in the relationships between the Central Government and local governments, the fiscal facts speak for themselves: States, counties, and cities urgently need these funds. Enactment into law of general revenue sharing can be one of the proudest bipartisan achievements of this Congress. We can do it, and we must.

Mr. JAVITS. Mr. President, I am cosponsoring the State and Local Fiscal Assistance Act of 1972 (H.R. 14370), which is now being introduced in the Senate, and I do so in the same bipartisan spirit with which the distinguished minority leader and the administration have lent their support as well. Our State and local governments face a fiscal crisis of the first magnitude. Economists have been predicting this crisis for more than a decade. Officials at all levels of Government have also dealt with the problem for a long time; indeed, I introduced my first revenue-sharing bill 7 years ago, in 1965.

In helping relieve fiscal conditions at the State and local level, revenue sharing goes to those services which we as citizens need on a day-to-day basis: Public safety, sanitation, mass transportation, et cetera. Revenue sharing helps balance out the result of an accident of our Federal system, that the Federal income tax—a relatively recent kind of tax in our country—has become the most flexible and valuable part of our tax base. Because of the way our tax code has developed, with the income tax playing such an important part, the Federal Government has been the prime beneficiary of America's economic growth; but at the same time, it is the State and local governments which have had to cope with the increased services which our relative well-being demands.

As a result, Governors and mayors have been faced yearly with the uncomfortable prospect of either raising taxes or cutting back on essential services. The record is clear: In the past 12 years the Federal Government has reduced income taxes four times, while State and local governments have had to raise their taxes innumerable times. In my own State of New York, cutbacks on essential State's services such as highway resurfacing and aid to local governments for sewage construction had to be seriously considered as an alternative to raising taxes this year.

It comes as no surprise that the citizen is simply unwilling to pay increased taxes when he sees Government services around him stagnating or even deteriorating—and my constituents remind me daily of this fact. With the introduction of revenue-sharing legislation which has already been favorably considered by the Ways and Means Committee we have come the closest yet to giving this problem the priority attention it deserves.

However, I would be truant to my conscience and to my obligations as a Senator if I did not point out certain aspects of the bill which I believe need careful scrutiny in the Finance Committee.

First, we should examine closely whether the distribution formula matches need and merit with the funds available. I am concerned, for example, that some of the cities where our worst urban problems are found will receive less under the bill at hand than under the original administration proposal. New York City will receive $41.8 million less, and other cities such as Newark, Cleveland, Philadelphia, Detroit, and Los Angeles are in the same boat. The main reason for this difference is that the administration's original bill gave greater weight to the tax effort of local governments than does the present bill. Now, tax effort basically reflects the sacrifice citizens are making to receive Government services, and it is only fitting that

such sacrifice be adequately rewarded in any reform of our intergovernmental fiscal system.

Second, we should seriously inquire whether the $5.3 billion annual funding for revenue sharing is money enough. I realize that some have criticized revenue sharing at its present level as too much, and I too have deplored the runaway budget deficits which we are presently faced with. But the answer to that problem is not to give up revenue sharing; the answer is to bite the bullet and raise enough Federal taxes to fund the services which we expect from Government.

Whatever the outcome of the revenue-sharing bill, Americans will pay for their State and local governments in one way or another: Through increased State and local taxes, higher interest rates because of increased Government borrowing, reduced services, or inflation. Take your own choice. But my choice is to restore a sound Federal tax base and at the same time provide a significant measure of help for our beleaguered State and local governments. States and localities are estimated to need more than $20 billion in additional funds this year simply to maintain the same level of services. I trust that the Finance Committee will look closely to decide whether a $5.3 billion revenue-sharing program will provide an adequate measure of fiscal relief or will merely postpone briefly the need to raise more taxes or eliminate more services.

Third, in the event adequate levels of aid by revenue sharing are not forthcoming, the Finance Committee should inquire into alternatives or supplements to revenue sharing. Personally, I favor a liberal tax credit for the payment of State and local income taxes to governments with a certain level of tax effort, in order to encourage fiscal responsibility at the State and local level. Other proposals could include a variable formula of grants based upon the falloff in State and local tax receipts due to changes in the business cycle. The latter area has been dramatized in recent years by the fact that several major units of government—Newark, for example—collected less revenues during the recession year of 1970 than in the previous year, notwithstanding that the costs of government were accelerating.

Congress has the chance to make history this year by enacting the first major reform of our fiscal system since it was founded and I congratulate the President for setting aside partisanship to support the product of the Ways and Means Committee and its very able chairman.

In the final analysis, I shall support any revenue-sharing proposal which combines significant aid with fiscal responsibility; above all, I do not want revenue sharing to be construed as a giveaway program and an inducement to fiscal irresponsibility at the State and local levels. However, I hope that the Finance Committee will consider the bill at hand in the proper context of meeting the real needs of citizens for adequate Government services. In this regard, there is more work to be done in sharpening the distribution formula, reassessing overall the level of assistance, and considering supplements or alternatives.

AID TO THE CITIES

Mr. TUNNEY. Mr. President, I am joining today with a number of my colleagues in sponsoring the State and Local Assistance Act of 1972, the general revenue-sharing legislation which would deliver some $30 billion to State and local governments over the next 5 years.

My support for this legislation is based on very practical considerations.

First among these considerations is the fact that there are many cities in the State of California and across the Nation which are trapped in the maze of fiscal deficiency.

In recent years they have seen the demands on their limited resources increase many times. They have been called upon to make new, extended or more adequate provision for law enforcement and public safety.

They have had to become more heavily involved in providing public transportation systems. Fundamental concerns about public health and an aroused awareness of the importance of environmental protection have made more pressing the need for the direction of more resources into improved sewerage and refuse disposal systems and general environmental programs.

The accelerating momentum of these demands has assumed geometric proportions under the impact of increased costs and general inflation. It has been estimated that since 1966 the prices paid by State and local governments for goods and services have risen by about one-third.

These pressures are difficult enough to handle where they are predominantly the product of the trend to increasing urbanization, where they are part and parcel of the growing pains of healthy development.

However, there are many cities where these problems have been compounded by a severely declining tax base. Particularly in inner-city areas, the movement of the more affluent families to the suburbs has left the intensifying problem of not only maintaining but restoring essential services to the standards from which they have declined.

Not only have the problems themselves increased progressively. They have also been left to be shouldered by substantially lower income families. To the strictures of a declining tax base are added the fact that costs are often considerably greater in these hard-pressed central areas.

These problems are by no means the exclusive preserve of center cities, however. They are all too familiar to the smaller communities, too, whether urban or rural.

The story of the unresponsiveness of local revenue sources to such increases in need is just as familiar. Static or actually declining tax bases leave only one way out for communities determined to help themselves. They have had to resort to steep rate increases in a desperate attempt to make ends meet, to provide the police and the fire services, the sewers and the refuse disposal, the transportation systems which they must have.

They have reached the end of their ability to tax—and that on taxes which are inappropriately rigid and regressive.

ESSENTIAL SERVICES AT STAKE

These are the communities which have nowhere to turn in handling their difficulties. Either they receive assistance from outside, or they have to settle for substandard and inadequate services which would lead citizens in more affluent areas to revolt.

They simply do not have it in their power to restructure their resources in such a way as to provide all their needs for themselves.

Ever since my early days in the House of Representatives I have supported the fundamental principle of general revenue sharing. Some of the supporting arguments have changed or disappeared.

The "fiscal dividend," for instance, has turned from a promise to a mirage. But the need in those cities with limited resources which have done all they could on their own is no mirage. They need not an assertion of general principle, but dollars—dollars which they can spend according to their pressing local priorities.

They need those dollars quickly. The problems they face are here and now. They are not gradually emerging. They have already emerged and they are intensifying. If Federal assistance is to have any meaning it must come quickly. It has already been delayed too long.

It is on this practical element of urgency that my support for this particular bill is predicated.

The bill which has emerged from the House Ways and Means Committee is not perfect. As it now stands it represents an accommodation of diverse approaches, and not a particularly happy accommodation at that.

Yet, given the political realities of this particular year, it is the only bill dealing with revenue sharing which has any chance of becoming law. For anyone genuinely concerned to get meaningful aid to the cities in their time of actual crisis this is the only realistic vehicle for achieving that end.

Accordingly I have given my support to the general approach of this bill—Federal relief is the hard-pressed finances of State and local governments.

AREAS OF GREATEST NEED

This is not "warts-and-all" support, however. It is my intention when the bill reaches the floor of the Senate to do all I can to secure improvements in its provisions, and particularly in the allocation of funds among local governments.

Under the present allocation formula, too much of the money will be going to the "haves," and too little to the "have-nots."

The fundamental justification for general revenue sharing is the fulfillment of established and identified needs. It is not the creation of a grab-bag for all who could do with a little extra money. Handing out money where it is not genuinely needed is fiscal irresponsibility whether it goes by the name of revenue sharing or not.

Whatever money is appropriated must be directed to the areas of greatest need. Analysis of the likely allocations of the money shows that far too little emphasis has been placed on giving extra help to those communities with limited resources which have already made every effort to help themselves.

This is the problem which revenue sharing must handle, and handle effectively if it is to be more than a facade for a political exercise.

I regard this legislation as an essential tool in meeting the urgent problems of the cities. My efforts will be directed to its passage—but in a form which more adequately directs appropriate resources to those areas of most urgent need.

REVENUE SHARING: A TEMPORARY ANSWER TO STATE-LOCAL FISCAL CRISIS

Mr. ROTH. Mr. President, I have long supported the concept of revenue sharing as a temporary means of meeting the financial crisis facing State and local governments. During my first congressional campaign of 1966 I endorsed this principle. I also introduced in the 91st Congress, H.R. 13353, the House version of a revenue-sharing bill proposed in the Senate by the distinguished Senator from Maine (Mr. MUSKIE) and former Senator Goodell of New York. This plan was largely the result of excellent staff work by the Advisory Commission on Intergovernmental Relations.

S. 680, President Nixon's revenue-sharing measure, which I cosponsored, has also had my general endorsement. The discussion and controversy generated by all these revenue-sharing proposals has been generally gratifying. This has been a wide-ranging debate, highlighting a number of problems which go to the heart of our federal system. We in Congress, and the public at large, have given more than usual attention to such questions as these: Is the current balance of authority and initiative within American federalism a desirable one? How do the fiscal capacities of our various States and localities measure up to the pressing problems they must face in this era of change and adjustment? Are there ways in which our Federal administrative apparatus can be made to serve the people more effectively and at less cost?

Revenue sharing is not offered simply as a means of strengthening State and local finances. It is also one way of getting away from the categorical grant system as a means of giving Federal aid to non-Federal bodies. In recent years we have all been made aware of the wasteful redtape and bureaucracy surrounding this mode of intergovernmental assistance.

I repeat that I subscribe to the overall intent of the administration's program of revenue sharing, as well as that of the House Ways and Means Committee compromise introduced in the Senate by the distinguished Senators from Tennessee (Mr. BAKER) and Minnesota (Mr. HUMPHREY). In fact, I have added my name as a cosponsor of the Baker-Humphrey bill (S. 3561) as I did the administration bill.

Nevertheless, I have felt that there are several precautions we must take in drawing up revenue-sharing legislation. For example, I think that we must be certain that we do not create simply another Federal grant program, which would continue the present financial dependence of States and localities on the central Government. It would be preferable, I think, to encourage these State and local governments to put their own financial houses in order by making greater use of modern taxes, which are more equitable and responsive to the economy. Modernization of governmental structure and operations are also constructive goals we could strike for through this legislation.

If financial and governmental reforms were to be accomplished at the non-Federal level, some of the causes for the drift of power to Washington, which has taken place during the past several decades, would be eliminated. Such a revitalization of decentralized government also offers the only way to really rid ourselves of a portion of the frustrations resulting from current Federal assistance to these State and local entities. If one strongly believes in decentralized government, as I do, he must be willing to use the power and resources of the Federal Government to attack the forces which are eroding the authority of the State and local governments.

This, in turn, leads to a second concern that I have, and that is that we may create a situation in which the Federal Government would undertake on a permanent basis to levy and collect taxes which the States and localities would be allowed to spend with few restrictions. Like many others, I am somewhat fearful of any permanent separation of the taxing and spending functions. The level of Government which spends revenues should under normal circumstances be the same one which must justify their collection to the people. Given this sort of concern on the part of many national legislators, I fear that over the long run general revenue-sharing funds would soon become burdened with the same sort of "strings" now attached to categorical assistance.

Finally, we must be certain that this legislation directs sufficient amounts of shared revenues to the populous urban States and their cities, where we are told that the most serious fiscal crisis exists. I do not think, for example, that we should reenforce the tendency of the present system of grants to redistribute revenues away from the higher income States of the East and Middle West to the lower income rural States of the South and West. If we currently face an urban crisis, we should have at least one major program which puts more Federal money into the States with large center cities.

In an effort to provide general revenue-sharing legislation which would meet these objectives, I, along with the distinguished senior Senator from Delaware (Mr. BOGGS), introduced during this session of the Congress the Intergovernmental Revenue Adjustment Act (S. 2080). This bill has been introduced in the House of Representatives as H.R. 9347 by Representative JERRY PETTIS of California.

The Intergovernmental Revenue Adjustment Act would allocate 1.3 percent of total taxable income reported on Federal individual income tax forms to State and local governments. This would amount to around $5 billion. Unlike the administration bill, it contains a built-in 5-year termination date. At this point State and local bodies would be able to avail themselves of a tax credit scheme to enhance their own financial resources. This arrangement would permit citizens to credit 40 percent of their State and local income taxes against their Federal income tax bill. The assumption is that non-Federal legislators could use this credit to justify the wide use of more productive income taxes, thus improving their fiscal status vis-a-vis the central government. S. 2080 further permits the Internal Revenue Service to collect certain income taxes on behalf of State and local units.

Another departure from some earlier bills found in my proposal, is that its formula for distributing shared revenues among States and localities proportionally places more money in the large urban States and their great center cities. Charts A and B compare allocations for the various States and major cities under the Roth, administration, and Muskie bills. This pattern of distribution results from a formula which allots among States on the basis of the origin of Federal personal income taxes and to larger cities within States on the basis of population with a multiplier for the largest metropolitan cities.

My feeling is that the Intergovernmental Revenue Adjustment Act would meet the major objections which I have raised to other revenue-sharing measures. It is temporary, it directs sufficient resources to urban areas, and it contains tax credit provision for the long-range strengthening of State and local finances.

The Ways and Means Committee bipartisan bill eliminates a number of the weaknesses of S. 680, the administration bill, which my measure also sought to correct. First of all, it provides for a closeout date on revenue sharing after 5 years. Second, an incentive for States to make wider use of personal income taxes is provided by allocating half of the money distributed to State governments on the basis of State personal income tax collections. Third, the Ways and Means compromise permits the Internal Revenue Service to collect on behalf of States individual income taxes tailored after the Federal income tax. Finally, an effort has been made in this bill to put proportionally more funds in the urban areas of the Nation.

The legislation offered in the Senate by Senators BAKER and HUMPHREY does direct proportionally more Federal money into the States which contain our major urban centers. Generally the only States whose total allocations are absolutely larger under this bill, when compared to the administration bill, contain large cities. This is true even though the Ways and Means bill allocates a total of $5.3 billion rather than the $5 billion originally to be made available by the President's plan.

In addition to providing a formula of State-by-State distribution more favorable to large urban States, this new proposal apportions about two-thirds of the total revenue-sharing funds to local governments, whereby the earlier bill presented for the President by Senator BAKER (S. 680) divided the total amount about evenly between the two governmental levels. Further, the introduction of population, need, and urbanization

factors into the intra-State patterns of allocation would seem to benefit urban communities.

Despite this attention given to the urban fiscal crisis, chart C suggests that our five largest cities do not claim as large a portion of their respective State's allotments as under President Nixon's original legislation. In two of these cases the large city portions are absolutely smaller, even though the new proposal allots a greater total amount of money to revenue sharing. Chart C further makes it apparent that my bill, S. 2080, places a great deal more money relatively and proportionally in these metropolitan centers than either of the other two programs.

To a considerable extent my own State of Delaware stands to benefit relatively more from modes of revenue sharing which give particular attention to urban needs. By the provisions of the Ways and Means Committee bill Delaware would receive a relatively and absolutely larger total allocation than she would if the President's proposal became law. This would amount to about $17.3 million as opposed to $14.3 million of a $5.3 billion total. Nevertheless, the Intergovernmental Revenue Adjustment Act, which I offered, would yield an even larger total of some $18.5 million based on a similar total fund. Chart D demonstrates the relative impact on Delaware of these three approaches to revenue sharing.

Charts D and E also emphasizes the fact that the bipartisan bill guarantees a larger portion of money to local governments than the other proposals. Since all local bodies, including the smaller cities and towns and county governments also have a very real need for assistance, I feel that the pattern of apportionment found in the compromise Ways and Means bill makes sense.

Chart E also gives a full breakdown of the amounts to be received by all Delaware governmental bodies with populations of 2,500 or more if this measure becomes law. Communities of less than 2,500 are to participate also, but their shares are yet to be computed for the Ways and Means Committee. This chart makes it clear that all governments and categories of governments in Delaware would be eligible for greater Federal aid as a result of the Ways and Means provisions than would have been the case with S. 680, the administration proposal.

In summary, my remarks today have stressed four major points. First, I have long supported the concept of revenue sharing as a temporary answer to State-local fiscal crisis. Second, my own legislation, S. 2080, has sought to strengthen prior proposals by introducing temporary revenue sharing which concentrates on urban needs and is replaced by tax credits after 5 years. These Federal tax credits for State and local income taxes are intended to rejuvenate the independent fiscal capacity of States and communities. Third, the Ways and Means Committee compromise, put before us by Senators BAKER and HUMPHREY, meets some of the same weaknesses of earlier legislation dealt with by my bill. This has led me to cosponsor it. Finally, my own State of Delaware, an urban State with urban problems, would receive greater assistance from this bipartisan measure than from the President's plan, although not as much as would result from enactment of my Intergovernmental Revenue Adjustment Act.

Mr. President, I ask unanimous consent that charts A through E be printed in the RECORD at the conclusion of my remarks.

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

CHART A—APPROXIMATE STATE AND REGIONAL SHARES UNDER ROTH BILL, ADMINISTRATION BILL AND MUSKIE BILL[1]

State and region	Roth share[2]	Percent of United States	Administration share[2]	Percent of United States	Muskie share	Percent of United States
United States	$5,000,000,000	100.00	$5,000,000,000	100.00	$6,000,000,000	100.00
New England	351,800,000	7.016	266,000,000	5.320	347,975,000	5.80
Maine	17,900,000	.358	23,000,000	.460	28,760,000	.48
New Hampshire	17,100,000	.342	15,000,000	.300	20,405,000	.34
Vermont	8,400,000	.219	12,000,000	.240	17,770,000	.30
Massachusetts	164,500,000	3.290	136,000,000	2.720	192,585,000	3.21
Rhode Island	24,800,000	.495	21,000,000	.420	23,830,000	.40
Connecticut	119,100,000	2.382	59,000,000	1.180	64,625,000	1.08
Mideast	1,297,300,000	25.946	1,063,000,000	21.260	1,460,125,000	24.35
New York	612,200,000	12.245	534,000,000	10.680	765,430,000	12.76
New Jersey	225,700,000	4.514	154,000,000	3.080	155,865,000	2.60
Pennsylvania	298,800,000	5.977	246,000,000	4.920	373,385,000	6.22
Delaware	17,400,000	.349	13,500,000	.270	18,450,000	.31
Maryland	120,600,000	2.412	92,500,000	1.850	123,925,000	2.07
District of Columbia	22,600,000	.452	23,000,000	.460	23,070,000	.39
Great Lakes	1,112,100,000	22.242	902,000,000	18.040	1,097,550,000	18.29
Michigan	247,000,000	4.940	229,000,000	4.580	254,610,000	4.24
Ohio	284,800,000	5.695	212,500,000	4.250	222,140,000	3.70
Indiana	123,900,000	2.478	116,000,000	2.320	133,600,000	2.23
Illinois	358,800,000	7.176	220,000,000	4.400	317,490,000	5.29
Wisconsin	97,600,000	1.952	124,500,000	2.490	169,710,000	2.83
Plains	331,800,000	6.636	411,000,000	8.022	475,615,000	7.97
Minnesota	78,200,000	1.564	107,500,000	2.150	140,290,000	2.34
Iowa	56,200,000	1.123	74,500,000	1.490	87,085,000	1.45
Missouri	105,800,000	2.117	96,500,000	1.930	111,505,000	1.86
North Dakota	7,900,000	.158	20,500,000	.410	17,820,000	.30
South Dakota	9,200,000	.185	19,000,000	.380	19,695,000	.33
Nebraska	28,000,000	.560	39,000,000	.780	35,285,000	.59
Kansas	46,500,000	.930	54,000,000	1.080	63,935,000	1.07
Southeast	758,100,000	15.160	1,044,000,000	20.880	1,145,405,000	19.00
Virginia	99,300,000	1.986	104,500,000	2.090	137,065,000	2.28
West Virginia	29,500,000	.590	41,500,000	.830	47,870,000	.80
Kentucky	50,200,000	1.003	78,000,000	1.560	80,110,000	1.34
Tennessee	70,200,000	1.403	87,000,000	1.740	86,570,000	1.44
North Carolina	83,000,000	1.661	113,500,000	2.270	150,905,000	2.52
South Carolina	37,400,000	.748	56,500,000	1.130	65,430,000	1.09
Georgia	81,000,000	1.621	107,500,000	2.150	115,940,000	1.93
Florida	146,000,000	2.921	167,500,000	3.350	163,370,000	2.72
Alabama	50,000,000	1.000	82,000,000	1.640	87,210,000	1.46
Mississippi	24,500,000	.490	61,500,000	1.230	61,990,000	1.03
Louisiana	62,000,000	1.240	101,500,000	2.030	101,300,000	1.69
Arkansas	25,000,000	.500	43,000,000	.860	47,845,000	.80
Southwest	329,900,000	6.598	390,000,000	7.800	381,900,000	6.38
Oklahoma	43,800,000	.875	63,500,000	1.270	65,190,000	1.09
Texas	237,900,000	4.758	243,000,000	4.860	230,930,000	3.85
New Mexico	15,500,000	.310	32,000,000	.640	28,505,000	.48
Arizona	32,700,000	.654	51,500,000	1.030	57,275,000	.96
Rocky Mountain	92,000,000	1.840	139,000,000	2,780	165,485,000	2.76
Montana	10,800,000	.217	19,000,000	.380	23,330,000	.39
Idaho	11,200,000	.223	20,000,000	.400	25,090,000	.42
Wyoming	6,600,000	.131	11,500,000	.230	10,360,000	.17
Colorado	46,200,000	.925	60,000,000	1.200	70,545,000	1.18
Utah	17,200,000	.345	28,500,000	.570	36,160,000	.60
Far West	700,900,000	14.018	753,000,000	15.060	887,065,000	14.79
Washington	90,400,000	1.807	92,000,000	1.840	96,875,000	1.61
Oregon	45,700,000	.914	57,000,000	1.140	78,900,000	1.32
Nevada	15,800,000	.315	14,000,000	.280	12,320,000	.21
California	549,000,000	10.981	590,000,000	11.800	657,400,000	10.96
Alaska	6,800,000	.137	8,500,000	.170	9,100,000	.15
Hawaii	19,000,000	.379	23,500,000	.470	32,470,000	.54

[1] Statistics provided by the Advisory Commission on Intergovernmental Relations and remarks of Senator Edmund Muskie, Congressional Record, May 5, 1971.
[2] Based on origin of Federal personal income taxes—calendar year 1968, returns filed in calendar year 1969.

CHART B.—APPROXIMATE CITY SHARES UNDER ROTH, ADMINISTRATION, AND MUSKIE REVENUE-SHARING BILLS

	Roth [1]		Administration [2]		Muskie (estimate) [3]	
	Amount (millions)	Percent of State share	Amount (millions)	Percent of State share	Amount (millions)	Percent of State share
New York	$329.057	53.6	$189.35	35.4	$459.26	60.0
Chicago	134.998	37.6	47.60	21.7	73.18	23.1
Los Angeles	99.261	18.1	34.72	5.9	50.15	7.6
Philadelphia	60.262	20.1	39.78	16.1	73.41	19.5
Detroit	46.621	18.9	24.90	10.8	36.15	14.2
Houston	36.577	15.4	12.95	5.3	12.90	5.6
Baltimore	35.974	29.1	14.29	15.4	47.07	38.0
Dallas	22.005	9.3	10.56	4.3	13.42	5.8
Washington	22.600		22.90		23.07	
Indianapolis	22.302	18.1	5.61	4.8	7.31	5.5
Cleveland	25.276	8.8	11.23	5.3	12.75	5.7
Milwaukee	19.764	20.0	7.94	6.4	15.22	9.0
San Francisco	24.705	4.5	23.95	4.0	28.27	4.3
San Diego	24.018	4.4	6.38	1.1	7.43	1.4
San Antonio	$17.247	17.2	$4.69	4.7	$5.02	5.0
Boston	32.907	19.9	10.70	7.9	37.38	19.4
Memphis	13.952	19.9	5.41	6.2	9.23	10.7
St. Louis	17.721	17.8	15.12	15.6	19.60	17.6
New Orleans	12.710	20.8	9.90	9.8	11.47	13.8
Phoenix	13.364	40.7	6.36	12.3	6.30	11.0
Columbus	18.156	6.4	5.23	2.5	5.14	2.3
Seattle	17.628	19.5	8.82	9.5	7.50	7.5
Jacksonville	14.235	9.8	2.86	1.7	3.69	2.3
Denver	13.686	29.4	10.53	17.5	13.74	19.5
Pittsburgh	16.434	5.5	7.43	3.0	15.21	4.0
Total	1,090.450		539.21		993.87	

[1] Calculated from the "Advance Reports, 1970 Census of Population," Department of Commerce, Bureau of Census, December 1970; statistics made available by the Advisory Commission on Intergovernmental Relations.
[2] From the Department of the Treasury, "General Revenue Sharing," February 1971.
[3] Estimates provided by Subcommittee on Intergovernmental Relations of U.S. Senate Government Operations Committee.

CHART C.—APPROXIMATE CITY SHARES UNDER ROTH, ADMINISTRATION, AND WAYS AND MEANS COMMITTEE REVENUE-SHARING BILLS

City	Roth [1] $5,000,000,000 total		Administration [2] $5,000,000,000 total		Ways and means [3] $5,300,000,000 total	
	Amount (millions)	Percent of State share	Amount (millions)	Percent of State share	Amount (millions)	Percent of State share
New York	$329.057	53.6	$189.35	35.4	$158.87	24.5
Chicago	134.998	37.6	47.60	21.7	58.90	19.5
Los Angeles	99.261	18.1	34.72	5.9	29.72	5.9
Philadelphia	60.262	20.1	39.78	16.1	41.32	13.7
Detroit	46.621	18.9	24.90	10.8	25.83	10.6

[1] Calculated fron the ""Advance Reports, 1970 Census of Population, "Department of Commerce, Bureau of Census, December 1970.
[2] From the U.S. Department of the Treasury, "General Revenue Sharing," February 1971.
[3] Calculated from "State and Local Fiscal Assistance Act of 1972—Supplemental Report Showing Distribution of Funds," U.S. House of Representatives, Committee on Ways and Means, April 1972.

CHART D.—APPROXIMATE OVERALL SHARES OF DELAWARE GOVERNMENTS UNDER ROTH, WAYS AND MEANS, AND ADMINISTRATION BILLS [1]

	Roth		Ways and Means		Administration	
	Amount	Percent share	Amount	Percent share	Amount	Percent share
Total to all governments	$18,500,000	[2] 0.349	$17,300,000	[2] 0.326	$14,300,000	[2] 0.270
State government share	15,096,000	[3] 81.6	7,800,000	[3] 45.1	10,320,310	[3] 72.2
City of Wilmington's share	3,404,000	[3] 18.4	3,071,823	[3] 17.8	1,930,500	[3] 13.5

[1] See footnotes chart C. All figures in this chart are based on a total $5,300,000,000 revenue-sharing fund.
[2] Of U.S. total.
[3] Of Delaware total.

CHART E.—COMPARISON OF APPROXIMATE GRANTS TO ALL DELAWARE GOVERNMENTS WITH POPULATIONS OF 2,500 OR MORE UNDER WAYS AND MEANS AND ADMINISTRATION BILLS

	Ways and Means [1] (U.S. total $5,300,000,000)	Administration [2] (U.S. total $5,000,000,000)
Total State share for all governments	$17,300,000	$13,411,438
State governments share	7,800,000	9,678,603
Total to all local governments	9,500,000	3,732,835
Total to all cities	5,707,112	2,478,148
Total to all counties	3,806,451	1,254,687
Total to all Kent County governments	1,013,503	[3] 264,540
To Kent County government	490,947	93,058
To all cities in Kent County	522,556	171,482
Dover	285,209	156,230
Smyrna	76,990	15,252
Total to all New Castle County governments	7,519,069	3,159,439
To New Castle County government	2,849,573	1,068,570
To all cities in New Castle County	4,669,496	2,090,869
Elsmere	326,800	156,230
Middletown	108,621	
Newark	754,614	91,409
New Castle	184,663	19,580
Wilmington	3,071,823	1,823,650
Total to all Sussex County governments	981,008	155,508
To Sussex County government	465,931	93,058
To all cities in Sussex County	515,077	62,450
Lewes	45,769	19,168
Milford	95,052	11,748
Seaford	96,774	19,580
Laurel	(4)	11,954

[1] From "State and Local Fiscal Assistance Act of 1972—Supplemental Report Showing Distribution of Funds," U.S. House of Representatives, Committee on Ways and Means, April 1972, p. 89. While local governments with less than 2,500 population are to receive allocations, these have not yet been provided to the committee.
[2] From the U.S. Department of the Treasury, "General Revenue Sharing," February 1971, p. 78.
[3] County totals and totals for all cities in each county may be somewhat inaccurate since $153,345 was to be distributed by provisions of administration bill to cities who were not listed by the Treasury Department.

By Mr. BENNETT (by request):

S. 3652. A bill to clarify and regulate the powers of the States to tax commercial banks, to empower the States to tax national banks, to foster and promote the dual banking system providing for equal State taxation of National and State banks, to promote the interstate flow of moneyed capital and the financial resources of insured banks, to foster and promote interstate and foreign commerce and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BENNETT. Mr. President, I introduce by request a bill to regulate the powers of the States to tax commercial banks, to empower the States to tax national banks, to foster and promote the dual banking system by providing for equal State taxation of National and State banks, to promote the interstate flow of moneyed capital and the financial resources of insured banks, to foster and promote interstate and foreign commerce, and for other purposes.

The Constitution vests in the Federal Government several functions, including the power to coin money, which together make up the so-called money power. One of the principal responsibilities of the Federal Government arising out of the money power is to provide a medium of exchange for business, the public, and the Government. This responsibility is carried out in part through Federal coinage and currency which now amounts to some $50 billion. This responsibility is also carried out through the Nation's banking system where some $175 billion of demand deposits supports 20 billion checks per year aggregating more than $12 trillion.

The money power and the related commerce clause have served as the source of authority of the first Bank of the United States, the second Bank of the United States, the National Bank system, the Federal Reserve System, and the Federal Deposit Insurance Corporation. State-chartered banks, which were expected to disappear when the National Bank Act was passed in 1864, have been given express recognition as an integral part of the Nation's dual banking system in the Federal Reserve Act, the McFadden Act, and the Federal Deposit Insurance Act.

In carrying out its responsibilities to provide a medium of exchange through the commercial banking system, the Federal Government has limited the authority of States to tax national banks under U.S. Revised Statutes § 5219 (12 U.S.C. 548) which provided a list of taxes which States could impose on national banks. Although there were amendments to the law after its enactment in 1864, the concept of Federal statutory limitations on State taxation of national banks as Federal instrumentalities remained intact, until 1969.

In 1969, Public Law 91-156 was approved providing that at the end of 1971, the only restraint on State taxation of

national banks would be the requirement that "a national bank shall be treated as a bank organized and existing under the laws of the State or other jurisdiction within which its principal office is located."

The 1969 amendment also directed the Federal Reserve Board to make an extensive study of State taxation of banks.

The Federal Reserve Board study, received in May of 1971, made five recommendations: first, intangibles owned by all insured depositories should be exempt from taxation; second, limitations should be placed on the imposition of "doing business" and similar taxes by foreign States on all depositories; third, measures should be taken to prevent discrimination between one class of bank and another, between home State and foreign State banks, and between banks and other business firms; fourth, States should be permitted to tax interest on Federal obligations in order to permit States flexibility in their taxing methods; and fifth, vault cash should be considered intangible personal property.

The Federal Reserve report stated that there may be a danger of disintermediation as a result from taxation of bank-owned intangible personal property. In addition, the Board's report points out the dangers which might result from State taxation which might discriminate between national and State banks, between home State banks and out-of-State banks, between banks and other businesses generally, or between banks and other competing financial institutions. The Board has made it clear that any State taxation which might result in such disintermediation or such discrimination might have seriously adverse effects on the Nation's financial mechanisms and the functions of the Nation's payments system and thereby on the Nation's commerce and on the maintenance of government itself. To prevent disintermediation and discrimination resulting from shortsighted or unwise taxation, the Board has suggested that continued Federal legislation is necessary.

When Public Law 91–156 was enacted in 1969, the conferees from both the House and the Senate agreed "that their respective committees would give prompt and serious consideration to any recommendations transmitted by the Federal Reserve Board as a result of its study."

On December 22, of last year, without time to consider the Federal Reserve Board recommendations before the deadline, the effective date of the permanent provisions of Public Law 91–156 was delayed until the end of 1972.

Mr. President, neither the House nor the Senate Committee has given the recommendations of the Federal Reserve study the consideration which we agreed upon when Public Law 91–156 was approved. I therefore believe that we should have hearings on the recommendations and thus give the Congress an opportunity to work its will in this important matter. It is for that purpose that I introduce this proposal, by request, today. In introducing this bill, I do not necessarily indicate support for all of its provisions. I do, however, believe that it deserves careful consideration.

SECTION-BY-SECTION ANALYSIS

The bill is designed as a new section in the Federal Deposit Insurance Act, applying to all insured banks, State chartered as well as national. The bill provides completely equal treatment for State chartered and national banks, considering them equally important parts of the dual banking system.

Subsection (a), "Authorization for States to tax National Banks," is based on the "permanent amendment" in Public Law 91–156 and is intended as an express grant of authority to States to tax Federal instrumentalities.

Subsection (b) deals with taxation by a State or subdivision where a bank has a banking office. Paragraph (b)(1) authorizes the continuance of existing taxes, provided they comply with the restrictions and limitations set forth in subsection (d). Paragraph (b)(2) provides that any future taxes which are imposed on State banks by home States or subdivisions must be imposed on business corporations generally throughout the State or subdivision on a uniform and nondiscriminatory basis. In addition, all such future taxes are subject to the restrictions and limitations set forth in subsection (d).

Subsection (c) deals with taxation by States or jurisdictions where a bank does not have a banking office. It permits such States and political subdivisions to impose taxes on real and tangible personal property in the jurisdiction on the execution, delivery, or recordation of documents in the jurisdiction, and payroll taxes on persons employed in such jurisdiction. These taxes are also subject to the restrictions and limitations in subsection (d). In general, this follows the out-of-State tax provisions of Public Law 91–156.

Subsection (d) contains three restrictions. Paragraph (d)(1) prohibits taxing intangible personal property owned by an insured bank. Paragraph (d)(2) contains a prohibition on taxes which discriminate against any class of insured banks as compared with any other class of banks, against insured banks as compared with mercantile, manufacturing, and business corporations, and against insured banks as compared with other moneyed capital and other financial institutions coming into competition with them. Paragraph (d)(3) provides that, if an insured bank has a banking office in more than one State or political subdivision, each jurisdiction may impose taxes on the banking offices in its boundaries as if it constituted a separate bank.

In view of the authority provided by paragraph (d)(1) for the continuance of existing taxes, there is no need to postpone the bill's effectiveness, and the bill would become effective immediately.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 714

At the request of Mr. PERCY, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 714, a bill to amend title II of the Social Security Act to permit a child, under certain circumstances, to become entitled to a child's insurance benefits thereunder on the basis of the wages and self-employment income of his grandparent, and to permit certain children who are adopted by their grandparent and who under existing law are not entitled to such insurance benefits to become entitled thereto.

S. 2689

At the request of Mr. CHURCH, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 2689, a bill to promote development and expansion of community schools throughout the United States.

S. 2719

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 2719, the Alcoholic Drivers Safety Act.

SENATE RESOLUTION 311—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS (REPT. NO. 92–817)

(Referred to the Committee on Rules and Administration.)

Mr. FULBRIGHT, from the Committee on Foreign Relations, reported the following original resolution.

S. RES 311

Resolved, That section 2 of Senate Resolution 237, 92d Congress, agreed to March 6, 1972, is amended by striking out the amount "$375,000" and inserting in lieu thereof "$500,000", and by striking out the amount "$70,000" and inserting in lieu thereof "$95,000".

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1208

(Ordered to be printed and referred to the Committee on Finance.)

Mr. NELSON. Mr. President, on behalf of myself and Senators HART, KENNEDY, MONDALE, EAGLETON, HUGHES, HUMPHREY, MCGOVERN, MUSKIE, STEVENSON, and TUNNEY, I am introducing an amendment to H.R. 1, the welfare reform bill, that would close a number of the most flagrant tax loopholes in our revenue laws.

It is no accident that tax reform has now become one of the most important issues in the Nation. The Federal income tax system is widely regarded as a national disgrace. According to the figures that have been circulated in recent weeks, there were 1,338 Americans who earned $50,000 or more in 1970 but paid no income tax at all. And for each of these individuals there were dozens more who paid far less than their fair share of the Nation's tax burden. The same inequity applies to corporations. More than 40 percent of U.S. corporations paid no Federal income tax at all in fiscal 1970.

Disclosure of facts such as these has led to a new round of popular protest against tax injustice. Throughout the country, taxpayers are insisting on reform to insure that every citizen bears his fair share of the Nation's taxes.

The Congress owes it to the Nation to respond. It has the opportunity to enact meaningful reforms this year as part of H.R. 1, and thereby lay the groundwork for the sort of comprehensive tax reform that should be our highest priority next year.

This amendment deals with three areas where the need for reform is greatest:

First, it would substantially reduce the depletion allowance and other tax advantages available to the oil industry, which enabled the 20 largest oil companies to pay taxes at the rate of less than 9 percent in 1970.

Second, it would significantly strengthen the provisions of the minimum tax, which Congress passed in 1969 to reduce the windfall tax benefits available to those who play the loopholes.

Third, it would repeal the accelerated depreciation speedup—ADR—passed last year as part of the Revenue Act of 1971. Even before the 1971 act was passed, a number of the Nation's largest corporations, such as ITT, were already using accelerated depreciation to reduce their taxes to the vanishing point. There is no justification for the additional speedup enacted in 1971; it should be terminated now.

Acceptance of this amendment will not end the need for more throughgoing tax reform. Recently, along with 11 other Senators, I introduced legislation (S. 3378) to close a large number of other loopholes. But this amendment to H.R. 1 can and should be passed now. The three reforms recommended here have been the subject of extensive debate in recent years. They are widely known and understood. They have received detailed hearings in Congress in connection with the Tax Reform Act of 1969 and the Revenue Act of 1971. There is no excuse for not doing at least this much this year.

The proposed amendment would increase Federal revenues by $6 billion in 1973—approximately what State and local governments spend today on welfare. Thus, passage of the amendment might permit Federal assumption of the total State and local costs of welfare. This in turn could result in substantial reduction of local taxes, and, in particular, local property taxes.

I ask unanimous consent that a brief section-by-section description, the text of the amendment and an article entitled "Gain Is Seen for Tax Reform" from the Washington Star of May 5 to be printed in the RECORD at this point.

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

SUMMARY OF TAX REFORM AMENDMENT (No. 1208) TO H.R. 1

REDUCE TAX ADVANTAGES TO THE OIL INDUSTRY

(a) Reduce the oil depletion allowance to 15%, revenue gain (1973) $400 million.

At present, the oil depletion allowance allows oil producers to receive 22% of the gross income from oil wells tax-free, so long as it does not exceed 50% of net income. As a result of this provision, the cost of the average well is being recovered many times. In 1970, the 20 top American oil companies earned $8.9 billion, and paid only 8.7% of it in federal income taxes.

(b) Treat intangible drilling and development costs as capital expenditures, revenue gain (1973) $750 million.

At present, the costs incurred in drilling for oil and in developing an oil well may be deducted as current expenses in calculating taxable income, even though they are really capital expenditures. This section requires that these costs be capitalized (except in the case of a dry hole) and spread over the useful life of the well.

STRENGTHEN THE PROVISIONS OF THE MINIMUM TAX

Revenue gain for 1973 about $2,500 million.

Although the Tax Reform Act of 1969 adopted a so-called minimum tax on income derived from tax loopholes, the provision had many shortcomings. As a result, it is still possible for the very rich to pay little or no tax. The defects are: (i) the minimum tax does not apply to some items of tax preference; (ii) it contains liberal exemptions; and (iii) the tax rate is a very modest 10%. The amendment would make four major changes in the minimum tax. First, it would make additional items of tax preference subject to the minimum tax. Second, it would repeal the provision of existing law that allows regular income taxes to be deducted from the items of tax preference. Third, it would lower the present $30,000 exemption to $12,000. Finally, it would increase the minimum tax rate to half of the regular income tax rates.

REPEAL THE ASSET DEPRECIATION RANGE SYSTEM (ADR)

Revenue gain (1973) in repeal of the 20% Speed-up in Accelerated Depreciation Enacted in 1971, $2,400 million.

As a result of tax changes approved in 1971, businessmen can now take depreciation on their plant and equipment at a rate 20% faster than that allowed before. This 20% speed-up will cost the Treasury $27.5 billion during the decade of the 1970's. Before 1971, the tax laws already provided for the generous use of accelerated depreciation. ADR was thus a new acceleration on top of the existing system.

Originally, the change in 1971 was justified on the grounds that it would stimulate investment, and thus create jobs in the economy. But the ADR system has now been in effect for over a year, and it is hard to find an economist who thinks it has accomplished anything other than to swell corporate cash reserves. Certainly, with industry operating at about 75% of capacity, it is hard to see how it could have much impact on investment. And, with unemployment still at 6%, it has had no impact on jobs.

Total revenue gain (1973) $6,050 million.

AMENDMENT No. 1208

At the end of the bill insert the following new title:

TITLE VI—INTERNAL REVENUE CODE AMENDMENTS

SEC. 601. REFERENCES TO 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

SEC. 602. REPEAL OF ASSET DEPRECIATION RANGE SYSTEM.

(a) Section 167(m) (relating to the Asset Depreciation Range System) is repealed.

(b) Section 167(a) (relating to a reasonable allowance for depreciation) is amended by adding at the end thereof the following: "Such reasonable allowance shall be computed, subject to the provisions of Revenue Procedure 62-21 (including the provisions for the reserve ratio test) as in effect on January 1, 1971, on the basis of the expected useful life of property in the hands of the taxpayer."

(c) The amendment made by subsection (a) shall apply to property placed in service after December 31, 1971. The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1971, but it shall not apply to property placed in service by the taxpayer during the calendar year 1971 if an election has been made to have the provisions of section 167(m) applicable to such property.

SEC. 603. INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS.

(a) Section 263(c) (relating to the deduction of intangible drilling and development costs) is repealed.

(b) Section 263(a)(1) (relating to the deduction of certain capital expenditures) is amended—

(1) by striking out "or" at the end of subparagraph (D).

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or", and

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

"(F) in the case of oil and gas wells, intangible drilling and development costs incurred in drilling a nonproductive well."

(c) The amendments made by this section shall apply to expenditures made or incurred after the date of the enactment of this Act.

SEC. 604. REDUCTION OF PERCENTAGE DEPLETION RATES ON OIL AND GAS AND CERTAIN OTHER MINERALS.

(a) Section 613(b)(1) (relating to percentage depletion rate on oil and gas wells and certain other minerals) is amended by striking out "22 percent" and inserting in lieu thereof "15 percent".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 605. MINIMUM TAX.

(a) Section 56(a) (relating to imposition of the minimum tax) is amended to read as follows:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, on the amount (if any) by which the sum of the items of tax preference exceeds $12,000, a tax computed as follows:

"(1) in the case of a corporation, a tax on such excess at the rate of 24 percent; and

"(2) in the case of a taxpayer other than a corporation, a tax on such excess equal to one-half of the tax which would be imposed on such person under section 1, by treating the amount of such excess as the taxable income for the taxable year."

(b) Section 56(b) (relating to treatment of net operating losses) is amended by striking out "$30,000" and inserting in lieu thereof "$12,000".

(c) Section 56 is amended by striking out subsection (c) (relating to tax carryovers).

(d) Section 57 (a) (relating to items of tax preference) is amended by inserting after paragraph (10) the following new paragraphs:

"(11) CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY.—The amount of the deduction for charitable contributions under section 170 or 642(c) allowable for the taxable year which is attributable to appreciation in the value of property not included in gross income.

"(12) AMORTIZATION OF CERTAIN COAL MINE SAFETY EQUIPMENT.—With respect to each certified coal mine safety equipment for which an election is in effect under section 187, the amount by which the deduction allowable for the taxable year under such section exceeds the depreciation deduction which would otherwise be allowable under section 167."

(e) Section 58 (relating to rules for application of the minimum tax) is amended

by adding at the end thereof the following new subsection:

"(h) ELECTION NOT TO CLAIM TAX PREFERENCES.—In the case of an item of tax preference which is a deduction from gross income, the taxpayer may elect to waive the deduction of all or part of such item, and the amount so waived shall not be taken into account for purposes of this part. In the case of an item of tax preference described in section 57(a)(9), the taxpayer may elect to treat all or part of any capital gain as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231, and the amount treated as such gain shall not be taken into account for purposes of this part. An election under this subsection shall be made only at such time and in such manner as is prescribed in regulations promulgated by the Secretary or his delegate, and the making of such election shall constitute a consent to all terms and conditions as may be set forth in the regulations as to the effect of such election for purposes of this title."

(f) Section 58 (relating to rules for application of the minimum tax) is amended by striking out subsection (g) (relating to partial exemption of tax preferences attributable to foreign sources).

(g) Section 58 is further amended by striking out "$30,000" each time it appears and inserting in lieu thereof "$12,000", and section 58(a) (relating to separate returns of husband and wife) is amended by striking out "$15,000" and inserting in lieu thereof "$6,000".

(h) The amendments made by this section shall be applicable to taxable years beginning after December 31, 1971.

[From the Washington Star, May 5, 1972]

GAIN IS SEEN FOR TAX REFORM

(By E. Edward Stephens)

Dear Counsel:

Results of a recent Harris poll are startling! 82 percent of queried people felt that the big tax burden falls on the little person in this country today; 64 percent agreed that taxes have reached the breaking point; and 69 percent said they could sympathize with a taxpayers' revolt. Is anyone in Washington trying to do something about this alarming situation?

Yes. A steadily increasing number of legislators are shooting for real reform—not the kind we got in the Tax Reform Act of 1969.

For instance, Sen. Gaylord Nelson (D-Wis.) has introduced the comprehensive Tax Reform Bill of 1972, S. 3378. It's supported by at least 13 other Senators, including presidential hopefuls George McGovern, D-S.D., and Hubert Humphrey, D-Minn., as well as presidential dark horse Edward Kennedy, D-Mass.

The Nelson bill would make sweeping changes in federal income, estate and gift tax laws. Its central idea is to shift part of the burden from low and middle-income taxpayers to wealthy people and business corporations.

President Nixon and most members of Congress want to shelve extensive tax reform until after the November election. This group includes Sen. Russell Long, D-La., powerful chairman of the Senate Finance Committee, where Nelson's bill now is lodged.

Long recently said his committee is booked up for this year, and doesn't intend to tackle major tax reform until 1973.

But backers of S. 3378 won't wait. Nelson plans to offer three of the key provisions as an amendment to the Welfare Reform Bill, H.R. 1, when it reaches the Senate floor this month. The amendment will be co-sponsored by Senators Kennedy, Walter Mondale, D-Minn., and Philip Hart, D-Mich. It would:

Do away with the asset depreciation range (ADR) system, enacted last year to shorten the time over which business property may be depreciated;

Make wealthy people pay more taxes by putting teeth into the minimum tax provisions of the 1969 reform act; and

Rein in the oil industry by reducing the yearly depletion allowance from 22 to 15 percent, and by providing that costs incurred in drilling and developing an oil well may no longer be deducted as current expenses—unless the hole is dry.

The Welfare Reform Bill is almost sure to become law this year. It has the blessing of President Nixon and Wilbur Mills, D-Ark., chairman and virtual tax czar of the House Ways and Means Committee.

But floor amendments like Nelson's usually are defeated. If they aren't voted down in the Senate, they generally are thrown out in the House-Senate conference committee, normally dominated by Mills.

Still, supporters of the proposed amendment predict they'll make it stick. These senators point to an impressive build-up in demand for tax reform this year.

They could be right. People are deeply disturbed when they learn, for example, that 1,338 Americans who had incomes of $50,000 or more paid no federal income taxes in 1970.

In the April 28 Washington Star, columnist Milton Viorst reminded readers that the Bourbon monarchy fell largely from the weight of an inequitable tax system. "I think it is time for a thorough examination of our own," he concluded.

Vote-conscious presidential aspirants and other influential people are thinking, listening. Maybe they picture angry taxpayers marching on Washington. Perhaps they hear those footsteps coming.

FOREIGN RELATIONS AUTHORIZATION ACT—AMENDMENT

AMENDMENT NO. 1209

(Ordered to be printed and to lie on the table.)

Mr. PERCY, for himself and Mr. TUNNEY, submitted an amendment intended to be proposed by them jointly to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

FEDERAL CORRECTIONS REORGANIZATION ACT—AMENDMENT

AMENDMENT NO. 1210

(Ordered to be printed and referred to the Committee on the Judiciary.)

Mr. PERCY. Mr. President, on behalf of myself and Senators MONTOYA and BROCK, I submit an amendment in the nature of a substitute to S. 3185, and I ask unanimous consent that it be printed in the RECORD at this point.

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

AMENDMENT NO. 1210

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) this Act may be cited as the "Federal Corrections Reorganization Act".

(b)(1) The Congress hereby declares that a reorganization of the Federal departments and agencies dealing with parole, probation, and other activities relating to the disposition of Federal offenders is necessary to insure a unified and coordinated approach to the rehabilitation of such offenders and the protection of society.

(2) The Congress further declares that the Federal Government has primary responsibility for formulating coordinated Federal corrections policies with regard to prison construction, the appointment and training of corrections personnel, pretrial and posttrial release programs, alternatives to incarceration, the establishment of a national clearing house and study center for corrections, and other such activities.

(3) The Congress further declares that the Federal Government has a responsibility in recommending standards and guidelines to States for the operation of programs concerning State correctional facilities, and the treatment of State offenders.

TITLE I—FEDERAL CORRECTIONS ADVISORY COUNCIL ESTABLISHMENT; COMPOSITION

SEC. 101. (a) There is hereby established the Federal Corrections Advisory Council (hereinafter referred to in this Act as the "Council") which shall consist of the following members—

(1) two members who shall be former inmates of Federal Correction Institutions;

(2) two members who shall be criminologists;

(3) one member who shall be an attorney;

(4) one member who shall be a former or retired judge of a Federal court;

(5) two members who shall be involved in law enforcement;

(6) two members who shall be sociologists;

(7) two members who shall be psychologists;

(8) one member who shall be appointed on the basis of his knowledge and interest in the field of corrections;

(9) one member representing the communications media;

(10) Director of the Federal Bureau of Prisons (ex officio member);

(11) Administrator of Law Enforcement Assistance Administration (ex officio member);

(12) Attorney General of the United States (ex officio member);

(13) Associate Justice of the Supreme Court (ex officio member), who shall be designated by the Chief Justice of the United States;

(14) Secretary of Health, Education, and Welfare (ex officio member);

(15) Secretary of Labor (ex officio member);

(16) Director of the Office of Management and Budget (ex officio member);

(17) Chairman of the Federal Circuit Offender Disposition Board (ex officio member); and

(18) Chairman of the District of Columbia Court of Appeals Offender Disposition Board (ex officio member).

(b) The Council shall elect, from among its members, one member to serve as Chairman. The Council may appoint and fix the compensation of a Director (who shall be responsible for the administrative duties of the Council) and such other staff personnel as it deems necessary.

(c) Members of the Council designated in clauses (1) through (9) of subsection (a) of this section shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve for terms of five years, except that of such members first appointed, two shall serve for terms of one year, two shall serve for terms of two years, two shall serve for terms of three years, two shall serve for terms of four years, and one shall serve for a term of five years, as designated by the President at the time such appointments are made. Members shall be eligible for reappointment.

(d) (1) Members of the Council designated in clauses (1) through (9) of subsection (a) of this section shall receive compensation at the rate of $100 for each day on which they are engaged in the performance of duties of the Council, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in

the performance of the duties of the Council.

(2) Members of the Council serving ex officio shall serve as members of the Council without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Council.

(e) The first meeting of the Council shall be called by the Attorney General of the United States.

PURPOSE OF COUNCIL

SEC. 102. It shall be the purpose of the Council—

(1) to exercise an investigative and advisory role in the oversight and direction of the Federal and District of Columbia corrections systems;

(2) to recommend standards and guidelines for States to meet before being eligible to receive grants under any Federal program involving State law enforcement and correction agencies, including the reorganization of their criminal justice systems along the lines set forth in titles II and III of this Act; and

(3) to serve as a clearinghouse for study, planning, and dissemination of information in the field of corrections.

FUNCTIONS OF COUNCIL

SEC. 103. (a) The Council shall recommend to the courts of the United States and the District of Columbia and other appropriate Federal and District of Columbia instrumentalities and officers, guidelines, and standards for—

(1) the training and appointment of correctional employees within the Federal and District of Columbia system;

(2) the design of the physical plan and facilities of Federal prisons and the replacement of existing Federal and District of Columbia correctional institutions;

(3) the operations of all Federal and District of Columbia correctional institutions;

(4) pretrial and posttrial release programs;

(5) the operation of the Bureau of Prisons; and

(6) States to meet as a condition of eligibility for Federal grants which may be made by the Law Enforcement Assistance Administration, or any other Federal instrumentality when such grant has a substantial relationship to corrections, pretrial release, posttrial release, or alternatives to incarcreration.

(b) The Council shall establish an information and study center for—

(1) the collection, evaluation, and dissemination to appropriate Federal, State, or private organizations of information relating to corrections and corrections reform;

(2) the training of personnel in the field of Federal and State corrections, including parole and probation personnel;

(3) conducting seminars for attorneys, judges, administrators, Federal and State correctional officials, ex-offenders, and students of the correctional system;

(4) the study, analysis, and encouragement of plans and projects relating to corrections submitted or recommended by private organizations;

(5) the development of plans which, if adopted, would reorganize the Federal and District of Columbia corrections systems in a manner which, within the five-year period following the date of the enactment of this Act, would give the Federal and District of Columbia courts maximum flexibility in deciding upon the disposition and treatment of Federal and District of Columbia offenders, and which would give the district court disposition boards, District of Columbia Disposition Board, and Federal and District of Columbia prison authorities maximum flexibility with respect to disposition and treatment; and

(6) the study of plans and petitions from Federal and District of Columbia prisoners and ex-offenders.

(c) The Council shall submit annually to the President of the United States, the Chief Justice of the United States, and the Congress (through the Committees on Government Operations, Appropriations, and Judiciary of the Senate and House of Representatives) a public report which shall—

(1) examine the effectiveness of the various Federal and District of Columbia programs and activities relating to the field of corrections;

(2) review and assess other programs in the field of corrections which are unique or otherwise of national significance;

(3) recommend legislative action to the Congress, and recommend to the President and the Chief Justice administrative actions which could be taken by the executive and judicial branches, to improve the system of corrections;

(4) comment specifically on the implementation of the recommendations of the so-called Wickersham Commission (the National Commission on Law Observance and Enforcement—1931), and the report of the President's Commission on Law Enforcement and Administration of Justice—"The Challenge of Crime in a Free Society"; and

(5) comment specifically on the introduction of legislation to establish academies for correctional officers training on either a national or regional basis.

(d) In carrying out its functions under this Act, the Council shall insure the coordination and integration of policies and programs respecting the disposition, treatment, and rehabilitation of offenders on the Federal and State levels.

(e) The Council shall assist in the development of funding requests for all Federal and District of Columbia instrumentalities which participate in or contribute to the areas of correction and the rehabilitation of offenders, and shall, upon request, be available to advise the Congress on matters involving the allocation of Federal resources in such areas.

(f) Any vacancy in the membership of the Council shall not affect its powers and shall be filled in the same manner as the original appointment was made.

(g) The Council may establish such temporary task forces as it may deem necessary.

(h) The Council is authorized to enter into contracts or other arrangements for goods or services, with public or private profit organizations, to assist it in carrying out its duties and functions under this Act.

TITLE II—FEDERAL CIRCUIT OFFENDER DISPOSITION BOARD; DISTRICT OF COLUMBIA COURT OF APPEALS OFFENDER DISPOSITION BOARD

ESTABLISHMENT OF FEDERAL CIRCUIT OFFENDER DISPOSITION BOARD; COMPOSITION

SEC. 201. (a) There is hereby established the Federal Circuit Offender Disposition Board (referred to in this Act as the "Circuit Board"), which shall be composed of eleven members appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall represent diverse backgrounds, including, but not limited to, the fields of correction, psychiatry, psychology, sociology, law, medicine, education, and vocational training. Such members shall serve for terms of ten years, except that, of the members first appointed, three shall serve for terms of two years, three shall serve for terms of five years, three shall serve for terms of eight years, and two shall serve for terms of ten years, as designated by the President at the time of their appointment. Each member shall be designated by the President to represent a specific judicial circuit. The Attorney General shall call the first meeting of the Circuit Board within six months after the date of the enactment of this Act.

(b) The Circuit Board shall elect, from among its members, one member to serve as Chairman. The Chairman shall represent the Circuit Board on the Council. The Circuit Board is authorized to appoint and fix the compensation of such employees as it determines necessary to carry out its duties under this Act.

(c) Members of the Board shall receive compensation as established in 5 USC 5314, relating to Level III of the Executive Schedule, except that the Chairman shall receive compensation as established in 5 USC 5313, relative to level II of the Executive Schedule. Members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Board.

(d) The Circuit Board is authorized to enter into contracts or other arrangements for goods or services, with public or private profit organizations, to assist it in carrying out its duties and functions under this Act.

FUNCTIONS OF CIRCUIT BOARD

SEC. 202. It shall be the function of the Circuit Board to formulate, promulgate, and oversee a national policy on the treatment of offenders under the jurisdiction of any court of the United States on the basis of a charge of having violated any of the laws of the United States. In carrying out such function, the Circuit Board shall, among other things—

(1) establish and recommend sentencing guidelines and standards for the United States courts, and provide periodic review thereof;

(2) establish guidelines and standards for United States courts in pretrial release, probation, parole, or other forms of release of individuals charged with an offense or of offenders;

(3) hear appeals by offenders denied parole on the sole ground that a District Board deviated from the established national guidelines and standards established pursuant to clause (2) of this section;

(4) assist and advise the Council in determining overall Federal correction policy;

(5) assign to each member of the Board the responsibility of overseeing the direction and operation of the various District Boards within the circuit which such member represents; and

(6) assign each member of the Board the responsibility of notifying the President of the United States of any vacancy on the various District Boards within the circuit which such member represents.

REPORTS

SEC. 203. The Board shall, not less than annually, make a written report to the Attorney General concerning the carrying out of its functions and duties under this Act.

ESTABLISHMENT OF DISTRICT OF COLUMBIA COURT OF APPEALS OFFENDER DISPOSITION BOARD; COMPOSITION

SEC. 204. (a) There is hereby established the District of Columbia Court of Appeals Offender Disposition Board, which shall be composed of five members appointed by the President of the United States, by and with the consent of the Senate, and who shall represent diverse backgrounds, including, but not limited to, the fields of correction, psychiatry, psychology, sociology, law, medicine, education, and vocational training. Such members shall serve for terms of ten years, except that, of the members first appointed, one shall serve for a term of two years, one shall serve for a term of five years, one shall serve for a term of eight years, and two shall serve for terms of ten years, as designated by the President at the time of their appointment. The Attorney General shall call the first meeting of such Board within six months after the date of the enactment of this Act.

(b) The District of Columbia Court of Appeals Offender Disposition Board shall elect, from among its members, one member to serve as Chairman. The Chairman shall represent the Board on the Council. The Board is authorized to appoint and fix

the compensation of such employees as it determines necessary to carry out its duties under this Act.

(c) Members of the Board shall receive compensation at the rate of $100 for each day on which they are engaged in the performance of the duties of the Board, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Board.

(d) The Board is authorized to enter into contracts or other arrangements for goods or services, with public or private profit organizations, to assist it in carrying out its duties and functions under this Act.

FUNCTIONS OF DISTRICT OF COLUMBIA COURT OF APPEALS OFFENDER DISPOSITION BOARD

SEC. 205. It shall be the function of the District of Columbia Court of Appeals Offender Disposition Board to formulate, promulgate, and oversee a uniform policy on the treatment of offenders under the jurisdiction of any court of the District of Columbia on the basis of a charge of having violated any of the laws of the District of Columbia. In carrying out such function, the Board shall, among other things—

(1) establish and recommend sentencing guidelines and standards for the courts of the District of Columbia, and provide periodic review thereof;

(2) establish guidelines and standards for such courts in pretrial release, probation, parole, or other forms of release of individuals charged with an offense or of offenders;

(3) hear appeals by offenders denied parole on the sole ground that the District of Columbia Board (established pursuant to section 302 of this Act) deviated from the established guidelines and standards established pursuant to clause (2) of this section;

(4) assist and advise the Council in determining overall District of Columbia correction policy;

(5) assign members of the District of Columbia Court of Appeals Offender Disposition Board the responsibility of overseeing the direction and operation of the District of Columbia Board; and

(6) assign a member of the District of Columbia Court of Appeals Offender Disposition Board the responsibility of notifying the President of the United States of any vacancy on the District of Columbia Board.

REPORTS

SEC. 206. The District of Columbia Court of Appeals Offender Disposition Board shall, not less than annually, make a written report to the Attorney General concerning the carrying out of its functions and duties under this Act.

TITLE III—DISTRICT COURT OFFENDER DISPOSITION BOARDS; SUPERIOR COURT OF THE DISTRICT OF COLUMBIA OFFENDER DISPOSITION BOARD

ESTABLISHMENT OF THE DISTRICT COURT OFFENDER DISPOSITION BOARD; COMPOSITION

SEC. 301. (a) There is hereby established in each judicial district a District Court Offender Disposition Board (referred to in this Act as the "District Board"), which shall be composed of not less than five members appointed by the President of the United States, by and with the advice and consent of the Senate, and representing diverse backgrounds, including, but not limited to, the fields of correction, psychiatry, psychology, sociology, law, medicine, education, and vocational training. Such members shall serve terms of six years, and shall be eligible for reappointment. The Board shall elect, from among its members one member to serve as Chairman. The Board may appoint and fix the compensation of such employees as it determines are necessary to carry out its duties under this Act. The Attorney General shall call the first meeting of each District Board.

(b) Each member of a District Board shall be compensated in an amount equal to $_____ per annum, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Board.

(c) Each District Board may establish such units as it determines necessary, which may include an investigation unit, a pretrial evaluation unit, a presentence unit, a youthful offender unit, and a narcotics and alcohol unit. Each unit shall consist of such members as shall be determined by the Board. Each unit, with the approval of the Board, shall be authorized to appoint and fix the compensation of such employees as it determines are necessary to carry out its duties.

(d) Immediately following the arraignment of a person charged with a Federal offense, the case shall be assigned to the District Board, which shall—

(1) investigate the defendant's background, family ties, relationship with the community, employment history, and the circumstances surrounding the alleged offense, and other information which it deems pertinent, and make such information available to the appropriate judicial officer or court, along with a recommendation as to the setting of bail;

(2) recommend to the appropriate judicial officer or court, if indicated, mental observation, or medical observation for problems such as alcoholism, drug addiction, or other mental or physical disabilities; and

(3) submit, within thirty days of arraignment, a written report to the counsel of record for such defendant, and the office of the United States attorney having jurisdiction over the case.

(e) The reports shall set forth the findings and conclusions of the District Board, including its conclusions as to any physical, mental, social, economic, or other problems of the defendant and shall recommend whether and what type of diversion of the defendant from the criminal justice system of prosecution is desirable. The report shall be made part of the permanent record of the defendant's case.

(f) The report shall be the basis for discussion between the United States attorney and counsel of record for the defendant at a formal precharge conference, during which the report and alternatives to prosecution shall be considered. If the United States attorney and counsel for the defendant agree that diversion of the defendant from the criminal prosecution system would be desirable, and an appropriate authorized diversion program exists, then the charges against the defendant shall be suspended for up to twelve calendar months, subject to the defendant agreeing to participate in that program. The Board shall file with the court a statement of the date the defendant has commenced participation in the program. The United States attorney shall make periodic reviews as to the progress of the defendant while participating in the program. If the United States attorney is not satisfied with the defendant's progress, he may resume prosecution of the charges by filing, within one year after the defendant commenced participation in the program, a statement of intention to resume prosecution, which shall include the reasons for resumption of prosecution. If the United States attorney does not file a timely statement of intention to resume prosecution of the charges against the defendant, the charges shall be permanently dismissed. The statement of intention by the United States attorney to resume prosecution shall be included in the record of the case.

(g) If a defendant is prosecuted for, and convicted of, a Federal offense, the court shall refer the record of the case to the appropriate District Board for review and consideration prior to sentencing. The Board shall examine and review the record, the pretrial evaluation report and other pertinent information concerning the case, including the recommendations of counsel for the defendant. Within thirty days after receiving the record, the Board shall file a written report with the court, the counsel for the defendant, and the United States attorney. Such report shall include:

(1) the sentence recommended by the Board, which may be a suspended sentence, probation, imprisonment, or any alternative authorized by law to imprisonment;

(2) the reasons for the sentence recommended; and

(3) if imprisonment is recommended—

(A) the reason imprisonment is recommended (such as for reasons of punishment, deterrence or rehabilitation) and what alternatives were considered as inapplicable, and the reasons therefor;

(B) the term of imprisonment recommended and the institution or facility in which the imprisonment is recommended to be carried out; and

(C) the goals for the offender to attain while so imprisoned which, when attained, should entitle him to parole, but the goals may, from time to time, be revised by the District Board.

(h) If the court determines not to follow the recommendations of the District Board, it shall so state in writing along with the reasons therefor, and the purposes and goals of its sentence.

(i) The District Board shall carry out, with respect to a defendant who has been sentenced, the functions relating to probation, parole, or other form of release (as the case may be) transferred to the Board pursuant to section 401(a) of this Act. In carrying out those functions, the District Board shall hold an annual hearing with respect to each offender who has been sentenced to imprisonment. In the hearing, all pertinent information concerning the offender shall be reviewed with a view to determining the progress of the offender in attaining the goals established for him by the District Board. At the hearing the offender shall have the right to be represented by counsel, to submit evidence, and to cross examine witnesses. Within fourteen days following the conclusion of the hearing, the Board shall make its determination as to whether the offender should be released on parole or other authorized alternative action taken. A determination by the Board to authorize release on parole of an offender eligible for parole shall be accompanied by a statement of the conditions of parole. If the Board determines that an offender who is not eligible for parole should be released on parole, it shall recommend to the appropriate court that the sentence of the offender be reduced so that the offender may be so released, or that an authorized alternative disposition be made. Within fourteen days after the determination, the District Board shall submit to the offender and to the appropriate court a written report containing the decision of the Board and the reasons therefor, including the views of the Board with respect to the goals the offender has attained and the goals he has not yet attained.

(j) A quorum for any hearing held pursuant to subsection (i) shall be not less than three members of the District Board.

(k) The decision of the District Board may be appealed to the Circuit Board by the offender affected by the decision solely on the basis that the District Board, in conducting the hearing, failed to follow the standards and guidelines established by the Circuit Board pursuant to section 202(2) of this Act. Nothing in this section shall be construed as abridging the right of an offender to appeal a sentence to the Federal courts.

The District Boards are authorized to enter into contracts or other arrangements for goods or services, with public or private profit organizations to assist them in carry-

ing out its duties and functions under this Act.

ESTABLISHMENT OF SUPERIOR COURT OF DISTRICT OF COLUMBIA OFFENDER DISPOSITION BOARD; COMPOSITION

SEC. 302. (a) There is hereby established in the District of Columbia the Superior Court of the District of Columbia Offender Disposition Board (referred to in this Act as the "District of Columbia Board"), which shall be composed of not less than five members appointed by the President of the United States, by and with the advice and consent of the Senate, and representing diverse backgrounds, including, but not limited to, the fields of correction, psychiatry, psychology, sociology, law, medicine, education, and vocational training. Such members shall serve terms of six years, and shall be eligible for reappointment. The District of Columbia Board shall elect, from among its members, one member to serve as Chairman. The Board may appoint and fix the compensation of such employees as it determines are necessary to carry out its duties under this Act. The Attorney General shall call the first meeting of the District of Columbia Board.

(b) Each member of the District of Columbia Board shall be compensated in an amount equal to $_____ per annum, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses reasonably incurred in the performance of the duties of the Board.

(c) Such Board may establish such units as it determines necessary, which may include an investigation unit, a pretrial evaluation unit, a presentence unit, a youthful offender unit, and a narcotics and alcohol unit. Each unit shall consist of such members as shall be determined by the Board. Each unit, with the approval of the Board, shall be authorized to appoint and fix the compensation of such employees as it determines are necessary to carry out its duties.

(d) Immediately following the arraignment of a person charged with an offense under the jurisdiction of the Superior Court of the District of Columbia, the case shall be assigned to the District of Columbia Board, which shall—

(1) investigate the defendant's background, family ties, relationship with the community, employment history, and the circumstances surrounding the alleged offense, and other information which it deems pertinent, and shall make such information available to the appropriate judicial officer or court, along with a recommendation as to the setting of bail;

(2) recommend, to the appropriate judicial officer or court, if indicated, mental observation, or medical observation for problems such as alcoholism, drug addiction, or other mental or physical disabilities; and

(3) submit, within thirty days of arraignment, a written report to the counsel of ment, a written report to the counsel of record for such defendant, and the attorney for the Government having jurisdiction over the case.

(e) The report shall set forth the findings and conclusions of the Board, including its conclusions as to any physical, mental, social, economic, or other problems of the defendant and shall recommend whether and what type of diversion of the defendant from the criminal justice system of prosecution is desirable. The report shall be made part of the permanent record of the defendant's case.

(f) The report shall be the basis for discussion between the attorney for the Government and counsel of record for the defendant at a formal precharge conference, during which the report and alternatives to prosecution shall be considered. If the attorney for the Government and counsel for the defendant agree that diversion of the defendant from the criminal prosecution system would be desirable, and an appropriate authorized diversion program exists, then the charges against the defendant shall be suspended for up to twelve calendar months, subject to the defendant agreeing to participate in that program. The Board shall file with the court a statement of the date the defendant has commenced participation in the program. The attorney for the Government shall make periodic reviews as to the progress of the defendant while participating in the program. If the attorney for the Government is not satisfied with the defendant's progress, he may resume prosecution of the charges by filing, within one year after the defendant commenced participation in the program, a statement of intention to resume prosecution, which shall include the reasons for resumption of prosecution. If the attorney for the Government does not file a timely statement of intention to resume prosecution of the charges against the defendant, the charges shall be permanently dismissed. The statement of intention by the attorney for the Government to resume prosecution shall be included in the record of the case.

(g) If a defendant is prosecuted for, and convicted of, an offense under the jurisdiction of the Superior Court of the District of Columbia, the court shall refer the record of the case to the appropriate District of Columbia Board for review and consideration prior to sentencing. The Board shall examine and review the record, the pretrial evaluation report and other pertinent information concerning the case, including the recommendations of counsel for the defendant. Within thirty days after receiving the record, the Board shall file a written report with the court, the counsel for the defendant, and the attorney for the Government. Such report shall include—

(1) the sentence recommended by the Board, which may be a suspended sentence, probation, imprisonment, or any alternative authorized by law to imprisonment;

(2) the reasons for the sentence recommended; and

(3) if imprisonment is recommended—

(A) the reason imprisonment is recommended (such as for reasons of punishment, deterrence or rehabilitation) and what alternatives were considered as inapplicable, and the reasons therefor;

(B) the term of imprisonment recommended and the institution or facility in which the imprisonment is recommended to be carried out; and

(C) the goals for the offender to attain while so imprisoned which, when attained, should entitle him to parole, but the goals may, from time to time, be revised by the District of Columbia Board.

(h) If the court determines not to follow the recommendations of the District of Columbia Board, it shall so state in writing along with the reasons therefor, and the purposes and goals of its sentence.

(i) The District of Columbia Board shall carry out the functions transferred to the Board pursuant to section 401(b) of this Act. In carrying out those functions, the District of Columbia Board shall hold an annual hearing with respect to each offender who has been sentenced to imprisonment. In the hearing, all pertinent information concerning the offender shall be reviewed with a view to determining the progress of the offender in attaining the goals established for him by the District of Columbia Board. At the hearing the offender shall have the right to be represented by counsel, to submit evidence, and to cross examine witnesses. Within fourteen days following the conclusion of the hearing, the Board shall make its determination as to whether the offender should be released on parole or other authorized alternative action taken. A determintion by the Board to authorize release on parole of an offender eligible for parole shall be accompanied by a statement of the conditions of parole. If the Board determines that an offender who is not eligible for parole should be released on parole, it shall recommend to the appropriate court that the sentence of the offender be reduced so that the offender may be so released, or that an authorized alternative disposition be made. Within fourteen days after the determination, the District of Columbia Board shall submit to the offender and to the appropriate court a written report containing the decision of the Board and the reasons therefor, including the views of the Board with respect to the goals the offender has attained and the goals he has not yet attained.

(j) A quorum for any hearing held pursuant to subsection (i) shall be not less than three members of the District of Columbia Board.

(k) The decision of the District of Columbia Board may be appealed to the District of Columbia Court of Appeals Offender Disposition Board by the offender affected by the decision solely on the basis that the District of Columbia Board, in conducting the hearing, failed to follow the standards and guidelines established by the District of Columbia Court of Appeals Offender Disposition Board pursuant to section 205(2) of this Act. Nothing in this section shall be construed as abridging the right of an offender to appeal a sentence to the appropriate courts.

(l) The District of Columbia Board is authorized to enter into contracts or other arrangements for goods or services, with public or private nonprofit organizations to assist it in carrying out its duties and functions under this Act.

TITLE IV—TRANSFER OF FUNCTIONS

PAROLE: PROBATION

SEC. 401. (a) There are hereby transferred to the District Boards established by this Act all functions which were carried out immediately before the effective date of this section—

(1) by the Federal Board of Parole;

(2) by any United States court relating to the appointment and supervision of probation officers;

(3) by the Attorney General relating to the prescribing of duties of probation officers; and

(4) by the Director of the Administration Office of the United States Court relating to probation officers and the operation of the probation system in the United States courts.

(b) There are hereby transferred to the District of Columbia Board established by this Act all functions which were carried out immediately before the effective date of this section—

(1) by the District of Columbia Board of Parole;

(2) by any District of Columbia court relating to the appointment and supervision of probation officers;

(3) by the District of Columbia Bail Agency; and

(4) by the Offender Rehabilitation Service of the District of Columbia Public Defender Service.

MISCELLANEOUS

SEC. 402. (a) With respect to any function transferred by this title and exersised after the effective date of this section, reference in any other Federal or District of Columbia law, rule, or regulation to any Federal or District of Columbia instrumentality or officer from which or whose functions are transferred by this Act shall be deemed to mean the instrumentality or officer in which or whom such function is vested by this Act.

(b) In the exercise of any function transferred by this Act, the appropriate officer of the District Board or the District of Columbia Board to which such functions were so transferred shall have the same authority as that vested in the officer exercising such function immediately preceding its transfer

and such officer's actions in exercising such functions shall have the same force and effect as when exercised by such officer having such function prior to its transfer by this title.

(c) All personnel (other than the members of the Board of Parole and the District of Columbia Board of Parole), assets, liabilities, property and records as are determined by the Director of the Office of Management and Budget to be employed, held or used primarily in connection with any function transferred by this title are hereby transferred to the District Boards or the District of Columbia Board in such manner and to such extent as the said Director shall prescribe. Such personnel shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(d) Effective on the effective date of section 401 of this Act, the United States Board of Parole, the District of Columbia Board of Parole, the District of Columbia Bail Agency and the Offender Rehabilitation Service of the District of Columbia Public Defender Service shall lapse.

(e) As used in this Act, the term "function" includes powers and duties.

EFFECTIVE DATE

SEC. 403. Sections 102, 103, 202, 205, subsections (d), (e), (f), (g), (h), (i), (j), and (k) of section 301, subsections (d), (e), (f), (g), (h), (i), (j) and (k) of section 302 and sections 401 and 402 of this Act shall take effect upon the expiration of the one-hundred-and-twenty-day period following the date of the enactment of this Act. All other provisions of this Act shall take effect upon the date of its enactment.

DEFINITION

SEC. 404. As used in this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and Guam.

AUTHORIZATIONS

SEC. 405. (a) On and after the date of the enactment of this Act, all moneys received by any court of the United States or of the District of Columbia as fines, penalties, forfeitures and otherwise shall be deposited in the Treasury. Such moneys received from the courts of the United States shall be deposited to the credit of Federal Circuit Offender Disposition Board, and such moneys so received from the courts of the District of Columbia shall be deposited to the credit of the District of Columbia Court of Appeals Offender Disposition Board. All such moneys shall be available for carrying out the purposes of this Act.

(b) There are authorized to be appropriated such sums as may be necessary in addition to those available pursuant to subsection (a) of this section to carry out the provisions of this Act.

MISCELLANEOUS

SEC. 406. In the administration of title I of the Omnibus Crime Control and Safe Streets Act of 1968, each State shall receive only —— per centum of the grants in any fiscal year commencing after June 30, 1973, to which it would otherwise be entitled, if the Attorney General determines that such State has failed to reorganize its criminal justice system in a manner comparable to that provided for the Federal criminal justice system by titles II and III of this Act. The Law Enforcement Assistance Administration is authorized and directed to determine the extent to which specific grant programs will be reduced in any fiscal year for any State in order to comply with the requirements of this section.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1191

At the request of Mr. BROOKE, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of amendment No. 1191 intended to be proposed to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

AMENDMENT NO. 1202

At the request of Mr. ROTH, the Senator from New Jersey (Mr. CASE) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of amendment No. 1202 intended to be proposed to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States.

ADDITIONAL STATEMENTS

THE 80TH BIRTHDAY ANNIVERSARY OF PEARL S. BUCK

Mr. SCOTT. Mr. President, Miss Pearl S. Buck will celebrate her 80th birthday next month.

Born in Hillsboro, W. Va., on June 26, 1892, the daughter of southern Presbyterian missionaries, Pearl S. Buck has become a legend in her own lifetime.

Educated in China by her English-speaking mother and a Chinese tutor who was a Confucian scholar, Miss Buck returned to the United States at the age of 17 to attend Randolph-Macon College from which she was graduated 4 years later.

Miss Buck's scholarly study of the language and history of China provided her with a deep understanding of, and appreciation for Chinese culture and philosophy. This unique background, combined with a superb writing talent, enabled Pearl Buck to recreate for the Western World the essence of the East.

Her first published novel, "East Wind, West Wind," was followed by the epic portrayal of Chinese farm life in "The Good Earth," which brought worldwide recognition to Pearl S. Buck as a writer. As the modern world's most translated author, she has been described by the National Book Committee, in 1972, as "America's first literary ambassador."

Pearl Buck, the only American woman to have received the Nobel Prize for Literature, has also won the Pulitzer Prize, the William Dean Howells Medal, and hundreds of other distinguished awards for literature and her humanistic accomplishments.

On December 11, 1938, in her acceptance speech for the Nobel Prize, Miss Buck portrayed the history of the Chinese novel which had shaped her efforts in writing.

In 1941, mindful of the struggles of the Chinese people in World War II, and looking beyond China, she started the East and West Association, devoted to the mutual understanding of all people.

Deeply concerned with the plight of the mentally retarded, Pearl Buck became a prime mover in the formation of parents groups throughout the world to encourage these parents to recognize the problems of their children and accept responsibility for them. In order to effectively help in research, she contributed generously to enable the continuation of scientific studies in the field of mental retardation.

In 1949, alarmed over the unwillingness of adoption agencies to place children of mixed racial background in adoptive homes, she founded Welcome House, Inc., in Doylestown, Pa. Now, 23 years later, it is recognized as one of the most important agencies in the field of adoption of hard-to-place children.

In recognition of the generous contributions she has made to the children of the world and to the understanding of the East, I join with my colleague from Pennsylvania (Mr. SCHWEIKER) and all the people of the United States in congratulating Pearl S. Buck.

TRANSPO 72

Mr. McINTYRE. Mr. President, Transpo 72 is open and before it closes it is estimated that more than 1 million persons will have visited Dulles Airport to view this look at transportation today and in the future.

The problem of moving 1 million persons into and out of Transpo 72 is going to be monumental. Security problems will be enormous.

The man who will be responsible to see that security is maintained, the man who will direct an augmented force of nearly 600 men during Transpo 72 is Chief Philip A. Houihan, who comes from Dover, N.H. If anyone can handle this tremendous job, I know Phil Houihan is the one.

Chief Phil started as a newsboy in Dover, N.H. selling Foster's Daily Democrat on the street corner. By a lot of hard work he put himself through school, served in the Navy during World War II, came to Washington, D.C., and joined the police force; then, 19 years ago transferred to the Department of Transportation where he remained since.

When Transpo 72 is not located at Dulles, Chief Phil has a force of 40 men at his command to take care of lost children, stolen cars, drug smuggling, and in these difficult days, hijacking. He has written a distinguished career and rates at the top of Federal law enforcement officials.

I know New Hampshire is proud of this great son of theirs and I know that they join me in wishing him well in this difficult task that I know if anyone can handle, Chief Phil is the one.

Mr. President, Foster's Daily Democrat, which Chief Phil used to sell on the street corners in his youth recently carried an excellent article about him. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Foster's Daily Democrat (N.H.), May 1, 1972]

FORMER NEWSBOY A SECURITY CHIEF

WASHINGTON, D.C.—Forty-five years ago, young Phil Houihan sold the Democrat as a newsboy on the Lower Square in Dover. Today he finds himself in charge of 40 law enforcement officers as Chief of Security Police at Dulles International Airport in Washington, D.C.

Chief Houihan said on the telephone recently, "I was born and brought up in Dover and went to school there." Although he left over 25 years ago, the Chief has not lost his New England speech mannerisms, which are mixed with traces of Pat O'Brien,

since he is of Irish descent. He is friendly and loquacious, used to handling people.

He finds his job extremely challenging. In talking of his advancement through the various ranks he said "I want to tell the newsboys and other kids there in Dover that hard work is what will put them to the top."

Houihan related how he went to college for two years in Hartford, Conn., after leaving Dover. He weathered World War II in the U.S. Navy, moving to Washington after his discharge. He joined the municipal police there, then transferred to the Department of Transportation 19 years ago.

In the Department, he rose through the ranks to Chief, working on security during the terms of four Presidents—Truman, Eisenhower, Kennedy, and Johnson.

His Security Police at Dulles are responsible for the safety and welfare of passengers and guests who pass within the confines of the airport. Any problems that crop up, and there are many (lost children, sick and mentally ill people, stolen cars, accidents, drugs, abandoned cars, hijacked airplanes), are handled smoothly and expertly by Chief Houihan and his men.

Transpo 72 will be heavily occupying them this summer. An additional 600 men will be pulled from all over the metropolitan area to assist the Chief and his force in whatever way is needed.

Houihan has boundless enthusiasm for Transpo 72, the U.S. International Transportation Exposition, which is scheduled at Dulles from Memorial Day Weekend through June 4 of this year.

It will occupy some 360 acres on the Dulles Airport grounds and draw an estimated one million people. The actual site extends for a mile and a half along the westernmost runway.

If you are thinking of an interesting trip for your family this summer, you might indeed consider it. More than 500 indoor and outdoor exhibits are being prepared. They will feature the world's latest surface, air, and space hardware and transportation technologies. Daily surface and air tech demonstrations and air performances by famous aerobatic and specialty teams will be offered.

Just one example is a new air cushion rapid transit vehicle capable of speeds up to 300 miles per hour—on a one inch cushion of air.

The Chief concludes "It would certainly be fine if a lot of people in the Dover area came and visited us—it's really going to be something to see. Tell them to look me up when they arrive. I'll do all I can to give them the red carpet treatment."

FAT LABOR CONTRACTS; NO JOBS FOR LABOR

Mr. FANNIN. Mr. President, union leaders who have demanded exorbitant wage increases and restrictive work rules have caused inflation and have forced virtually entire industries to flee overseas.

Some of these union leaders have started to realize that it is no good to have fat labor contracts but no jobs for their members.

No industry operates in a vacuum. For every action in our economy, there is a reaction. When labor costs go up, prices increase, Americans pay more for their goods, and American products are no longer competitive in certain markets.

The Wall Street Journal on April 14 published an excellent editorial stating that although there are indications that union leaders are starting to realize the problem, the majority of them still fail to understand fully their responsibilities.

Mr. President, I ask unanimous consent that the editorial be printed at this point in the RECORD.

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

THE UNIONS AGAINST THEIR MEMBERS

No one expects the AFL–CIO to sound like the National Association of Manufacturers, but it would be nice if the federation more often could see where union members' best interests really lie.

In a recent "Memo from COPE," published by the AFL–CIO's Committee on Political Education, the first article tells of the troubles of workers who lose jobs when their employers move manufacturing operations overseas or find that they cannot compete with imports. There certainly has been much painful disclocation, but COPE doesn't seem to see either the cause or the cure.

Reading this "Memo," as well as most of the other pronouncements by labor organizations and their leaders, you might think that the troubles result solely from a diabolical plot by corporations and their lackeys in federal government. American businessmen, says COPE, are "sailing off to foreign nations with their technology, sometimes their equipment, often their management personnel, and lots of American jobs"—with the help of favorable federal tax and tariff rules.

In a roundabout way the labor group does appear to recognize that many businessmen start producing goods overseas because they can no longer produce them here and remain competitive in either foreign or domestic markets. Labor's "solution" is the Burke-Hartke bill, which would wall off much of the U.S. market as the exclusive province of U.S. companies.

COPE has the chutzpah to call this a tax-trade-consumer bill, although its inevitable result would be higher prices for many of the goods consumers buy. But the measure would indeed make a lot of Yankee businessmen go home; many, in fact, would go right out of business.

Anyone who thinks other nations would sit still for Burke-Hartke protectionism is a congenital optimist. Retaliation would be swift and extensive, and many U.S. firms would lose whatever foreign market they still have.

A lot of American firms have gone overseas partly because of present foreign trade restrictions; a factory in France, for instance, may be essential to making any sales in the Common Market. U.S. plants abroad are responsible for a sizable share of America's exports, since they often use U.S.-made components—and help to promote some products that the companies make only in America.

Many of the American companies operating overseas could no longer do so if Burke-Hartke's tax-tariff penalties are ever inflicted. As such companies shut up shop U.S. exports would drop, along with the jobs they provide.

Real solutions to the trade problems will require recognition that U.S. businessmen aren't the prime movers in this situation; they have been pulled and hauled by forces largely beyond their control.

One of the primary causes is the fixed-exchange-rate system that kept the dollar overvalued and thus made U.S. exports expensive and U.S. imports relatively cheap. Last December's exchange-rate realignment was a help, but rates could get out of line again.

They could easily do so if the U.S. government doesn't do a better job of controlling its finances and instead permits inflation to revive. The inflation, of course, has helped to push up the union wage demands that have done so much to price American goods out of markets both at home and abroad.

The unions get away with the wage demands because the government has built their power to excessive size. The same government puts a heavy tax burden on business, a burden that has slowed capital investment and thus has helped foreign nations to begin to catch up with the U.S. in technology.

The AFL–CIO's tunnel vision becomes all the more obvious when a reader flips to the back page of this "Memo From COPE." Spelled out there is an argument not for encouraging business investment, and thus increasing jobs, but for socking the corporation with higher taxes.

"There is no simple explanation of trade policy and problems," COPE says, quite correctly. Neither is it easy to understand why the federation is so determined to destroy union members' jobs.

Mr. FANNIN. Mr. President, as I stated, there are some signs of hope. Some labor leaders appear to be showing enlightenment. They have come to understand that what is in the best interest of an industry is also in the best interest of the individual worker, in most cases. As evidence, I ask unanimous consent to have printed in the RECORD two articles, and an editorial from the Wall Street Journal.

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

[From the May 15, 1972, U.S. News & World Report]

BUILDING WORKERS WARNED: DON'T PRICE SELVES OUT OF JOBS

Work harder, end "feather-bedding," take smaller pay boosts. That's the advice workers are getting from both a union chief and an employer.

Just beginning to get attention in the construction industry: A drive to end "feather-bedding" and slow the relentless wage spiral in the nation's building trades.

What's unique about this campaign is the fact that much of its impetus comes from key labor leaders who are convinced that construction workers in many areas have priced themselves out of the market.

UNION, EMPLOYERS UNITE

In what is considered a revolution in union tactics, officials of the AFL–CIO's building trades will join with employers in the new drive. The aim is to eliminate make-work rules and lower labor costs.

Recent speeches by a national union president and by a spokesman for employers are seen as preliminary efforts for the "educational" campaign.

Union workers are to be urged to work harder on the job, drop requirements for standby crews and modify other job-creating regulations.

Also, the unionists are to be told that construction unions must take smaller pay boosts in order to permit their unionized employers to compete with "open shop" competitors.

OUTBID

Behind the drive is an admission by union and contracting leaders that nonunion firms are making big inroads in the heavy-construction industry. With lower labor costs—and no work rules—nonunion contractors are able to outbid the unionized companies.

Speeches at a national convention of the Operating Engineers Union late in April, in Washington, D.C., served as a preamble to the campaign. Engineers handle earth-moving equipment and other machinery on construction sites.

In a hard-hitting and unusual appeal, Hunter P. Wharton, the union's president,

exhorted his members to give "a fair day's work for a fair day's wage."

A step-up in worker output, he went on, is needed to stop the invasion of nonunion companies in the industry, with the resulting loss of union jobs.

At the same convention, the new president of the Associated General Contractors—James D. McClary—said the unionized companies are being hurt by the big pay raises won by building-trades unions in recent years.

CONTRACTOR'S VIEW

Mr. McClary offered this opinion on what is behind "the very rapid growth of the open-shop movement" in his industry:

"It has been made possible, in my judgment, by two things. Unions and union contractors are pricing themselves out of the market. Laugh if you want to at this, but there are still a lot of people in this country who have enough pride in their craft and in themselves that they want to work where their skill is recognized and where they can take their paycheck at the end of the week and look the paymaster in the eye.

"They want to work where their income is steady, where they are not off on wildcat strikes or honoring a picket line for someone else's stupidity, or becoming embroiled in a useless jurisdictional dispute—in many instances not even involving their own craft."

WORKERS ARE URGED TO END "FEATHERBEDDING"

Mr. McClary declared that the building industry "is in serious trouble and it could get a lot worse before it gets better." He called on workers and employers to "quit fooling around, quit playing games and go back to work."

The construction industry, he said, is guilty of "leading the inflationary spiral that is rapidly driving this country to economic ruin."

WASTED TECHNOLGY

Union work rules, the contractors' official added, have forced so many nonproducers onto the payroll that economic benefits from the complicated, expensive machines are lost.

These big machines, he went on, do not produce "if you show up later or are out drinking coffee or just plain goofing off, or quit early."

Employers also have a lot of faults, Mr. McClary admitted. For one thing, the contractors have "let you get away with many of those things I have mentioned." The business spokesman added:

"In some parts of the country, we have turned over virtual management of our jobs to your people. . . . We have become just as lazy and nonproductive as you have become."

The association president asked the union to find a way to settle differences without strikes which neither side wins. He urged workers to "cut out this stupid obsession with featherbedding."

On wages. Mr. McClary suggested they "try to go more than six months without a raise in pay—at least until we are out of our current mess and until productivity justifies an increases."

The Engineers Union's president, Mr. Wharton, spoke on the same program with Mr. McClary, and made a similar appeal for more work, fewer work rules and a slowdown in wage advances.

GENERAL WARNING

Much of Mr. Wharton's speech was a warning to other AFL–CIO building unions, as well as to his own local-union officials and rank and filers.

Mr. Wharton cautioned his members that "our progress seems to have peaked," and he declared:

"Now is the time for all of you who are leaders to display leadership. . . . It is time, if it is not too late, to turn ourselves around and approach our problems as they exist."

Labor, the union leader said, "must rededicate itself to pride of workmanship." He said local-union officers "must show the way" and "cannot continue to create jobs by having unproductive labor create jobs by having unproductive labor on the job." He added: "Our leaders can no longer demand and have standby labor on the jobs so as to create a job for those who have no desire to work for their pay."

Large wage increases won in recent years by regional construction leaders, Mr. Wharton said, may "retard our progress."

"LEAPFROGGING" DECRIED

Employers have been forced to grant big pay boosts in order to prevent, or end, strikes that could ruin business. Mr. Wharton condemned "me-too-ism" or "leapfrogging" by rival unions on wage demands. He put it this way:

"If one trade got more, then the representative of our trade or some other trade had to get as much . . . or a little more, to show he was a better negotiator than the other fellow."

As wages rose, Mr. Wharton said, "productivity was standing still and in many instances . . . it was falling below the norm."

Delegates to the union convention heard praise from Secretary of Labor James D. Hodgson. He said:

"For President Nixon and for myself, I want to thank you for a helluva job well done" in co-operating with the Government's wage-stabilizing efforts.

"You're keeping a lid on the unproductive work rules. . . . You have worked out new jurisdictional-dispute machinery. And you're reminding your members that a fair day's work for a fair day's pay is still a sound idea."

[From the Mar. 17, 1972, Christian Science Monitor]

RUBBER FIRMS, UNION WORK FOR CHANGES

(By Ed Townsend)

NEW YORK.—Some significant changes are taking place in the rubber industry:

Firestone Tire & Rubber Company plant workers in Akron, Ohio, heartland of the U.S. rubber industry, last weekend voted 2,356 to 977 to give up their six-day, 36-hour workweek, zealously protected since the 1930's.

B. F. Goodrich Company has won an agreement from its United Rubber Workers local in Akron to negotiate modifications of work rules.

Goodyear Tire & Rubber Company is talking "informally" with the URW about similar cost-cutting changes in its Akron contract.

None of this would have been likely even a year ago. Rubber workers in plants in other areas are likely to put in more hours a week, produce more, and receive lower hourly pay than their union brothers in Akron. As a result, Akron plants are at a competitive disadvantage, and these days companies have little patience with unprofitable plants and products.

Blue-collar production jobs in Akron plants of the three major tiremakers have dropped from a peak of about 52,000 in 1944 to about 14,000. Some plants have been closed down, and others have been moved out of Akron.

PLANTS LESS PRODUCTIVE

According to the companies, they have had no other choice. Akron plants for years have been only 50 percent to 75 percent as productive as similar rubber plants in other areas. Tire workers in Akron are paid about $4.45 an hour, compared with $4.35 for workers similarly employed in other cities and as low as $3.75 an hour in the newest plants, where modern production processes and equipment have reduced skill demand.

Watching jobs disappear and reading recurrent reports about new plants to be erected elsewhere—most recently an announcement by General Tire & Rubber Company of a multimillion-dollar plant to be built in Mount Vernon, Ill., to produce radial tires—Akron's rubber unionists began having second thoughts about their long stubborn defense of the status quo.

Goodrich, Firestone, and Goodyear seized the opportunity to begin to talk with their uneasy local unions on ways to modify obsolete work rules and conditions and to make Akron plants more competitive.

WORKWEEK TOPS LIST

Most company executives place the six-day, 36-hour workweek at the top of the list of costly problems that need to be eliminated. The short week was put into effect by managements in the depressed 1930's as a work-spreading device. It is to be found only in Akron rubber plants, where workers long resisted a change: The six-hour day gives workers an opportunity to supplement incomes with second jobs.

Goodrich and URW agreed to change to a standard 40-hour, five-day week in 1965, in a cooperative effort to keep jobs in Akron. Last year Firestone proposed to put a new radial-tire operation in Akron if its employees would shift to the 40-hour week. They refused to, and the company built a new plant in Tennessee. The 36-hour, six-day week has been a sacred cow in Goodyear's contract, too.

Generally, the parties agree that both labor and management are jointly responsible for other nonproductive work rules and arrangements that plague Akron rubber plants. Both agreed to rules—still in contracts—intended to meet the frantic needs of production in World War II. Once they were there, they became virtually untouchable.

MEETINGS ANNOUNCED

Some limit the work that a man in any work classification may do—a practice that has made repair and maintenance costs in Akron far out of line with those elsewhere. Traditionally, an Akron rubber worker may use a "bidding and bumping" system to claim the job of a less-senior fellow unionists, whether he has the qualification or not. Piecework rates in Akron call for more pay for less production. Incentive standards need overhauling. And many other rules are considered by managements to be unduly costly and unproductive.

Members of the big Goodrich local voted 8 to 1 in January to authorize officers to negotiate with the company on a list of 12 proposals it had made for improved productivity and lower costs in Akron.

One official said URW had given up the 36-hour week at Goodrich in 1965 to do that, and had been assured then that many of the company's Akron problems would be ended. "Now they're back at the door," he said. But there seemed to be no alternative to more concessions, now being negotiated.

About the same time, Gerald D. Gelvin, president of Firestone Local 7, told his members that the union "must develop a positive cooperative attitude and an appreciation of the problems of our company." He announced that local negotiators would begin meeting with Firestone on "our mutual problems."

Last weekend, the Firestone talks produced the first really tangible breakthrough for the rubber industry in its efforts to stay in competition in Akron. At a meeting at which 82 percent of the local's membership was present and voted, the highest percentage ever for the local, members voted almost 3 to 1 for contract modifications:

"BIDDING AND BUMPING"

The six-day, 36-hour workweek will be changed over a 90-day period to a five-day, 40-hour workweek. This will permit three work shifts daily instead of four, and "minimal" layoffs are likely.

Beginning in 1973, the plant will be shut

down completely for two vacation weeks every summer, a plan intended to stabilize production. Now, employees can elect to take vacation time whenever they want, on a seniority basis, and shortages of workers or skills can interfere with the efficient operation of the plant.

The piecework system will be changed so that an employee will not be reimbursed during a "down" period—when his machine is not operating—on a basis of the average rate for all employees but at his own average; some will get more, many will get less.

Seniority rules will be changed to allow older workers to elect to take time off at 80 percent of pay when layoffs are scheduled. The present system provides for laying off workers on a strict seniority basis, with those having longer service "bumping" others from continuing jobs.

SOME ADDITIONAL PAY

These changes are less than what Firestone would have liked—they leave the big wage differential untouched—but they are expected to smooth operations.

Workers who cherished the 36-hour workweek for years will have one stop to make the change more acceptable. They will be paid for four additional hours of work each week.

The workweek change was hotly debated before the ratification vote. One Local 7 oldtimer said, "Most of the real bellyaching came from the guys who've been putting in time on two jobs. Now a lot of them aren't going to be able to do it."

Progress is being made in the Goodrich talks, and similar rules gains are expected. Goodyear and union negotiators will say only that they are talking "informally" about much the same things.

Meanwhile, Mohawk Rubber Company and URW Local 6 recently announced that a joint program undertaken in Akron has increased Mohawk plant production by 25 percent—largely through programs of "change and modernization" and without reducing earnings or increasing workloads. The local represents 300 employees at the Mohawk plant.

SOVIET OUTPUT RISES

Soviet industrial production in the first two months of the year increased by 7.3 percent over the same period last year, the Central Statistical Board reports.

Labor productivity, a crucial factor in Soviet economic planning, rose by 5.7 percent.

The statistics showed that Soviet industry met planned targets for all key products during this period, the official news agency Tass says.

Biggest growth was reported for passenger cars, up 48 percent; digital program controlled machine tools, up 32 percent; instruments and porcelain tableware, up 17 percent; and refrigerators, up 10 percent.

[Editorial from the Apr. 28, 1972, Wall Street Journal]

A CONSTRUCTIVE UNION APPROACH

In recent years the International Union of Operating Engineers has won enormous pay increases for its members, but there was little rejoicing at the union's recent convention in Washington.

For more than a year the Operating Engineers and other construction unions have recognized that the big pay boosts to some extent have been self-defeating. They have priced some construction out of the market and encouraged contractors to use nonunion labor wherever possible. A high wage scale is cold comfort for the worker without a job.

"It is time to turn ourselves around and approach our problems as they actually exist," said Hunter Wharton, president of the union. "We are the makers of many of our problems."

Mr. Wharton indicated that contractors weren't always getting their money's worth when they hired union labor. "Had productivity increased as wages began to rise," he said, "we wouldn't now be faced with some of our present-day problems."

"Our leaders can no longer demand and have standby labor on the job so as to create a job for those who have no desire to work for their pay," he declared. "Labor must rededicate itself to a pride in workmanship—a fair day's work for a fair day's pay."

That would indeed be a constructive approach. If the union chooses to pursue it, maybe the atmosphere at next year's convention will be a little cheerier.

THE WAR, GOLD, AND THE DOLLAR

Mr. SYMINGTON. Mr. President, earlier this month, under the above heading, I presented on the floor of the Senate the fact there had been much comment about the recent heavy escalation of the Vietnam war in respect to the political and military implications of said escalation; but little comment about the effect of this continuing outflow of billions of dollars to foreign countries on our economy.

I mentioned that, although the United States decided to increase the price of gold from $35 to $38 an ounce, gold was selling on the London market at $54 an ounce.

As of last week, this price went above $58 an ounce.

TAILORED NEWS

Mr. SCOTT. Mr. President, I ask unanimous consent that an article written by Jenkins Lloyd Jones and published in the Washington Star of Saturday, May 27, 1972, be printed in the RECORD.

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

TAILORED THE NEWS TO FIT VIEWS

(By Jenkin Lloyd Jones)

"Good evening, ladies and gentlemen. I'm Fred Flapjaw in Philadelphia, and Transcolonial Broadcasting Co. now brings you Both Sides of the News.

"The nation, as you know, has been rocked by the arrest of the brave young Britisher, Maj. John Andre, who seemed to have had some plans to West Point in his boot. There has been a second sensation in the sudden departure from his post of Gen. Benedict Arnold, commander of the West Point garrison.

"We take you now to TBC correspondent Hank Tudor at West Point.

"Thank you, Fred. I have Gen. George Washington here. Gen. Washington, what do you think of Gen. Arnold's so-far unexplained——."

"Why, that damned, gold-greedy, double-crossing, back-stabbing poltroon . . ."

"Thank you, General. I'm afraid that's all the time we have. This is Hank Tudor turning you back to Fred Flapjaw."

"Thank You, Hank, We are fortunate to have three of our experts here in the studio—Sam Stiletto, Everette Eyebrow and Dirk Smirk—to analyze Gen. Washington's remarks. Everette?"

"I thought the use of the word 'damned' on such a distinguished soldier as Gen. Arnold indicated that Gen. Washington was overwrought. But, of course, the war—let's say—has not been going well, eh, Sam?"

"Right, Ev. Gen. Washington has been under a lot of pressure, but to call Gen. Arnold a 'poltroon' doesn't give him his day in court, does it, Dirk?"

"Right, Sam. I mean these are dangerous times and cool heads are needed and in the last couple of days—well, one shouldn't use the term 'irrational' concerning Gen. Washington, but . . ."

"Thank you, Sam, Everette and Dirk. And now we take you to Ronald Redcoat at British headquarters in New York, where he has an exclusive interview set up with Gen. Arnold. Ronald?"

"Thanks, Fred. Gen. Arnold, what do you have to say for yourself?"

"Well, I . . . ah . . ."

"Are you saying that you were trying to end the war, general?"

"Well, yeah . . ."

"Are you saying that you are tired of the slaughter of American boys and took this action in an effort to return them quickly to their loved ones?"

"Yeah, that's it."

"Am I correct that you take the position that instead of fleeing for your life you were really riding for peace?"

"You got it, by, you got it!"

"This is Ron Redcoat in New York returning you to Fred Flapjaw."

"We have here in our studio Peter Pigeon, the distinguished attorney, who has some grave doubts about the treatment of the handsome and talented young British officer, Maj. Andre. Mr. Pigeon?"

"Justice-loving Americans are hanging their heads in shame, Fred, at the spectacle of a fine youth being stopped on the high road by a group of guerrillas out of uniform. He was searched without a warrant, questioned without his attorney present, imprisoned without habeas corpus and condemned to death without a jury. We are demanding that Maj. Andre and the papers stolen from him be sent on immediately to Sir Henry Clinton in New York, together with an indemnity of 10,000 sovereigns in gold."

"Thank you, Peter Pigeon, And now for our final item we go to Windsor Hanover on the campus of Harvard University. Take it, Win."

"Right on, Fred. Well, folks, we're in luck. Just as our camera crew reached the campus we happened on a joint demonstration of the Christians Concerned About Conscription Society, the Hell No We Won't Go Club and the Freedom for What Association. They have just burnt Massachusetts Hall.

"We can't turn the camera on many of the signs, but I can read you some—'George the Hatchet Man,' 'Washington, the Sneak of Trenton,' Down With the Butcher of White Plains,' 'Out! the Virginia Aristrocat.' The crowd has torn up a number of striped flags and is chanting 'Free John Andre' and 'Yea, Arnold!'

"Well, ladies and gentlemen, like them or not, here's Young America on the march. Back to you, Fred Flapjaw.'

"Thank you, Windsor Hanover. Folks, our time is up. I just want to leave you with one thought. He who ignores the demands of youth is out of touch with the future of America. This is Fred Flapjaw saying good night for Both Sides of the News."

LIMITATION OF MINUTEMAN MISSILE SITES IN MONTANA

Mr. METCALF. Mr. President, the Disarmament Agreement between the United States and the Soviet Union came as a welcome surprise. Any move toward reduction of the spiralling arms race is a step in the right direction. If we can enter into an era of mutual confidence and trust with the Soviet Union, depending upon peaceful solutions of our inevitable conflicts, we can save billions of dollars that can be better, spent on schools, hopsitals, housing, health, and other domestic needs. I applaud and approve the President's achievement in Moscow in attaining this agreement.

The proposal to limit the ABM sites to two, one of which will be around the Capital City, is causing some concern in Montana. The Minuteman missile site in Montana was one of the first to be installed. It came to Montana as no specially desirable public works project because of the stress of such defensive installations, the security involved, and the temporary nature of any military establishment.

But Montanans, who sent more men to World War II in proportion to population than any other State, rallied to the support of the Minuteman.

Then came the ABM. I opposed the ABM for several reasons. One of the chief reasons was the fact that with the above the ground radar, the ABM sites would be the prime target for any attack and that no Montanan wants our State to be the first target of an atomic or hydrogen bomb. Perhaps for this reason alone I feel the withdrawal of the plans for ABM sites around the Minuteman missile sites of Northern Montana is a good thing.

Despite their trepidations, however, and despite the fact that the Nixon administration forced through the program for ABM sites in Montana in an unparalleled display of Executive lobbying, the people of Montana instituted a patriotic effort to comply with the orders that had come from Washington. School districts met with the Corps of Engineers and made plans to take care of the increased school enrollment. The mayors and councilmen and commissioners of the cities, towns and counties involved went forward with road programs, sewage disposal improvements, extension of streets, and rezoning to provide accommodations for the expected influx of workers on the project. All these things were done at the request and with the advice of the military.

In this approach to peace of President Nixon's—and it is a good move, in my opinion—there must be provision that many patriotic citizens who had misgivings about the previous armament procedures, but who as patriotic Americans tried to go along with the military, shall not be unduly harmed.

When the details of the disarmament program are spelled out, when the impact on Montana is detailed, there will be an assessment of the costs of attempting to comply with a military gesture that today looks as if it were only to use the Montana ABM sites as instruments in the secret negotiations with Russia and as pawns in an international game of who is the stronger. There will be tremendous savings if the ABM sites are never built, and the Washington site is not authorized. But we must not forget the individual sacrifices made by the men and women of the States in which the ABM sites were to be located. A Government that gave assurances to the people that such defensive measures were vital for the protection of America should compensate citizens who relied on those assurances.

Even without this cancellation, our unemployment rate, 8 percent by the most recent report, probably will be near 9 percent soon, as thousands of work-ready students hit the labor market.

As I understand, contractors are going to be taken care of by paying them some percentage of the total contract. It is the workers who will suffer. I understand that workers are being told to report to their jobs, where they are to get 1 day's pay plus transportation back to Great Falls.

Two suggestions come quickly to mind:

First. Authorize severance pay on a sliding scale, depending on the time served, with the maximum being the percentage figure applied to contractors—thus treating everybody alike.

Second. Authorize a labor mobility fund, administered by the State Employment Security Office through local offices, to get these workmen, recently jobless in the national interest, to where there are jobs.

As more information is secured, as plans are submitted, and as legislation moves through Congress to provide for the implementation of President Nixon's agreements, I shall insist that the men and women and the public agencies of Montana which have suffered loss because of the change of plans be reimbursed.

PAUL HOFFMAN RECEIVES WILLIAM BENTON MEDAL FOR DISTINGUISHED SERVICE

Mr. PERCY. Mr. President, I am pleased to invite the attention of Senators to remarks recently delivered by one of our former Senate colleagues, William Benton. The statement was presented at a testimonial dinner in Chicago on April 13, in honor of Paul Hoffman who was being awarded the William Benton Medal for Distinguished Service by the Committee of Trustees and Faculty of the University of Chicago. The statement not only depicts the meritorious qualities of the medal's recipient, but also by its content reflects the fine character of its deliverer.

Mr. President I ask unanimous consent that the text of Mr. Benton's remarks be printed in the RECORD. I know we all join in wishing Paul Hoffman a speedy and complete recovery from his present illness.

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

REMARKS OF HON. WILLIAM BENTON

I am greatly honored that my name is connected with the medal which is to be bestowed on Paul Hoffman tonight. Indeed no honor has ever come to me comparable to my name on this medal. If Paul Hoffman is to achieve immortality, as many of his admirers anticipate, tonight's affair should squeeze me into it as his medalist.

Why was this man, now at 81 in the full flower of his manhood, why was he chosen for this medal by the University's Committee of Trustees and Faculty?

For years, since I first met him in 1935 as a young Trustee, I've been listening to his praises. Most of them add up to the claim that he embalms the Christian virtues.

Although this seems to place him squarely within the tradition of the founding fathers of this great University, is it really true? Is this man who publicized such phrases as the Studebaker Commander—*and* "The Marshall Plan"—not to mention the Ford Foundation, is he not merely a master publicist? How does it happen that his name is "a household word throughout the world?" I can assure you he never seeks personal publicity. Doesn't everyone here know that there's something the matter with a man who never seeks personal publicity?

I have decided that tonight is the opportunity I've been waiting for to reveal the lowdown on this former student and Trustee of this University. I shall tell you the truth about him—even though this truth has not set me free. I shall describe him to you as few men are ever described by old friends—as he *should* be described—as we all should be described—in terms of the seven deadly sins.

The pre-eminent sin is Pride. And I say Paul Hoffman is not only immodest! he is shameless. He spends his entire life shamelessly embarrassing his friends—by showing them up—by nonchalantly doing things they cannot equal. Pride!—he flaunts it!!

A second sin is —Avarice. Is Hoffman covetous? He is positively greedy! Whenever he sees a challenging job to be done, he grabs it, does it, and seeks out another. He is not only greedy; he is insatiable.

Paul is ridden with the sin of—Lust. He lusts for new and greater honors for his friends, such as his acceptance tonight of a medal named for one of them. Furtively, he seduces his friends into new and ever more important roles, and then disclaims all responsibility for their new prominence. Where would Bob Hutchins and I be—where would we have ever been without Hoffman?

Hoffman is Envious. Some of his friends wanted to make him President of the United States. General Eisenhower invited me to lunch on the day he was installed as president of Columbia. His purpose? It was to seek my advice on how to make Paul Hoffman President of the United States. Paul was so envious of the idea of Eisenhower as a President-maker—that he stole the idea, turned the tables on Eisenhower and set about to make Eisenhower the President.

Gluttony—This clearly characterizes Paul Hoffman. His gluttony for punishment is celebrated. When the Committee for Economic Development was new, the very idea for which originated at this University, Paul became its traveling salesman—as well as its conscience. Like St. Paul, everywhere he carried the Gospel—according to CED. Early in 1943 he averaged a thousand miles a day lining up CED field organizations. He then forced gluttony down the throat of the CED. It asked for 300 community organizations; Paul gave them 3,000.

Can I not tax Paul with the sin of Anger? Ha! He once called Joe McCarthy a liar!

And Sloth? Ah yes, Sloth! Paul Hoffman is so lazy that he talks his friends into doing the good deeds which he claims his calendar doesn't give him time to do. He exhorts his friends like Lester Pearson, whom we hoped to have with us tonight, to attain peace and to see to it that right prevails—things he is too lazy to accomplish alone. Then they get the Nobel Peace Award.

Further, Hoffman is secretive and devious. He flatters his friends behind their backs in terms he would not dare use to their faces.

But there is yet more.

This is a sin so hard to pin down that early theologians did not even list it in the Big Seven. It is that of blasphemy. Thomas Aquinas had a reason for calling the seven sins deadly. It was not merely that each was a serious offense, but it would lead to even worse transgressions. I don't charge that Paul Hoffman personally practices blasphemy. No—worse! He inspires it! Ray Rubicam once told me that Paul more than any man he'd ever known, "walks in the steps of the Master".

Mr. Chairman and fellow guests, shall we not look in these realistic terms at the life of the man who has brought us together

tonight? Have I now made this—let me say I want to make this—perfectly clear? Shall we or shall we not face the Hoffman facts? His are not sins of omission; they are sins of commission. They are not venial sins; they are mortal sins.

Indeed, let us remember as we pin our medal on him tonight, they may, like this great University, even prove to be immortal!

TRADE TALKS BETWEEN UNITED STATES AND JAPAN

Mr. FANNIN. Mr. President, for several years I have been deeply concerned about the serious decline of the United States in world trade. I have spoken on this subject many times in this Chamber.

One of my concerns is that our Government failed to negotiate realistic trade agreements in the 1960s and has failed even to enforce provisions in those trade agreements to protect American industry from unfair foreign competition.

It is most encouraging to see that the Nixon administration is moving both to enforce the current regulations and to negotiate new trade agreements which will give American industries a fair break in international competition.

Mr. President, an article published in the New York Times of May 18, 1972, reports on the Treasury Department action to investigate Japanese Government subsidies and incentives to Japanese industry. Another Times article reports that trade talks between the United States and Japan will resume later this summer. I ask unanimous consent that the two New York Times articles and an article on the same subject from the Washington Evening Star of May 22, 1972, be printed in the RECORD.

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

UNITED STATES IS EXAMINING JAPAN EXPORT BID

(By Edwin L. Dale, Jr.)

WASHINGTON, May 18.—In a case of potentially major importance to Japanese-United States trade and to American consumers, the Treasury announced today it was investigating whether a whole series of Japanese Government tax and other incentives to exports of consumer electronic products, such as television sets, constituted an illegal subsidy.

If the finding is affirmative, special "countervailing duties"—an extra tariff—will be imposed on these products is found. What is more, since the same or similar Japanese incentives apply to nearly all exports, special duties might also be imposed on many other products as well, providing a domestic United States industry complains.

Imports of the electronic products involved in this first investigation amounted to $831-million last year, making this the largest case of its kind on record.

Eugene T. Rossides, Assistant Secretary of the Treasury for Enforcement, Tariff and Trade Affairs, stressed in an interview that today's announcement was "only the initiation of an investigation" and was not a "prejudgment" that subsidies are in fact being paid.

"I don't know how it will come out," he said. Japanese embassy officials said they did not believe their government's practices constituted a subsidy within the meaning of the United States countervailing duty statute.

A spokesman said "we are quite certain" that no subsidization will be found and thus no extra duty imposed.

Mr. Rossides also emphasized that "a lot of facts" must be gathered before a finding can be made, and thus he said he could make no prediction on the timing of a decision. No deadline is established in the law.

The complaints that led to the investigation announced today came from Magnavox Company and Zenith Radio Corporation. The complaints—but not the Treasury announcement—listed a long series of Japanese Government practices that the companies charged amounted to subsidies for exports.

The products involved include television and radio receivers, mono and stereo systems, and tape recorders.

The announcement today was the most dramatic in a series of Treasury actions, most not widely publicized, aimed at much tougher enforcement of the once-little-used countervailing duty and "antidumping" statutes.

Dumping complaints involve "sales at less than fair value" by foreign companies or industries, with no relation to actions of foreign governments. Only yesterday the Treasury announced an investigation into possible dumping of Canadian aluminium in the United States market, with annual imports of about $200-million involved.

In the case of the antidumping law, not only must the Treasury find "sales at less than fair value"—usually meaning sales in the United States market at a price lower than in the market of the exporting country—but also the tariff commission must find that a domestic industry has been injured. If both findings are made, a special antidumping duty is assessed.

The tougher enforcement of both laws began under Secretary of the Treasury David M. Kennedy and accelerated under Secretary John B. Connally. Dumping cases have generally outnumbered countervailing duty cases, but an important countervailing duty case involving Michelin tires from Canada was announced earlier this month.

The list of Japanese practices complained of in today's case is both long and complex. They range from liberal depreciation for tax purposes as an incentive to exports to special tariff rebates for exporting companies, from shipping subsidies to special development allowances.

All these practices have been in the Japanese law for years.

UNITED STATES-JAPAN TALKS SET

TOKYO, May 18 (Reuters).—The United States and Japan today agreed to resume negotiations on correcting an imbalance in trade now running heavily in Japan's favor.

The agreement was reached between William D. Eberle, visiting United States presidential representative for trade negotiations, and Kakuei Tanaka, Minister for International Trade and Industry.

Ministry sources said the negotiations would probably reopen in July, but no site had yet been set.

The two countries held their last round of talks in Honolulu last December, when Japan agreed to expand its import quotas of beef, oranges and fruit juice.

[From the Evening Star, May 22, 1972]

EXPORT BOOM GIVES JAPAN CASE OF JITTERS

NEW YORK.—Japan has the kind of problem the United States would love to have. Its exports are booming, its balance of payments is strongly in its favor.

But for peculiar reasons, Japan's export power is making some of its trade competitors and partners unhappy. And recognizing that this is so, some Japanese officials are, if not unhappy, genuinely worried.

One fear is that foreigners, especially the United States, will retaliate again against the flood of goods that the amazing Japanese are unloading on U.S. docks.

The United States, for example, is now undertaking an extensive study of why Japan is able to export consumer electronic products at such low prices, and the suspicion is that the answer is subsidies.

RETALIATION POSSIBLE

If that is so, then the United States might very well retaliate with duties that would raise the prices of Japanese imports and so offset their competitive advantage.

American electronics manufacturers have long claimed that the Japanese were competing unfairly, but any attempts to prove such accusations generally get bogged down in a jungle of technicalities. Whatever the reason, the Japanese have captured—literally captured—a considerable part of the consumer electronics sales in the United States. Almost all transistor radios, for example, are Japanese imports.

In all, the Japanese exported to the U.S. market last year more than $830 million of radios, television sets, tape recorders, stereos and other items. Their 1971 trade surplus was $8.6 billion.

That trade surplus is not a one-year aberration either. In the early 1900s its trade was actually balanced equally between imports and exports. From 1965 to 1968 the surplus averaged $2 billion. In 1969 it reached $3.7 billion, and in 1970 it rose to $4.5 billion.

ANOTHER PROBLEM

And now, despite the fact that the yen has been revalued 17 percent in relation to the dollar of the United States, which is its biggest market, the 1971 figure is expected to be either matched or exceeded in 1972.

And that presents what may be considered another problem: What to do with all that money.

The Morgan Guaranty Trust has suggested that Japan's way out of this dilemma may be to begin lending more heavily to foreign borrowers, including foreign governments and international development agencies.

In other words, "Japan, in trying to offset the effects of being the world's strongest trading nation," says Morgan, "is likely to become an important financial center." Some problem.

It may also compel Japan to more swiftly open up its own markets to foreign competition, although the Japanese argue that the present inability of some American companies to sell in Japan is a result of their own failings.

THE BASQUE HOLIDAY FESTIVAL

Mr. CHURCH. Mr. President, this weekend, June 2–4, Basque people from throughout the United States will gather in Boise for what is expected to be the biggest event of its kind outside the seven Basque provinces of Spain—the Basque Holiday Festival.

The 3-day event is being held to raise funds to support a worthy cause—the Basque studies program at Boise State College. Funds collected at the festival will be used to match Federal funds which have been set aside for the Basque studies program.

Boise, the capital of Idaho, is the center of the largest Basque settlement outside of the original Basque homeland in Spain and France.

Yet even as the Basques gather for this unique festival, their kinfolk in Spain continue to be persecuted by the Franco regime. In their Spanish homeland, the

Basque minority is still subjected to injustice, intolerance, and repression by Spain's Franco dictatorship.

I, for one, pledge my determination to help to call this situation to the attention of the Nation and the world. In this regard, I think that, at the very least, the United States should exercise its good and influential offices to persuade the Spanish Government to deal compassionately and justly with the Basque people. Until this happens—until the Franco dictatorship agrees to abide by the Universal Declaration of Human Rights of the United Nations—the United States should stop arming the Spanish Government.

Mr. President, I ask unanimous consent that an article describing the Basque Holiday Festival, published in the Idaho Statesman, be printed in the RECORD.

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

THE BASQUE HOLIDAY FESTIVAL

It's for everyone . . . not just for Basques. Predictions are that it will be the biggest event of its kind ever held outside the seven original Basque provinces. It will offer visitors everything from pelota to barbecue to a demonstration by California's champion working sheep dog to an outdoor Mass, said and sung in Basque to a sheepherders' ball.

It's the Holiday Basque Festival, to be held in Boise June 2–4.

Why Boise? Where else? Joe V. Eiguren of Meridian, whose revised and expanded "Basque History: Past and Present" has just gone on sale in local book stores, says Boise is the core of the biggest Basque settlement anywhere in the world outside of the original homeland.

Hence the Holiday Basque Festival, proceeds of which are earmarked for the Basque Studies Program of the Department of Continuing Education and Boise State College, to match a National Humanities grant.

Coming to Boise for the festival are people from all over the country. Reservations are in from New York, singers and dancers have signed up from California. Pelota players and weight litfers are expected from Nevada and Utah.

Louise Michel Irigaray, Basque folk singer whose latest album, "The Basque Balladier" has just been released, will be here from Reno.

John Laxalt of Nevada, Senator Anthony Yturri of Oregon and Mrs. Delphina Urresti Arnold (a former Miss Boise), will join Idaho Secretary of State Pete Cenarrusa and Mrs. Henry Uranga of Boise as judges for the Festival Queen and Basque Grandmother contests the evening of June 2 at Capital High School.

The Western Idaho Fairgrounds pavilion will take on the aspect of a Basque town square surrounded by small shops where visitors can see films of the Basque homeland, eat Basque food, purchase souvenirs (Would you believe T-shirts marked "Basque is Beautiful"?) and watch all sorts of athletic contests, dancing and even children's costume competition and bota drinking (non-Basques might take a try at competing in this event).

Combination ticket books at a discount, are on sale at the Allied Arts ticket booth in the Bon Marché (11 a.m. to 2 p.m. weekdays) and at the Basque Center, or may be ordered by mail from Holiday Basque Festival, P.O. Box 774, Boise, 83701.

Advance ticket sales close Thursday, but tickets will also be sold at the gate for both Cultural Night at Capital High and the June 3–4 events to be held at the Fairgrounds.

THE RETIREMENT OF DR. WERNHER VON BRAUN

Mr. CURTIS. Mr. President, on Friday, May 26, 1972, the retirement of Dr. Wernher von Braun from the National Aeronautics and Space Administration was announced.

He leaves the U.S. Government with the deep appreciation of all Americans for outstanding service to the Nation.

Dr. von Braun's contributions to America's space program need no elaboration. Throughout his career he has demonstrated a singleness of purpose about space exploration—a singleness of purpose which in large measure is responsible for America's preeminence in space.

When he was 18 years old, he was firing homemade rockets from a municipal dump in Berlin.

At 20, he was made head of rocket development for the German Army.

At 32, he built the V–2 rocket, the world's first guided missile, which opened a new dimension in warfare. It also opened a new dimension in future space exploration.

When the Allied armies in the East and the Red Army in the West were closing in to the final destruction of Hitler's Germany, Dr. von Braun and his fellow missile experts were confronted with two real choices: First, surrender to the Russians; second, surrender to the Americans.

Fortunately for the free world, Dr. von Braun chose America. Whenever we may experience doubts, I think his reasons are worth remembering. Here they are in his own words:

The reason I chose America in particular is that Americans had a reputation for having an especially intense devotion to individual freedom and human rights.

Furthermore, their traditional disinterest in conquest and their careful system of checks and balances in government offered the highest guarantee that any knowledge we entrusted to them would not be used wantonly.

Later, he led the American team that was called upon to play catch-up ball after the Russian's launched their Sputnik—a launch that shook the world in 1957.

In the intervening years, America's space program has been crowned with one success after another. Whether manned or unmanned, our space missions have achieved a degree of reliability and usefulness that few thought possible just a generation ago.

Dr. von Braun made this prophecy of things to come:

In 1951, as in my youth, my eyes are still on the heavens. I still yearn some day to explore the moon. And as a private enthusiasm I have been designing an artificial satellite we could make here on earth and send up in the sky to revolve around the earth 1,000 miles out. Such a manned space platform could be a great force for peace.

His dreams have a way of becoming reality. Reinforcing his singleness of purpose is a deep-seated belief in the dignity of man and in the Almighty. Again, in his own words:

The greatest champion of the inherent worth and dignity of every man was Jesus Christ. He taught that every man is a Child of God. He taught that each of us has a gift life on earth for which we must account at the Last Judgment. We can best make our gift life count for something if we vigorously champion the Godly life. This means, as I see it, not only loving one another and praying for our enemies, but supporting with missionary zeal the concept of individual worth.

Dr. von Braun will presently begin a new career with private industry. As he does so, he carries the very best wishes of all those who know and respect his work. A grateful Nation will long remember his singleness of purpose that brought hope and success when failure seemed eminent.

THE GENOCIDE CONVENTION AND THE MOSCOW SUMMIT

Mr. PROXMIRE. Mr. President, the President of the United States has taken a courageous and constructive step forward in the history of American foreign policy. The summit conference underway in Moscow will bring about a new phase in East-West understanding. With luck, the President will return from the summit with agreements on arms limitations and, perhaps, some kind of understanding on Vietnam.

The impact of the summit agreements on the future of the world will be profound, but the issue closest to the hearts of all Americans is a resolution of the Vietnam war. If President Nixon gains some assurance of Soviet deescalation in Southeast Asia and a willingness to encourage serious negotiations, his trip will have succeeded beyond our wildest expectations. We all hope and pray for such success.

But while we cannot be sure of a peace initiative from the Soviet Union, we can control our own actions. We can forthrightly initiate and support other methods for achieving our objective of world peace. We can uphold our obligations under existing international agreements and endorse those humanitarian declarations which we have so far neglected.

The Treaty for the Prevention and Punishment of Genocide is one of the declarations which we have failed to ratify and which deserves our support. As President Nixon continues on his journey for peace around the globe, we here at home can contribute to that effort by standing firmly on the side of human rights and human dignity throughout the world. Therefore, I urge Senators to move swiftly to endorse the Treaty on Genocide.

STATEMENT FROM STUDENT GOVERNING BODY, WILBUR WRIGHT COLLEGE, CHICAGO, ILL.

Mr. PERCY. Mr. President, Patrick M. Barton, president of the student governing body at Wilbur Wright College, in Chicago, has asked me to place in the CONGRESSIONAL RECORD the following statement:

We the Student Governing Body of Wilbur Wright College deplore the administration's decision to resume the bombing of Hanoi and Haiphong and demand the immediate cessation of the military action in Indochina and the immediate withdrawal of U.S. land

and air forces from South Vietnam, Laos, Cambodia, and Thailand.

SECRETARY LAIRD'S BACKDOOR APPROACH

Mr. EAGLETON. Mr. President, last month the distinguished Senator from Mississippi (Mr. STENNIS), chairman of the Armed Services Committee, announced that his committee had voted unanimously to delete $226.8 million from the Air Force's fiscal 1973 request for an airborne warning and control system—AWACS. AWACS is an airborne surveillance, command, control, and communications system. It features a radar system which would have a downward-looking capability to spot low-flying aircraft over land and sea. The Air Force plans to use AWACS as a part of its Air Defense Command and as a command center for tactical air battles.

It is my understanding that the Armed Services Committee had made no final decision as to the necessity of adding AWACS to our defense structure. The deletion of funds from this year's budget was motivated by the Air Force's attempt to bypass its own "fly-before-buy" concept. I applaud Senator STENNIS and his committee for taking this action. The committee has again shown its concern that Americans receive the maximum defense benefit for their tax dollars.

AWACS was to have been a model program for the "fly-before-buy" concept. As the name implies, this concept was created to assure that complete testing and evaluation would be made on each phase of a program before making a commitment to proceed to the succeeding phase. The Air Force is now conducting what it calls the "brassboard" phase of the AWACS program—the flight testing of two competing radar systems. But the Air Force this year contradicted its own publicly stated position by requesting funding for the procurement of AWACS aircraft that were to have been purchased in the production phase. In requesting these funds prior to the completion of the initial testing phases, the Air Force was making an obvious attempt to commit Congress to a program before it could be judged workable. We are indeed fortunate that Senator STENNIS' committee quickly recognized this contradiction and took the action it did in deleting the procurement funds.

But the deletion of funds for the AWACS program has apparently led the Pentagon to conclude that additional funds are now available for the purchase of aircraft to be used in Indochina.

The CONGRESSIONAL RECORD of May 22 contains a copy of a letter from Secretary of Defense Melvin Laird to Chairman F. EDWARD HÉBERT of the House Committee on Armed Services. This letter was printed at the request of Representative ASPIN, a member of that committee. In his letter, Secretary Laird states that the Senate committee's decision to cut the funding for AWACS is "acceptable to us." He then goes on to recommend that—

A portion of the authorization which would otherwise have been required for the fiscal year 1973 AWACS program be applied to the procurement of 24 A–7's, 12 C–130's, and 7 F–5B's.

As justification for his request, Secretary Laird stated that—

The current invasion of South Vietnam has increased aircraft losses and emphasized the need for continued production of these aircraft.

I am concerned about the methods this administration is apparently employing to finance a continuation of its war in Vietnam. If Secretary Laird's request is approved by the House committee, it is possible that $152 million will be added to the military procurement bill for use in Vietnam with no direct action by the Senate until the bill goes to conference. This is an obvious backdoor approach to the funding of the Vietnam war and this body should recognize it as such. If the President truly believes he is leading his Nation on a proper course in Vietnam, he should be willing to put his policy on the line with an up-or-down vote by the Senate on any funds necessary for the continued pursuit of that policy.

This body is being forced by a series of unilateral Presidential actions to invoke its ultimate power—the power of the purse. If even this power is circumscribed by tactics designed to bypass the Senate, Congress will be further relegated to a pro forma role within our system. This body must not allow that to happen.

Mr. President, I ask unanimous consent that Secretary Laird's letter of April 27 be printed at this point in the RECORD. I also ask unanimous consent that a Washington Post story by Michael Getler, dated May 19, 1972, on the same subject, be printed in the RECORD following Secretary Laird's letter.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., April 27, 1972.

Hon. F. EDWARD HÉBERT,
Chairman, Committee on Armed Services, House of Representatives.

DEAR MR. CHAIRMAN: Yesterday the Senate Armed Services Committee deleted $309.9 million in Aircraft Procurement funding for the AWACS for the Air Force. It added $83 million in RDT&E, Air Force, for AWACS. The net effect of these actions is to support both Procurement and R&D. It has also permitted a reduction in the total budget of $226.8 million. This action is acceptable to us.

During the course of my testimony before your Committee, a concern was expressed that production for the A–7, C–130, and F–5B aircraft would be terminated after the FY 1972 buys. It was emphasized that in the event of additional requirements for these aircraft, it would be extremely costly to restart the lines and that as a matter of prudence small quantities of these aircraft could be procured to sustain a production base at reasonable costs. Additionally, it was pointed out that there is a current requirement for the aircraft, but as a consequence of priority considerations, they could not be included within the budget totals. The current invasion of South Vietnam has increased aircraft losses and emphasized the need for continued production, particularly in the case of the C–130 and the F–5B. In fact, the F–5B aircraft are needed for training for the South Vietnamese Air Force.

Following my appearance before your Committee, I concluded that as a prudent measure we should release the $5.8 million of A–7 advance procurement funds added by the Congress to the FY 1972 DoD budget request. It is now recommended that a portion of the authorization which would otherwise have been required for the FY 1973 AWACS Program be applied to the procurement of 24 A–7s, 12 C–130s and 7 F–5Bs. An amount of $50 million would be required for the C–130s, $12 million for the F–5Bs, and $90 million for the A–7s. The latter amount is to cover the amount of aircraft procurement plus squadron equipage. The total of $152 million can be partially offset by an amount of $60 million in savings from prior year A–7 programs. These savings in the Fiscal Year 1971 and prior Aircraft Procurement, Air Force appropriation could be transferred to the FY 1973 account. Thus authorization for new appropriation in the net amount of $92 million would be required.

This request has been cleared with the Office of Management and Budget.

Sincerely,

MELVIN R. LAIRD.

LAIRD ASKS HILL TO SHIFT CUT FUNDS TO BUY PLANES

(By Michael Getler)

A day after the Senate Armed Services Committee cut $226.8 million from a supposedly high-priority Air Force national defense project, Defense Secretary Melvin R. Laird wrote to the Chairman of the House Armed Services Committee and told him those cuts were "acceptable" to the Pentagon.

In that same letter, Laird recommended that the House committee allow the Pentagon to transfer $152 million of the money saved by the Senate cut back to buy other aircraft whose production lines might otherwise close soon and which had not been scheduled to receive any more funds in the current $83.4 billion military budget request for fiscal 1973.

Laird's recommendation would allow the Air Force to buy 24 more A–7 attack planes from Ling-Temco-Vought in Texas at a cost of $90 million, 12 more C-130 transports from Lockheed in Georgia at a cost of $50 million and seven of the small F-5B export fighters built by Northrop in California for $12 million.

The Defense Secretary's letter, written April 27 and made available to The Washington Post yesterday has drawn a sharp response from Rep. Les Aspin (D-Wis.). Aspin is a freshman congressman, former Pentagon civilian analyst and House Armed Services Committee member who now regularly bombards the Pentagon with charges of waste and wrongdoing.

Aspin charges that the 12 extra C-130 transports constitute "a new $50 million bailout" for Lockheed.

He also cites a letter from Henry Durham, a former Lockheed aircraft production manager who has testified before Congress on the C5A transport cost overruns, that says "political pressure, even at the White House, was being used by Lockheed to win this $50 million bailout."

Asked about this yesterday, White House spokesman Gerald Warren said, "We have no evidence of any pressure being exerted or anything like that."

Aspin in a statement to The Post yesterday, said he would ask Laird to respond to Durham's charges and also to explain why the Pentagon gave up so easily on the Senate's

cutback of the Air Force's Airborne Warning and Control System (AWACS) project.

In testimony earlier this year, Aspin noted, "Department of Defense officials described AWACS as 'vital' to the national security."

AWACS involves an Air Force plan to develop and build a fleet of radar and computer-packed airplanes that would provide early warning against a possible Soviet bomber attack on the United States. The Air Force wants a fleet of 42 of these planes at a total cost estimated at about $2.7 billion over the next several years.

Despite inclusion of $474 million in the Air Force fiscal 1973 budget request for AWACS and Laird's overt support, there is known to be considerable high-ranking opposition within the Nixon administration to the United States making any major new investment in defense against a very limited Soviet bomber threat.

In January, administration officials hinted that AWACS might wind up being limited to a much smaller number of planes that could be used to plug air defense gaps or in localized air control situations. There is also a group forming in the Senate to oppose AWACS.

In his letter to House Armed Services Committee Chairman F. Edward Hébert (D-La.), Laird noted the Senate committee cuts and said, "This action is acceptable to us."

When Laird volunteered this opinion, the House committee had not voted on the military authorization bill that includes AWACS. The committee still has not passed on the measure and Aspin—who as a Pentagon critic is in a distinct minority on the committee—now says he will ask his colleagues to review the bill again because of the Lockheed situation.

The Senate committee had actually cut out $309.9 million in AWACS procurement, but added $83 million to allow research-and-development work to continue on the project, causing a net reduction of $226.9 million.

Laird went on to explain to Hébert that "during the course of my testimony before your committee, a concern was expressed (by some committee members, Defense officials say) that production for the A–7, C–130 and F–5B aircraft would be terminated after the FY 1972 purchases.

"It was emphasized," the letter continues, "that in the event of additional requirements for these aircraft, it would be extremely difficult to restart the lines and that as a matter of prudence small quantities of these aircraft could be procured to sustain a production base at reasonable costs.

"Additionally," Laird wrote, "it was pointed out that there is a current requirement for the aircraft, but as a consequence of priority considerations they could not be included within the budget totals."

Citing "the current invasion of South Vietnam," and "increased aircraft losses," Laird said this "emphasized the need for continued production, particularly in the case of the C–130 and the F–5B." The latter, he said is used for training the South Vietnamese Air Force. Following the Senate Committee action in cutting AWACS, Laird said "it is now recommended that a portion of the authorization which would otherwise have been required for the FY 1973 AWACS program be applied to the procurement of 24 A–7s, 12 C–130s and 7 R–5Bs."

While this would cost $152 million, Laird said there was still $60 million saved from earlier A–7 funds and thus a net amount of $92 million would have to be authorized.

The four-engine C–130 is the workhorse of the U.S. tactical airlift forces in South Vietnam and is also an excellent gunship.

The Air Force, however, has 350 of these planes already operating 12 more on order from last year which will be delivered in 1974, and 175 in the reserve fleet, according to Air Force figures.

Durham, the former Lockheed official, wrote to Aspin on May 9 and included a short news article from the May 5 edition of the Marietta (Ga.) Daily Journal.

The article reported that the head of Lockheed's C–130 program had told a local Kiwanis meeting that the company had enough C–130 orders to keep the production line running through 1973 "and is working on 1974 now. He didn't mention," the article states, "the hoped-for Air Force order of an additional 12 planes in the 1972–73 budget which the company has said are needed to fill a future gap in the line."

Durham said he was writing to Aspin to prevent another "giveaway" of public money to Lockheed. "If the Pentagon," he wrote, "has 55 to 60 extra million dollars to blow for unneeded C–130s, it could more profitably be used to start paying back the $400 million C–5 overpayment revealed by Senator (William) Proxmire in the March 27 hearing."

Durham's charges of Lockheed mismanagement on the C–5A program were attacked as "highly inaccurate" by Lockheed, but the former manager's charge of overpayments made to the firm by the government were substantially validated by the General Accounting Office during hearings last March.

WILDERNESS PLAN FOR THE SHENANDOAH

Mr. HARRY F. BYRD, JR. Mr. President, on June 24, 1971, I introduced S. 2158, a bill to create a wilderness of certain lands within the Shenandoah National Park.

On May 5, I testified before the Public Lands Subcommittee of the Committee on Interior and Insular Affairs in support of this proposal. The prospects for the passage of this legislation appear to be quite good.

I commend to the Senate's attention an editorial in the first issue of the newspaper Skyline, a free publication dedicated to outdoor living on the Skyline Drive and the Shenandoah Valley.

I salute Mr. and Mrs. Al Johnson for the publication which they have inaugurated, and ask unanimous consent that the editorial entitled "Wilderness Plan for the Shenandoah," published in the May-June 1972 issue of Skyline, be printed in the RECORD.

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

WILDERNESS PLAN FOR THE SHENANDOAH

The Wilderness Act of 1964 confirmed by legislative enactment the establishment and maintenance of wilderness areas in the national forests, and provided for the further extension of the wilderness preservation system in the national forests, the national parks, and the national wildlife refuges pursuant to specified administrative and legislative procedures. This Act requires the review of all park system units having areas of 5,000 acres or more without roads with the view to determination of their suitability for preservation as wilderness and specifies that nothing shall lower present protective standards; it therefore confirms the pre-existing priority for protection.

The fundamental policy of protection is not in conflict with the national policy for providing abundant outdoor recreational resources for all the people. The two purposes can be achieved simultaneously if planning for protection and recreation is done on a sufficiently broad regional basis.

The first need is to establish extensive roadless, primitive, or wilderness areas in each unit of the National Park System, regardless of the administrative category of the unit, for public use and enjoyment as natural country.

The second requirement is to provide abundant supplemental and alternative recreational capacity in public and private lands outside the National Park System.

The Blue Ridge has been populated for a long time. It was once wilderness. Now, through man's will, as expressed by Congress in establishing Shenandoah National Park, part of the mountain is wilderness again.

The combination of unique natural conditions with constantly better accessibility from nearby urban centers results in great pressure to expand roadways and other visitor facilities within the park. And, as is the case with highways, the more facilities provided, the greater the use and the resulting pressure for still more facilities. Carried to a logical conclusion, such a process will overwhelm the very resources the national park was established to protect.

Classification as wilderness will save the flora, fauna, and landforms from further road incursions and intensive facility development. This is the primary objective of the national parks and monuments as stated in the Act of August 25, 1916, establishing the National Park Service. Only such facilities as are consistent with this protection mandate are permissible.

If intolerable overcrowding and attendant changes in the quality of the environment in Shenandoah National Park are to be avoided, emphasis must shift to consideration of a range of outdoor recreation opportunities available in a wide surrounding region to meet the equally wide range of outdoor recreation preferences expressed by people. Given full knowledge of these opportunities, crowds can be diverted and dispersed rather than focused and concentrated in a relatively small, presently roadless area.

U.S. RURAL HOMEBUILDING INCREASES

Mr. BAKER. Mr. President, 1972 promises to be a record year for homebuilding in the United States; and to a greater degree than ever before, many thousands of rural families share in the prospect for moving up to better homes.

This rising amount of rural participation in housing progress is one of the fine accomplishments of the Nixon administration. It is largely due to a broad improvement in credit services of the Farmers Home Administration, the rural credit agency of the Department of Agriculture.

Rural housing programs, combined with the rural water and sewer program developed through this agency, are rapidly improving the balance between rural and city areas in opportunity for housing credit and better conditions of living.

The benefits of this changing situation are highly visible in our towns and countryside in Tennessee. A new house or the water storage tank of a new rural water system usually signifies a family ambition or community project brought to reality with the cooperation of the Farmers Home Administration.

The dedication and hard work of this agency in taking on a heavy load of responsibility in rural development has made it one of the most highly regarded of all public service organizations. It is reassuring to compare notes with Administrator James V. Smith, as I have done, on the outlook for still greater advances in our rural areas. I join in commending him and our State director for

Tennessee, Paul M. Koger, for all that is being accomplished under their outstanding leadership.

A modern home equipped with the basic conveniences so well known in the city and suburbs is a new discovery for many rural families in the 1970's.

It is a relatively new development that rural families of modest income can finance and buy new, up-to-date homes, and that small towns can replace their outmoded and rundown housing on a substantial scale.

Until very recent years, credit services were tilted far to the disadvantage of rural people. When a rural family could not get conventional credit to buy a home, there was little or no alternative; no significant service equivalent to the FHA loan insured by the Federal Housing Administration and commonly available in the larger towns and cities.

Consequently, for lack of adequate credit resources, inadequate housing prevailed in rural towns and country areas at about twice the rate per capita as in urban areas. Rural America, with 30 percent of the people, had half of the substandard housing in the United States.

I am happy to report that an upsurge in new homeownership for the rural families who need it most has been brought about within the past 3 years. Under improvements in the national housing act, the administration has allocated far greater authority to the Farmers Home Administration to develop insured loan credit, supplementing all regular credit available, for the rural family heretofore deprived of any chance to buy an adequate home.

The national office of the Farmers Home Administration has demonstrated a capability to channel multibillion dollar amounts of capital annually from centers of finance into rural areas. It finds private investors to provide funds for insured loans on rural housing, community facility systems, and family farms.

Field forces of the Farmers Home Administration, operating through county offices, have responded with an outstanding effort to deliver these resources down to the local level.

As one result, some 200,000 new or modernized family-owned homes have been produced the past 3 years under the rural housing program. This is more single-family housing than in all preceding years combined of the small rural housing program that existed in the 1950's and 1960's.

Housing production through the present rural program has tripled since 1968. The rural share of federally insured housing loans to families of low or moderate income is up to 30 percent of the national total this fiscal year—about 90,000 of 270,000 one-family homes.

This upward trend is expected to continue in fiscal 1973. Farmers Home Administration programs will generate about $2 billion of rural home financing in the year beginning July 1. This should account for more than 100,000 one-family houses, and more than 8,000 units of apartment housing especially adaptable to the needs of senior citizens and other lower income rural families.

All of this represents an unprecedented housing boom for the sector that, in past times, was most deprived of opportunity for decent housing: the family of low and moderate income in the countryside beyond reach of metropolitan services, including towns of less than 10,000.

As administrator of this immense new service, James V. Smith has led his agency in a remarkable performance in Government. The Farmers Home Administration has tripled its volume of loans processed and entered into the housing field in a much more comprehensive scale. At the same time, it has increased the rate of project development in the rural water and sewer programs, and expanded its credit service for the ownership and operation of family farms.

The agency has done this much more through intensified effort, improved procedures, and cooperation with private and community organizations and other lenders, than through the expansion of its own organization. Its operational costs per loan made are well below the rate of 3 years ago.

Tennessee has been a proving ground both for the need and the value of these Farmers Home Administration services.

FHA farm credit over the years has been a mainstay of thousands of family farms running short of other sources of credit. About 10,000 loans totaling more than $70 million are now outstanding in our State. These services will touch a new record high this year. Some $9 million of insured credit will be added by the Farmers Home Administration to resources in Tennessee to finance ownership or basic improvement of 420 family farms.

An additional $5½ million will help to finance production operations, supplies and equipment needed on 1,000 family farms. Nearly another million will be attracted to family farm agriculture in Tennessee from other lenders, through an increased amount of cooperative lending jointly with the Farmers Home Administration.

In the rural community facilities program, no less than 165 rural area water system projects, some embracing several towns as well as open country, and 35 community sewer systems have been developed to date in Tennessee. This program continues as one of the great forces for improvement of living conditions and employment opportunities in rural areas. New industry, better housing, better public services and a revival of progress in lagging towns invariably follow the rural water lines.

Production through the rural housing program in Tennessee which totaled about 2,100 homes through $17 million of credit in fiscal 1968, rose to the level of 4,000 homes and $45 million of financing last year. It is certain to exceed those marks this year. The dividends paid by this program in Tennessee alone can now be measured in terms of more than 20,000 modernized town and country homes, and more than 60 senior citizens' rental housing projects located in rural communities, all valued at more than $200 million.

Mr. President, this is a tremendously significant contribution to rural progress—a substantial beginning on the goals of rural development we are pledged to fulfill in the 1970's.

Our experience supports the recommendations of President Nixon, and provisions made in legislation now pending in the Congress, that this capable and locally based Farmers Home Administration system be put to still greater use for expanded programs in support of rural community development.

TRAGIC KILLING OF A NORFOLK POLICEMAN

Mr. BAYH. Mr. President, I was shocked to learn of the tragic murder of a 22-year-old Norfolk, Va., policeman, Lewis W. Hurst, Jr. This fine young police officer was shot to death with a small-caliber handgun while he was executing a search warrant for narcotic drugs. His father, Lt. Lewis W. Hurst, is the commanding officer of the Norfolk Police Department's narcotics and dangerous drug squad. Only 3 weeks ago, Lieutenant Hurst, Sr. testified before the Senate Subcommittee To Investigate Delinquency on the growing crisis of barbiturate abuse in Norfolk.

This tragic death clearly demonstrates the need for immediate, effective handgun control measures. In the past 4 months, our Nation has seen the death by gun of 45 police officers—31 were killed by handguns. Last year, 126 police officers were killed—94 by handguns. In 1970, 100 police officers were killed—73 by handguns.

We must act now to protect our Nation's police officers, who are on the frontline in the effort to preserve law and order, from the daily threat of these criminal weapons. How many more policemen must be killed before we in Congress respond to the need to enact more effective handgun controls?

I ask unanimous consent to have printed in the RECORD the article from the Evening Star, May 24, 1972, relating to Lewis W. Hurst, Jr., entitled "Policeman Shot Dead in Norfolk."

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

POLICEMAN SHOT DEAD IN NORFOLK

NORFOLK, VA.—A 22-year-old Norfolk policeman, son of the commanding officer of the city's police narcotics squad, was fatally shot early today while assisting in the execution of a search warrant for drugs.

Lewis W. Hurst, Jr. was pronounced dead at Norfolk General Hospital after having been shot once in the chest at about 3 o'clock this morning, police reported.

Police arrested Mrs. Lillian Jones Davidson, 55, of Norfolk, and charged her with murder.

Hurst, whose father organized the Norfolk police narcotics squad in 1958 and recently testified in Washington before a Senate committee investigating drugs, was a member of a police special services unit.

He had gone to a Norfolk home with other officers, including some from the Chesapeake police department which had supplied information on which the search warrant was based.

Reports said police broke down the front door, and Hurst apparently had gone up-

stairs and was attempting to enter a bedroom when a shot was fired through the door, killing him instantly.

As of early this morning, police reportedly had not found any narcotics, but were continuing to search the house.

THE U.S.S.R. AND WORLD ECONOMY

Mr. JAVITS. Mr. President, President Nixon's visit to the U.S.S.R. has opened a new vista of freedom from the nightmare of atomic war by accepting nuclear arms parity as the basis of superpower relations.

But, for the short term, the proposed Joint Commission to develop the economic relationship between the United States and U.S.S.R. as trading partners, including "most favored nation" treatment and export credits, may prove to be even more important. For the U.S.S.R. wishes to be accepted as a great industrial power and to receive the credit and the reciprocity which come with that status. If the United States now recognizes these Soviet aspirations and asks that they be the reason to unlock the door of Soviet secretiveness and economic chauvinism, the benefit to all peoples, including the Soviet people, and to peace and to the other peoples of the Communist bloc in Eastern Europe, will be incalculable. For this reason I urge the President to insist on including in these negotiations, in addition to the four items already stipulated, the following:

First. Subscription by the U.S.S.R. to the fair trading rules of GATT—General Agreement on Tariffs and Trade—or to join GATT itself.

Second. Protection of patents and copyrights on a reciprocal basis through the international convention or by a special convention on the subject.

Third. Freedom of access by business and technological personnel to the business and industrial centers of both countries.

Fourth. A relationship with or membership in the International Bank for Reconstruction and Development and the International Monetary Fund—IMF—so that the U.S.S.R. may have a role in the international monetary system to be established following the Smithsonian Institution agreement and play a role with the rest of the developed world in aid to the developing world. It is noteworthy in this regard that the U.S.S.R. has been since its beginning a member of the International Labor Organization—ILO.

The U.S.S.R. is obviously bidding for economic respectability and acceptance as a major world industrial power. This is the moment to invite the U.S.S.R. to join the world economy and not to remain out of it as agitator and critic as it has for 54 years. It is a time for boldness in the world economy and the United States can leapfrog the new protectionism which could develop here at home, and in the EEC and Japan. We can do this by bringing in the two Communist giants. If we do not raise our sights to includes the U.S.S.R. and the People's Republic of China in the world economy, we will be missing the other half of the greatest chance for peace in this century.

LEGAL REFORM BY THE ANTIOCH SCHOOL OF LAW

Mr. BAYH. Mr. President, there is widespread recognition of the need for a profound rethinking and overhaul of legal education. Present legal education concentrates almost exclusively on studying decisions by appellate courts. As a result, the law student is likely to graduate without ever having seen a "live" client. He has no idea how to listen or talk to a client, how to untangle legal from nonlegal problems, or how to sort out fact from fiction. As Warren Burger said:

> The modern law school is not fulfilling its basic duty to provide society with people-oriented counselors and advocates to meet the expanding needs of our changing world.
>
> Today in many courtrooms, cases are being inadequately tried by poorly trained lawyers, and people suffer because lawyers are licensed, with very few exceptions, without the slightest inquiry into their capacity to perform the intensely practical functions of a counselor or advocate.

This September, the Antioch School of Law will open in Washington with an estimated enrollment of 140 students with a median age of 24–25. These students will study law through a clinical approach, instead of the traditional classroom casebook method, and will have the opportunity to work with experienced lawyers in the preparation of actual cases.

This clinical approach will attempt to achieve a greater balance between textbook and experiential learning. A "teaching law firm" will be at the core of the school and students will use actual legal experiences as a springboard for examining legal concepts and acquiring professional training.

The school's 3-year curriculum, which has been approved by the American Bar Association and the Federal Bar Association, is being developed by the Urban Law Institute, formerly an affiliate of George Washington University. The curriculum heavily emphasizes housing, communications, and poverty law, and provides for a neighborhood law office at which students will be assigned to assist in client interviews, landlord-tenant disputes, and welfare problems. Students will be riding in police cars, spending a night in jail and applying for public housing and food stamps.

In a related program, 15 students will be enrolled in a shorter, 15-month course of study designed to train paraprofessionals as certified legal technicians. It is hoped that the use of such technicians in business and legal office management will cut client costs and streamline duties for lawyers.

A feasibility study done for the college stated that the school "is an exciting endeavor which may help to refocus and restructure this Nation's legal institutions. It would be a school of high quality, national in scope and bearing the seeds of greatness." I hope this experiment will encourage all law schools to come to grips with the problems of our legal educational system and produce the kinds of lawyers, the legal manpower and legal scholarship needed by our country today. I ask unanimous consent that a Washington Post article about the Antioch Law School and excerpts from the April issue of the law school's newsletter, containing profiles of two professors and the student body, be printed in the RECORD.

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

ANTIOCH LAW SCHOOL HERE TO STRESS CRUSADING ACTIVITY

(By Karlyn Barker)

When the Antioch School of Law opens here next September, its estimated 140 students will find themselves riding in police cars, spending a night in jail and applying for public housing and food stamps.

Its curriculum, oriented to turning out crusading lawyers, is being worked out by the Urban Law Institute, which will serve as the teaching arm of the school.

The three-year-old institute, which was saved from extinction when trustees of the Yellow Springs, Ohio, college formally established a Washington law school, will operate as a teaching law firm with clients represented by the school's students and teachers.

Edgar Cahn and Jean Camper Cahn will share duties as deans of the school, the first co-deanship in the annals of law education, Antioch officials believe. Mrs. Cahn is also the first black woman to serve as dean of a fully integrated law school.

Mr. and Mrs. Cahn were prime organizers of the original institute, which, until last summer, was affiliated with George Washington University and funded through the Office of Economic Opportunity.

Institute staffers said that under its Antioch sponsorship the program will continue to operate on a similar but much expanded basis, involving all students in community legal work.

At George Washington, the institute was just one program at the law school, for five to 10 students. GW dropped the sponsorship after two years, charging it had become a large public interest law firm over which the school had no control.

While at GW, ULI lawyers brought several class action suits against federal and local agencies. These included one against the Department of Housing and Urban Development charging job discrimination and another against the District government charging discrimination in providing public services to Anacostia.

The institute plans to be an integral part of Antioch's operations, with OEO continuing to pay some of the estimated $1.4 million cost to run the school during its first year. Other contributions are expected from private law firms and individuals.

In urging that the school adopt a "learn by doing" method of teaching, Mrs. Cahn said, "It's time we get away from the autopsy approach to legal education, which keeps law students from seeing a client or wrestling with actual legal problems through the law school."

CURRICULUM APPROVED

The three-year curriculum, including a vacationless period the first 12 months, has been approved by the American Bar Association and the Federal Bar Association.

It heavily emphasizes housing, communications and poverty law, and provides for a neighborhood law office at which students will be assigned to assist in client interviews, landlord-tenant disputes and welfare problems.

The school plans to enroll a majority of its students from minority groups because it thinks they can more readily sympathize with the problems of the poor. It is hoped that the estimated $2,500 annual tuition can be defrayed by raising enough money for scholarships.

It has already received 875 application

requests and will start screening for its 140 places in January.

An assistant to Mrs. Cahn said final selection will be based more on an individual's motivations and attitude than on law board test scores.

"We're using the law boards, but that will not be the only factor," he said. "We're more interested in one's ability to perform as a lawyer, not on any theoretical test."

Accreditation standards require that certain admission standards be maintained, he said, but there will be exceptions made for 10 per cent of the students who might not score as high on the law boards because of environmental handicaps.

SHORTER COURSE

Antioch officials said 15 students will be enrolled in a shorter, 15-month course of study designed to train para-professionals as certified legal technicians.

They said this is the first time such a program has been incorporated into the regular curriculum of a law school, and it is hoped that the use of such technicians and special courses in business and legal office management will cut client costs and streamline duties for lawyers.

"There will be a big emphasis on how to solve a problem without going to court," said Glenda Graham, an institute staff member. This, in itself, will save money for a poor client, she said, unless the institute takes a complaint to court as a test case.

The school is negotiating for purchase of two sites, the Lutheran Church Center, 2633 16th St. NW, and the nearby Eugene Meyer House, 1624 Crescent Pl. NW.

A small enrollment will enable Antioch to follow a clinical rather than classroom lecture approach to teaching, Miss Graham said. Its curriculum will involve every student in social and legal problems so that each will have practical community experience before he or she has a law degree.

Innovative educational programs and community involvement have long been an Antioch College trait, one that has brought the progressive school into controversy because of its District connections and its Columbia, Md., campus.

Under a special work-study program, Antioch students have often served as boat-rocking intern teachers in D.C. schools. Some have been accused of teaching radicalism. The Columbia campus, which opened in 1969, has been used by Antioch students for urban and ecological studies.

TREND IN SCHOOLS

Community involvement is becoming a trend in most law schools, according to a Georgetown Law Center spokesman, but not on the scale proposed by Antioch officials.

He said large enrollments make such on-the-scene courses optional for a few students instead of required for the whole class.

First-hand knowledge of the law may prove invaluable to Antioch students in later law practice, but it will not spare them from poring over traditional textbooks.

"They'll have to pass their bars like everybody else," said Miss Graham.

ANTIOCH SCHOOL OF LAW NEWSLETTER

TWO FACULTY APPOINTMENTS ANNOUNCED

Akin to the anticipation of a student waiting for his Bar examination results is the anxiously awaited news of faculty appointments and student admissions in a new educational institution. Who are they, where are they from and what are they like? A profile sketch of the class of 1972 will be seen on page 3 and data on two recently announced faculty appointments follow:

Thomas O'Toole—Presently, serving as Dean and Professor of Law at Northeastern School of Law in Boston, where he gained a respected reputation throughout the legal profession for his work as architect and founder of the first totally cooperative law school and as an expert in curriculum design and development. His major subject areas nave been Torts, Contracts of Laws, Constitutional Laws, and Labor Law at Georgetown University where he was a full Professor and Villanova University in the position of Vice-Dean and Professor. With a remarkable degree of consistency, he received his A.B., LL.B., and M.A. from Harvard University interspersed with study in Roman Law and English Constitutional History at St. Andrews in Scotland. He is a member of the Board of Contract Appeals for the U.S. Atomic Energy Commission and has been admitted to the Massachusetts and Pennsylvania State Bars.

Dewey Roscoe Jones.—He is currently Clinical Professor of Law at the University of Missouri School of Law and Director of the Law Student program. Legal Aid Defender and Society in Kansas City. At Missouri, Dewey Jones taught Poverty Law, Legal Aid Clinic I and initiated Legal Aid Clinic II, where student work included interviews, research, and court representation for the poor. Mr. Jones is best known nationally as Director of the innovative Community Legal Education Program for the effectiveness of his pioneering work in use of the media—both graphics and electronics—to disseminate knowledge of legal rights to the poor community. He has consistently been involved in championing the rights of the poor—whether black, Spanish-speaking, or Indian—resulting in part from his early experience in Chicago when he worked as a caseworker and Spanish Instructor. Dewey Jones received his B.A. from the University of Chicago; M.A., National Autonomous University of Mexico, and J.D., Chicago Kent College of Law. He is a member of the Illinois and Missouri Bars.

FIRST APPLICANTS APPROVED

An air of jubilation pervaded the Admissions Office as the first deposits were received from accepted applicants and the Class of 1972 began to assume a human dimension. Some interesting statistics have emerged. Based on this initial group, the Antioch law student will have a median age of 24–25, somewhat older than the average entering class. The incoming class will likely have a composition of nearly 40% women law students as well. In addition, even though not a prerequisite for admission, at least 50% of the applicants who are accepted have law related or community experience and a significant percentage have advanced degrees.

MESSAGE FROM PRIME MINISTER GOLDA MEIR

Mr. PERCY. Mr. President, just before the recent 24th anniversary of Israel independence, Mr. J. I. Fishbein, editor of the Sentinel, a prominent weekly publication in Chicago, received a fascinating message from Israel's Prime Minister, Golda Meir, in which she gives many important insights into the admirable character of the people of Israel. It is my pleasure to share with Senators the text of this significant message, which was published in the Sentinel of May 11, 1972. I ask unanimous consent that it be printed in the RECORD.

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

MESSAGE FROM ISRAEL'S PRIME MINISTER

"On the threshold of the 24th anniversary of our independence we can look back on an eventful year in Israel's life and in that of world Jewry.

"The uneasy ceasefire which came into being some 19 months ago is continuing. This was primarily due to the growing realization in the Arab world that renewed aggression or warfare against us is bound to fail in the future as it has failed in the past. We owe this to the bravery of the Israel Defense Forces and the steadfastness of the Israeli people. We have witnessed what is surely one of the miracles of Jewish history of all times. Soviet Jewry which had been cut off from the mainstream of our people for almost two generations decided to stand up for its rights under the most trying circumstances and demanded to be reunited with their brethren in our homeland. We have been privileged to witness the homecoming of many of them during the last months.

"In the Arab world the isolated remnants of once great Jewish communities have continued to bear the brunt of persecution and oppression. From there too immigrants have found their way to us and it has been our privilege to welcome them in our midst. From the countries of the West more and more people including many young people have decided to tie their future to the land of Israel and to actively participate in the great drama of building a land and a people. In Israel the work of development and upbuilding has continued apace.

"Together with our efforts devoted to the absorption of new immigrants we have increased our work in raising the standards of some of the less privileged sectors of our population by making sure that the levels of their housing, education, health and social services continue to rise and to improve. Our exports have increased substantially as has production in general. The social and economic infrastructure of the country has been broadened and widened. New villages have been established and older ones developed. Industry and agriculture have continued to develop and the fruit of our land is finding its way to more and more countries.

"As we face the New Year which will bring us to the 25th anniversary of our renewed independence we do so in confidence and determination and in full recognition of the challenges that lie ahead. Our neighbors still threaten war and destruction and we must continue to strengthen our defensive capacity which alone can deter war and pave the road to peace. We shall continue to make every effort and explore every avenue leading towards meaningful negotiations for a real peace, as indeed we must continue our efforts towards the betterment of life especially for the underprivileged sections of the population. That means more housing, more schools, more hospitals and more social services. We must enhance the progress of our economy so that in spite of the vast burden placed upon us by the defense effort our exports will cover more and more of our balance of trade.

"It would have been impossible for us to accomplish what has been achieved already without the cooperation and support of world Jewry. Together we have faced the seemingly insurmountable challenges of the past. Together we shall march on the road toward a better future, a future of peace and development and of freedom for oppressed Jews everywhere. Let us close ranks together and continue to strive towards the great cultural and spiritual renaissance of our people by increasing Jewish education and consciousness in keeping with our great past in order to face up to the call of the future.

"Chag Sameach to all of you from Jerusalem.

GOLDA MEIR."

SUPREME COURT JUSTICES' WIDOWS

Mr. BURDICK. Mr. President, the New York Times on May 26, 1972, published an article portraying the circumstances of some of the widows of late Supreme Court Justices. A bill to correct some of

the inequities of existing law applicable to these widows and to change the annuity system applicable in the future, was sponsored by Senators HRUSKA, HARTKE, CASE, MATHIAS, and myself. S. 2854 will be considered by the Judiciary Committee at its next meeting, and it is our hope that it will be favorably reported.

I ask unanimous consent that the article, written by Fred P. Graham, be printed in the RECORD.

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

[From the New York Times, May 26, 1972]

ILL WIDOW OF FRANKFURTER NEAR CHARITY ON PENSION

(By Fred P. Graham)

WASHINGTON, May 25.—In a nursing home here Mrs. Felix Frankfurter is quietly approaching insolvency on the $5,000-a-year pension granted widows of Supreme Court Justices.

Those handling her financial affairs say that by next year she may be forced to become a charity patient.

"Charity patients are treated very well there," says Dean Adrian S. Fisher of the Georgetown University Law School, a former clerk of the late Justice Frankfurter who has helped with Mrs. Frankfurter's affairs. "But is it right for a widow of a Supreme Court Justice to be a charity case?"

Of the seven widows of Supreme Court Justices, her situation is the only one approaching the point of desperation.

But it has served to underscore the inadequacy of the $5,000 pensions—a sum that was determined by the stipend granted by Congress in 1937 to the widow of President Calvin Coolidge.

The widows of all other judges in the Federal system get far more, and the $5,000 is less than the pensions paid widows of the lower-court judges of most states.

Marion Frankfurter, who is 82 years old, was incapacitated by crippling arthritis several years before her husband died in 1965. They had no children.

Donald Hiss, Washington lawyer who served as executor of Justice Frankfurter's estate, said earlier this week that the $5,000 did not cover the costs of care at the home and additional private nursing care required by Mrs. Frankfurter.

The deficit has been made up each year from Justice Frankfurter's small estate, supplemented by royalties from his writings. "A little over a year from now," Mr. Hiss said, that money will be exhausted.

Dean Fisher said that the Home for the Incurables would never discharge a patient who ran out of funds but would shift such a patient to a charity basis. He said that former law clerks and friends of Justice Frankfurter had discussed "passing the hat" to avoid that.

The inadequacy of the pensions had been unknown or ignored outside the tiny circle of the women involved until earlier this year, when the widow of Justice Hugo L. Black, who died last year, could not keep up the payments on their old Federal house in Alexandria and had to put it up for sale.

In retirement, Justice Black would have continued to receive his full annual salary of $60,000. But, as Mrs. Black told an interviewer several months ago, "there's a big difference between $60,000 a year and a $5,000 pension."

BOOK UNDER CONSIDERATION

Mrs. Black, who has a son in Washington, plans to stay here and is not in strained circumstances. She has had talks with at least one New York publishing house, Alfred Knopf, about writing a book on Hugo Black.

Mrs. Wiley Rutledge, 62, the widow of the Justice who died in 1949, says she gets by living "very simply" alone in a rented house in a pleasant neighborhood in northwest Washington. She does it on about $6,000, receiving $1,000 additional each year from her husband's insurance.

Mrs. Rutledge has a son here and a son teaching at Duke University, and a daughter married to a law professor at the University of North Carolina. But she says, "I don't have to depend on them."

When Justice Rutledge died, widows of Justices received no pensions. But when Chief Justice Fred M. Vinson died in 1953, leaving his widow with two sons recently out of college and almost no money, his former colleagues in Congress prepared a private bill to furnish her with a pension.

She discouraged the idea unless it would cover all Justices' widows, and Congress voted in 1954 to extend to Justices' widows the $5,000 stipend granted to Presidents' widows by the so-called "Grace Coolidge Act."

When the pension for Presidents' widows was subsequently raised to $10,000, and, more recently, to $20,000, nobody thought also to increase the judicial pensions.

Mrs. Vinson now lives in Washington, where her son Fred Jr. is a prominent lawyer. Three other Supreme Court widows also live here. They are Mrs. Robert H. Jackson, who broke her hip during a jaunt to Yugoslavia two years ago but still lists travel as one of her top interests; Mrs. Sherman Minton, 79, an invalid who lives with a daughter, and Mrs. John M. Harlan.

ACTION IN THE SENATE

A bill to raise the pensions to $10,000 was introduced in the Senate more than a year ago. It failed because it did not bring the present Court into the system prevailing for the lower Federal judiciary and the Federal bureaucracy, by which each official contributes 3 per cent of each paycheck and the Government matches it.

So a bill to double the pensions of the seven present widows and bring the present Justices into the contributory plan was introduced last November by Senators Quentin N. Burdick of North Dakota and Vance Hartke of Indiana, Democrats, and Roman L. Hruska of Nebraska, Republican. It has not yet been considered by the Judiciary Committee, but Senator Burdick said yesterday he expected it "to be law by the end of the session."

Under the contributory program, benefits increase according to the length of time the contributions have been made, up to a maximum of 37.5 per cent of the judge's average salary for judges who served 30 years. This currently gives the widow of a Federal district judge with 30 years on the bench a $15,000 pension.

Under the proposed new Supreme Court pension law, the maximum pension for widows would be $22,500, but few Supreme Court Justices serve 30 years in Federal service before they retire.

During recent Senate subcommittee hearings the pension plans for the various state courts were listed. The amounts are difficult to pinpoint because the widows' stipend often depends on their husbands' length of service.

But of the 50 states, the only one that had a flat pension as low as $5,000 was Colorado, which paid that amount to widows of Supreme Court Justices who retired with less than 20 years' service.

PROBLEMS WITH BLOOD BANKING

Mr. PERCY. Mr. President, blood banking and its inherent problems have become an important issue in our country's total health care picture. As the chief cosponsor of the Blood Bank Act of 1972, the Senate bill that parallels Mr. VEYSEY's bill in the House, I have a special interest in helping to resolve this Nation's problems with blood banking. I feel this issue is critical enough that Senators should be aware of some serious aspects of the situation. Therefore, I ask unanimous consent that Judith Randal's recent article be printed in the RECORD.

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

PAID VS. VOLUNTEER BLOOD GIVING

(By Judith Randal)

It was early morning in front of a Dallas blood bank—one of a "for-profit" chain that enjoys a reputation as the best in the industry and operates in several states.

The Dallas Rescue Mission next door disgorged its overnight complement of derelicts. While cameramen across the street filmed the scene, one of the unshaven and still staggering winos steadied himself against a parking meter and vomited. Then he went into the bank to sell a pint of blood.

Emerging some time later, he counted his money, put it in his pocket and pulled out a bottle of after-shave lotion. He drank from the bottle, and was headed back to the mission when he passed out on the sidewalk, the after-shave lotion still clutched in his hands.

No one knows exactly how many blood banks like this operate in the United States.

What is known, however, is that they supply about a third of the 8 million pints or so used annually for transfusion and for the additional blood fractions made by pharmaceutical companies from plasma. These fractions are life-and-death necessities for 20,000 hemophiliacs and others who have occasional or routine need for some component of blood.

Also on the record are a dozen studies published in medical journals in the past two years alone, showing that the risk of serum hepatitis is from 11 to 70 times greater when the source of the blood is a paid donor than when the donor is a volunteer. Some plasma fractions, to be sure, can be freed of whatever infection they harbor by sterilization. Others, however, would be destroyed in the process, and so cannot.

Unfortunately, the blood test that detects the presence of the antigen linked to serum hepatitis is only about 25 percent accurate. Although most blood banks use it, there is nothing in any law that requires them to be otherwise selective about donors.

Figures on how many deaths result from the liver infection are hard to come by. The government's Center for Disease Control in Atlanta estimates the number as 3,500 a year, but officials there freely acknowledge that this probably is conservative by a factor of 2 to 10.

Some of this is due to under-reporting or cases honestly missed. But some undoubtedly is due to conflict-of-interest situations involving the medical profession.

In 1970, about a year after the scene outside the Dallas blood bank was filmed, for instance, the Texas legislature—in an effort pushed by the state's Hemophilia Association to eliminate floaters and derelicts from the mainstream of blood traffic—passed a law requiring banks buying blood to hold up payment to donors for at least 15 days and then to make payment by check mailed to a fixed address.

In the last hour before the legislature's statutory adjournment, however, another measure that clouded the meaning of the new law was railroaded through, leaving blood banks free to ignore it if they wished. Thus, the reform was blunted and it still is "business as usual" for the Dallas bank which is the major supplier of the state's Veterans Administration Hospitals and for a medical center that caters to the city's affluent.

Lobbying for the last-minute change were

the Texas Medical and Hospital Associations. The conflict-of-interest question arises because pathologists typically head the blood-banking committees of these organizations and, as in this case, may be allowed to speak for their entire memberships.

At their individual hospitals, moreover, it is often these specialists who decide from what sources blood will be obtained and who make out the autopsy reports. Under such circumstances, there is obviously the possibility that should, say, a terminal cancer patient be given blood, and develop serum hepatitis a month or so later, the pathologist can ascribe his subsequent death to malignancy instead of to infection.

Lest this seem incredible, the Texas Hemophilia Association has a deposition showing that one pathologist is on the payroll of the commercial bank from which his hospital obtains blood. Moreover, in an antitrust suit brought by the Justice Department against the College of American Pathologists in 1966, there were many allegations backed by evidence that conflict-of-interest situations of this and other types were not uncommon among doctors of this specialty.

After filing the suit, the government withheld action, on the understanding that the practices alleged would stop. While some progress may have been made in this direction, there are suggestions that such conflict-of-interest situations have by no means entirely disappeared.

The justification for purchased blood is that it is necessary because there are not enough volunteers. When, however, the Texas Hemophilia Association took the cause to the state's college students, they responded at a rate 600 percent greater than that of the population at large and gave 25,000 pints in 1971 and pledged 40,000 for 1972.

If nothing else, this suggests that a single national voluntary blood donation program under federal supervision is not necessarily, as its opponents charge, just a crackpot concept.

Legislation to achieve this end has been introduced into Congress by Rep. Victor V. Veysey, R-Calif., and has some bipartisan support in the House and Senate. Although the law is not ideal and is unlikely to pass this year, the proposal at least deserves a try.

DECENTRALIZATION OF GOVERNMENT

Mr. DOMINICK. Mr. President, in response to recent criticism of the President's anticrime program by some Democrats in the House, the Wall Street Journal in its May 16 edition carried a definitive editorial analysis of LEAA and the entire concept of decentralizing Government. The Journal concludes that far from being a failure, the LEAA is operating successfully after what the newspaper calls a shaky start.

I commend this editorial to the Senate, because it gives a fair appraisal of one of the first attempts by this administration to decentralize the functions of Government and return management of local programs to the communities. I ask unanimous consent that the editorial be printed in the RECORD.

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

IS LEAA A FLOP?

Democratic members of a House subcommittee last week endorsed a report that pronounces the Nixon anti-crime program a failure, finding it shot through with waste, inefficiency, and corruption. The report catalogues questionable disbursement practices of the Law Enforcement Assistance Administration (LEAA), an arm of the Justice Department, as well as dubious spending practices by state and local law-enforcement agencies.

Well, one might say, it's an election year. The Democrats could not be expected to pronounce LEAA a model of efficiency even if it were, which it isn't. Even so, there is more here than meets the eye, more at issue than simply presidential politics. What is developing is a classic struggle between Democrats and Republicans over the strength of the central government, a struggle that has taken various forms throughout the republic's history and now focuses on the President's decentralization program. A bit of recent history explains why.

In 1968, with Republicans vowing to make "Crime in the Streets" a principal issue, Lyndon Johnson rushed forth with a plan to spend several hundred millions a year to aid local law enforcement. His proposal would have required state and local police, court, prison, and parole agencies to apply directly to the Justice Department for funds to pay for specific, approved projects. House Republicans (backed by Southern Democrats) insisted the effort be decentralized through the "block grant" concept. Under this system, each state would submit an over-all plan on how it would spend its share of the total in the federal kitty. It would not be necessary to set up another giant federal bureaucracy to oversee the program. The states would be chiefly responsible for setting priorities and spending the funds wisely.

The liberal Democrats were aghast at the prospect of turning all this political power over to the states, and predicted waste, inefficiency, and corruption unless the federal government maintained direct control. Among those in the forefront arguing this line was Rep. John Monagan, Democrat of Connecticut. He lost, and LEAA was set up along the lines designed by the House Republicans. Mr. Monagan, chairman of the subcommittee whose Democratic members last week pronounced LEAA a failure, wants to replay the 1968 debate and this time get that political power back from the states.

That's fair enough. But the campaign is getting a bit nasty. Early last month, Mr. Monagan's staff leaked its hypercritical report on LEAA to Mike Wallace and the CBS television program "Sixty Minutes." Mr. Wallace accepted the report as gospel and took his cameras around the country to illustrate the flaws in LEAA. Republicans charged that the program was carefully edited to eliminate any evidence that did not jibe with the theme of the Monagan report. They turned up one Florida police chief who spent 2½ hours being interviewed by CBS and "had nothing but praise for LEAA," yet who didn't make the show at all.

Nonetheless, the question is a valid one: "Is LEAA a flop?" And if so, has the block grant concept been so discredited that one might as well forget all the Nixon ideas about decentralizing government—including revenue sharing? Can it be that state and local agencies just cannot be trusted to spend money wisely unless, every step of the way, the federal government is dictating directions?

So far as we can tell, having watched LEAA's development with a curious eye on the block-grant experiment, the results are mixed but hopeful. Undeniably, considerable money was hastily spent in the first two years of the program, undoubtedly much of it wasted.

The biggest mistake the Republican administrators made at the outset lay in trying to prove too earnestly that Big Brother wasn't needed at all. For its first two years, LEAA's staff included but five auditors, wholly inadequate for an effort that has thus far dealt out $1.4 billion. Fortunately, after the initial experience, LEAA was reorganized under director Jerris Leonard, and the auditing staff of 50 is having more success in making sure the funds are being spent for reasonable purposes. It's now clear the program is operating far better than the Monagan report would indicate.

Even before the reorganization, the experiment showed promise. The process by which the criminal justice community sets priorities and divides up the money fairly seethes with contentiousness and compromise, signs of real decision-making at the local level. A social engineer in Washington would likely allocate the money differently. But past experience suggests more money is wasted by this method than by having local professionals decide and be held accountable.

Thus, while we can agree that LEAA had a shaky start, we think it's altogether incorrect to pronounce it a failure. Indeed, the preponderant weight of testimony from the criminal-justice and law-enforcement community indicates the Monagan view is a minority view.

THE SENATE SEEKS A PEACE COALITION

Mr. CHURCH. Mr. President, after 8 years of intensive debate and discussion concerning U.S. military involvement in the war in Indochina, Congress is still struggling to put together a peace coalition that can legislate an end to our part in the conflict.

An article analyzing the Senate's inability to vote to end our participation in the war recently appeared in Commonweal magazine. It concludes that—

The Senate can only save itself. A majority must consistently stand up and voice its views and votes on what's good for the United States, rather than serving up comfort for the President.

It is my hope that the Mansfield amendment will serve as the rallying point for the next effort of the Senate's peace coalition.

I highly recommend this article to Senators, and ask unanimous consent that it be printed in the RECORD.

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

THE WHIMPER IN CONGRESS—REACTION TO THE MINING

In calling for Congressional support of President Nixon's latest military moves in Vietnam, the War Secretary labeled Senators opposing the White House as "quitters."

Melvin Laird's impression of the Senate as the leading institution against America's military involvement in Indochina is similarly held by a majority of observers across the country. Yet, in fact, only a minority of 40 Senators can be considered consistent war critics who favor rapid total disengagement rather than further escalation. A majority has deferred to unilateral Presidential initiatives to save the Saigon regime from falling.

Only on a few occasions over the last two years has the Senate stood up as an independent body, voting to limit U.S. military involvement in this long, senseless war. A handful of fence-sitters joined then with dependable doves to pass provisions banning an extended use of U.S. ground forces in Laos, Thailand, and Cambodia. But there has never been enough Senate solidarity to stop funds for further participation by our soldiers, sailors, and airmen in battles that won't go away; the fence-sitters have cozied up to the President's side when measures to end our part in the Indochina war have been brought to an up or down vote. The real "quitters," then, are those dozen or more solons who have refused to stand firm as Senators

against the White House. This is the reason why the Senate has not moved swiftly to counteract our current military madness: Patriots of Peace don't form a working majority in the upper chamber.

Gluing together a Senate peace coalition is a precarious process. Sometimes it sticks, as did Cooper-Church forces from May through June 1970 following the President's invasion of Cambodia. During that tense time, a majority of Senators supported John Sherman Cooper of Kentucky and Frank Church of Idaho in their efforts to place a prohibition on any further forays by American ground forces and military advisers into Cambodia. On September 1, 1970, however, this fragile force broke apart, the McGovern-Hatfield measure to end the war losing by a vote of 39 to 55. In the crunch, the fence-sitters quit the fight, rejoining the hawks to give the President a free hand in the conduct of the war. And this after many months of massive messages over the media plus extensive lobbying by peace groups.

At the end of the year, the Cooper-Church coalition came together again, forcing the President to accept both a limitation on military actions in Cambodia and the repeal of the Gulf of Tonkin Resolution, in exchange for special authorization to transfer military materiel to Phnom Penh's generals.

The 1970 election reduced potential peace votes; the President gained a net of two Senatorial supporters. This loss showed up in voting on two money measures in 1971: the revised McGovern-Hatfield to bring all American armed forces home by mid-1972 failed 42–55, and the Cooper-Church coalition suffered a similar fate, failing by one vote to cut off funds for all military activities except total withdrawal.

Three statements, offered by Mike Mansfield of Montana, setting government policy to terminate our military activities in Indochina by a date certain did not invoke Congress' power of the purse, and thus were not binding on the President. Nixon signed the bill, but rejected out of hand the Majority Leader's pleas for peace.

Here it is mid-May 1972, eight years since LBJ escalated our part in the war, and Nixon has just taken the country to the danger point of disaster and defeat. His deeds are condemned by the Senate Democratic Caucus; his ways are ridiculed as imperial and impetuous. And still the Senate is seeking a peace majority that will stick together long enough to pass legislation for an orderly and rapid American disengagement and to prevent the President from embarking upon further unilateral acts of aggression.

Church is now teamed up with Clifford P. Case of New Jersey on an amendment that if enacted would bring about the total withdrawal of all American armed forces, land, sea, and air, four months after an agreement is reached to release our prisoners. The war forces oppose this fund cut-off; they expect to hand the President a gift of confidence. John Stennis of Mississippi, chairman of the Committee on Armed Services, wants to strike the Case-Church provision; his motion has been pending business before the Senate for two weeks, yet no vote has been taken. Robert Byrd of West Virginia, the Democratic whip but in fact the President's man, has fudged the issue further, adding an internationally supervised ceasefire as a precondition to the cutting off of funds. Knowing that the peace coalition has not coalesced, Church and Case have hoped that public opinion would crystallize to the point that the fence-sitters would feel safe on their side. However, the Senate's soft middle has yet to firm up sufficiently.

During this time, the President has provoked the nation twice, each time arbitrarily upping the military ante significantly and each time warning the Senate not to cross him in efforts to save the honor of his office and the present power position of the Thieu regime in Saigon. It appears that a majority of Senators have submitted to the "Emperor," as Tom Wicker of the *New York Times* has described our present governmental dilemma

Why is the Senate unable to stop our foolishness and futility in Indochina? Why won't the Senate live up to its rightful Constitutional responsibilities on matters of war and peace and, if need be, use its powers in drawing tight the pursestrings in order to alter 180 degrees our present policy? Why isn't there a peace coalition in the Senate?

A chief reason is that the fence-sitters—Southern moderates and liberal Republicans—are scared stiff to take responsibility for matters pertaining to national security. The anxiety this fright creates prevents successful politicians from applying their most important asset, common sense, to key international issues. They talk privately about our gross failure in Vietnam as well as its serious harm to our own society, but in public they insist on hiding behind the rationale that they don't know what the President knows, and it is best in this nuclear age to let him handle it—alone.

This failure to assert separate power has resulted in an almost total disconnection from the Constitutional process. Congress' last hope to play a part in the formulation of policy lies in its legislative function regarding federal funds. "That is a power that belongs just to Congress," Church reminded his colleagues last week. But he also bemoaned, "If the President treats the Senate with contempt, it is because we are contemptible."

Compounding this tendency to avoid and hide is ambivalence among the people the fence-sitters represent regarding the President's acts of aggression. Several national polls indicate three-fourths of the American public support Nixon's bombing-and-mining campaign and at the same time three-quarters support the total withdrawal of all U.S. forces from Indochina by the end of the current year. The most recent Gallup Poll, for instance, showed 71 percent favoring the Case-Church amendment to become the law of the land. Such public ambivalence produces impotence among fence-sitters who continue to lie low, hoping this will avoid antagonizing an imagined majority constituent viewpoint.

A surprisingly strong influence here is the giant-size ghost of FDR that still looms large in the cloakrooms and before the tally clerk. The President, as exemplified by the second Roosevelt, will take care of the nation's crises, so goes such impotent thinking. Congress, avoiding the issue headon, is to rubber-stamp White House actions and pay the country's defense bills. The Vandenberg thesis was concocted; it called for unchallenged bipartisanship in foreign policy. It was heralded under the Truman and Eisenhower Administrations as the way to conduct the country's cold war policies efficiently; under JFK, LBJ, and King Richard, however, it became an annual justification for wrongdoing. After Nixon escalated the war last week without consulting Congress, Walter Mondale of Minnesota, a determined dove, said that the situation between the two branches had deteriorated so badly that the President "treats the Senate like a dog would treat a fire hydrant with 100 legs."

Building a peace coalition comes down to electing enough men committed to ending the war or stimulating independence from an institution that has lost its will to be a separate body. Just as the American naval blockade of North Vietnam and the intensified bombing of its transportation network alone are unlikely to save South Vietnamese forces from further defeats, the President's actions on behalf of the Senate will not grant that institution its own independence. Or, to turn that analogy around, as did columnist Mary McGrory, "The doves have been unable to rally a majority. The Senate is like the South Vietnamese army. It has all the equipment it needs, but it lacks the will to fight."

The Senate can only save itself. A majority must consistently stand up and voice its views and votes on what's good for the United States, rather than serving up comfort for the President. The latter practice unfortunately prevails. The White House liaison for the Senate telephoned numerous fence-sitters' offices, urging those solons not to oppose the President's mining of Haiphong. The liaison advised, "I hope the Senate doesn't react until the Russians do!" What is unknown is how many ignored his pressures for passivity.

Independence is what Fulbright, Church, Case and company are urging. They want to elevate Congress to its former pace as a coequal branch of government. They refuse to be intimidated by Presidents, Cabinet Secretaries, or unreconstructed hawks. They refuse to choose a course of inaction. They no longer are willing to give a President a free hand in Indochina and they want a majority of their colleagues to join them in tying him down by tying the Pentagon pursestrings shut. They are willing to check and try to rebalance.

The wisest national policies emerge from the cooperation and close consultation between both branches. This has been lacking throughout the Vietnam tragedy.

At the height of the Korean war, a former U.S. Senator urged adopting "the right policy in a moment of great national danger." He said this meant "our policy should represent the best thinking of our national leaders, including those who disagree with the President as well as those who agree with him."

The Senator concluded, "The country wants unity, but it does not want unity on a policy which has led to disaster or on the perpetuation and power of those who made that policy and who cannot be expected to make good on any other." That was Richard Nixon speaking as Senator from California, a man at this moment bent on filling the current Constitutional vacuum.

AWARD OF HONORARY DEGREE OF DOCTOR OF LAWS TO SENATOR SMITH

Mr. DOMINICK. Mr. President, on Sunday, May 14, our distinguished colleague, Senator MARGARET CHASE SMITH, of Maine, was awarded an honorary degree of doctor of laws at the commencement exercises for Regis College in Denver, Colo. No one need enumerate the outstanding accomplishments of this very strong and respected Member of the Senate. It has been my pleasure to work closely with Mrs. SMITH over the years, particularly on the Armed Services Committee. The citation delivered in her honor by my good friend Father Thomas J. Casey, acting president of Regis College, expresses very well the high regard held for Mrs. SMITH. I ask unanimous consent that the citation be printed in the RECORD.

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

CITATION

Teacher, Author, Lawmaker, Pioneer among Women! Regis College salutes you, distinguished Senator from the State of Maine.

To you, public service has been more than work done honestly and efficiently. It has been complete and courageous dedication to the people of the nation as well as to the State you represent.

To you, every human being is worthy of consideration and courtesy. You have never drawn lines of color, class, creed, sex, nor political affiliation to eliminate any person from access to your time or attention.

To you constructive criticism has been invited for it has enabled you to keep in touch with the thoughts and feelings of others. When criticism was negative, and at times even vicious, you knew it to be inevitable, the price paid by any person in public life, yet you fought judiciously with courage and dignity to right the record.

The creed by which you have lived can be summarized in your own words, "Honor is to be earned, never to be bought."

Margaret Chase Smith, by virtue of the authority invested in me, and in the name of Regis College, I confer upon you the honorary degree of Doctor of Laws this fourteenth day of May, in the year of grace nineteen hundred and seventy-two, of Regis College the ninety-fourth year.

VIETNAM WAR IMPAIRS U.S. POSITION IN WORLD

Mr. CHURCH. Mr. President, the noted columnist, Joseph Kraft, has written a realistic appraisal of America's position in the world following the Moscow talks. According to Kraft, President Nixon emphasized "restraint" on the part of the superpowers toward the Third World. But, Mr. Kraft points out:

The Russians apparently yielded nothing to Mr. Nixon when it came to applying restraint in Asia and the Near East.

For, "as long as major American participation continues" in the Vietnam war, "Washington cannot talk seriously about exercising restraint" toward others.

Mr. Kraft concludes his column:

The continuing Vietnam war impairs the American position virtually everywhere in the world, including Moscow.

I ask unanimous consent that the column be printed in the RECORD.

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

VIETNAM WAR IMPAIRED U.S. POSITION IN TALKS

(By Joseph Kraft)

Moscow.—"To retain greatness we must cease to be a colossus." Talleyrand once said and that epigram defines exactly the American interest in the summit meeting which has just concluded here is Moscow.

By that standard, Mr. Nixon has scored a significant, but partial success. In relations with Russia and Europe the Moscow summit has opened the way to a safe shrinkage of what has been a grossly excessive American military effort. But in the rest of the world, thanks to Vietnam, the United States remains a giant with feet of clay.

The American need to set limits and define commitments at this point hardly needs explanation. The Vietnam catastrophe has eroded public support for the role of world policeman affected, if not actually played, by the United States for many, many years.

Some reduction of American military might around the world and at home is now inevitable. The trick is to wind down in a careful way that will not disturb power balances and unfairly harm friends and allies.

In applying that principle to bilateral relations with Russia, President Nixon made some notable achievements at the summit, especially in the nuclear arms limitation treaty. That treaty has at its core a firm and easily enforced agreement by the United States and the Soviet Union to hold to a very low level of building of defenses against nuclear weapons—that is the anti-ballistic missile, or ABM.

In the absence of a truly good ABM, there is no incentive for either side to develop ever more potent and sophisticated offensive missiles.

Most of the other bilateral agreements signed here in Moscow fit the same pattern of co-operation to maximize mutual advantage. In the accords on trade, health, the ecology, and space each side will benefit by avoiding a duplication of effort.

As regards Europe, the big development is the agreement to convoke "without undue delay" a European security conference. That conference will be a follow-on to the series of agreements worked out between West Germany and Poland and Russia to accept the present frontiers at the center of Europe—the frontiers that keep Germany divided and truncated by about one-third.

The European security conference merely means that that border arrangement will be formally approved by all the interested nations, including the United States. With the present territorial status accepted, it becomes possible to think about a "mutual reduction" of both American and Russian forces in Europe, and the communique provides for such negotiations in "a special forum."

So far, the Russians come out at least as well as, and maybe a little better than the United States. But there remains a third point of confrontation: the confrontation in the hotbeds of the southern continents—around Vietnam, around India, around the Near East and in parts of Latin America. In all these areas, Communists or parties allied with the Soviet Union are on the move.

President Nixon tried desperately hard to wring from the Russians a commitment on restraint in these areas. He broached it to the Communist party general secretary, Leonid I. Brezhnev, in their first private meeting. He raised it in the five-hour private session with the Russian leaders at the dacha outside Moscow. He made it a main theme of his toasts at the opening and closing dinners. In his publicly televised speech, he asserted that.

"Our goal should be to discourage aggression in other parts of the world, and particularly among those smaller nations that look to us for leadership and example."

But the Russians apparently yielded nothing to Mr. Nixon when it came to applying restraint in Asia and the Near East. The parts of his speech dealing with that matter were excerpted from the Pravda account. The joint American-Soviet statement of principles has only the barest reference to the subject. And the communique set out widely varying U.S. and Soviet positions on Vietnam and the Near East.

No doubt, the Soviet role in avoiding agreement in Asia and the Near East is not innocent. The Russian leaders see chances for gain, and they are not about to lay off.

But the United States, and particularly the administration, bears some of the blame for getting the worst of the bargain. There is that thing called the Vietnam war. As long as major American participation continues, Washington cannot talk seriously about exercising restraint. And the summit proves, like almost every other international event of the past decade, that the continuing Vietnam war impairs the American position virtually everywhere in the world, including Moscow.

SENATOR SCOTT'S RECORD ON DEFENSE LEGISLATION

Mr. DOMINICK. Mr. President, never before in history has our Nation been faced with the prospects of a lasting generation of peace. Agreements among the world's great powers can lead to such a peace—agreements to halt the spread of nuclear weapons, agreements to limit the growth of strategic arms, and agreements to refrain from the hostile settlement of conflict.

Congress plays a vital role in the development of America's defense posture. From the authorizing and appropriating of funds to the ratification of treaties, we do have a unique part to play. Senator HUGH SCOTT has been a proponent of a strong defense while keeping the lines of communication open to all who desire peace.

Senator SCOTT'S record on defense matters deserves public recognition. I ask unanimous consent that it be printed in the RECORD.

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

ARMED SERVICES, DEFENSE, AND DRAFT THE 92D CONGRESS

Legislation

S. 377—To equalize the retirement pay of members of the uniformed services of equal rank and years of service.

S. 908—To exempt from induction and training, under the Selective Service Act, the surviving sons of a family which has lost two or more members as a result of military service.

S. 2944—To amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

S.J. Res. 10—To authorize the President to designate the period beginning March 21, 1971, as "National Week of Concern for Prisoners of War Missing in Action."

S. Con. Res. 49—Calling for the humane treatment and release of American prisoners of war held by North Vietnam and its allies in Southeast Asia.

Amdt. 84 to H.R. 6531 Military Service Act of 1967. To amend the Military Selective Service Act of 1967; to increase military pay; to authorize military active duty strengths for fiscal year 1972.

Votes

Voted to reduce from 150,000 to 130,000 and 140,000, respectively, for fiscal years 1972 and 1973, the maximum number of persons who may be inducted into the Armed Forces.

Voted to provide for the identification and treatment of drug and alcohol dependent persons in the Armed Forces.

Voted for the Military Selective Service Act which included substantial pay raises for lower-rank enlisted personnel to encourage further the voluntary enlistment program.

Voted to require release of American prisoners, instead of a firm North Vietnamese commitment for their release.

Voted for an amendment to prohibit the induction of any person if a member of his immediate family died or was disabled, captured or missing in action as a result of military service.

Voted for an amendment to provide that when 18 year olds registered for the draft they could also register to vote.

Voted for an amendment to add a new title providing for identification and treatment of drug and alcohol dependent persons in the Armed Forces.

Voted to restore military pay increases for lower enlisted and officer ranks to levels provided in the Senate-passed draft extension bill.

THE 91ST CONGRESS

Legislation

S. 781—To establish a temporary Commission to consider the feasibility of completely voluntary system of enlistments.

S. 1433—Draft Reform Act—to revise the provisions of the Selective Service Act relating to priority for induction; provides for a random selection system.

S. 3117—To improve the judicial machinery of military courts-martial by removing defense counsel and jury selection from the control of a military commander and to create an independent trial command for the purpose of preventing command influence.

Votes

Voted to proceed with limited deployment of the Safeguard anti-ballistic missile system.

Voted for Schweiker-Scott amendment requiring Defense Department quarterly reports on major contracts for development and procurement of weapons systems, and to authorize independent audits of major contracts.

Voted to control the testing of chemical and biological warfare components.

Voted to cut military research, development, test and evaluation programs by $45.6 million.

Voted to require a comprehensive study and investigation of costs and effectiveness of aircraft carriers.

Voted to place a monetary cutoff on military funds used for independent research and development by contractors.

Voted to express the sense of the Senate favoring mutual suspension of further deployment of strategic weapons systems by the Soviet Union and the United States.

Voted to repeal the Gulf of Tonkin Resolution.

Voted to provide that nothing in the Cooper-Church amendment shall be deemed to impugn the powers of Congress, including the power to declare war and to make rules and regulations for the Government and regulations of the Armed Forces of the United States.

Voted for a study of profits of certain defense contracts and contracts not subject to competitive bidding.

Voted to place a ceiling on the number of active duty armed service personnel, and to require that for every man withdrawn from Vietnam, ceiling must be reduced by one man.

Voted to reduce by $25 million, the emergency fund for research, development, test and evaluation programs.

Voted to support the expressed intention of the President that no funds could be used to finance the introduction of ground combat troops into Laos or Thailand.

Voted to extend the Defense Production Act by establishing in the Executive Branch a Cost-Accounting Standards Board to be appointed by the President subject to Senate confirmation.

Voted to ban disposal of any chemical or biological warfare agent unless rendered harmless to man or his environment.

Voted for Senate resolution favoring mutual suspension or further deployment by U.S.S.R. and U.S.A. of strategic weapons systems.

Voted for Arms Control and Disarmament Act authorizations.

Voted for amendment stating the Cooper-Church amendment to the Foreign Military Sales Act shall be inoperative while U.S. Citizens or nationals are held in Cambodia as prisoners of war.

Voted for amendment stating that nothing shall preclude the President from taking "necessary action" to protect the lives of U.S. forces from South Vietnam.

Voted for amendment to terminate Gulf of Tonkin resolution effective upon adjournment of session of Congress.

Voted for amendment to provide incentive pay increases for military personnel and making recommendations contemplating establishment of an all-volunteer military service.

THE 90TH CONGRESS

Legislation

S. 952—To authorize research and development in the Coast Guard to develop effective electronic guidance system for use in navigation channels.

S. 1181—To exempt sole surviving son of a family in Armed Forces from combat zone service.

S. 2009—To prescribe uniform rules of procedures to be followed by the Armed Forces in the case of administrative discharge boards; to establish a Judge Advocate General's Corps in the Navy; to create single-officer general and special courts martial; to establish in each armed force a Court of Military Review.

S. 2260—To provide compensation for civilian American citizens and prisoners of war captured during the Vietnam conflict.

Votes

Voted to provide that while there are involuntary inductions, they should be only when a voluntary system is not reasonably attainable because of defense commitments beyond resources available and such involuntary inductions should be by a system of selection which is fair, just, and shared generally, with frequent and impartial reassessment by Congress toward replacing it with a voluntary induction system.

Voted to prohibit expenditure of funds for deployment of the Sentinel anti-ballistic missile system, until the Secretary of Defense certified to Congress the system was practicable and its cost could be determined with reasonable accuracy.

Voted to reduce military procurement authorizations by $661,000.

Voted to prohibit obligation or expenditure of funds for construction, procurement, or deployment of the Sentinel anti-ballistic missile system.

Voted to strike $387.4 million for deployment of the Sentinel anti-ballistic missile system.

Voted to prohibit use of funds appropriated for defense grants for indirect expenses for any research project in excess of 25 percent of the direct cost of such research.

THE 89TH CONGRESS

Legislation

S. 2482—To prohibit obstruction of performance of duty by Armed Forces, by obstruction of transportation of personnel or property thereof.

S. 3169—To authorize special programs for mentally retarded and ill or physically handicapped spouses and children of members of the uniformed services.

Votes

Voted to bar funds for vessel procurement of construction in foreign shipyards.

THE 88TH CONGRESS

Legislation

S. 2432—To provide for a comprehensive study and investigation of the compulsory military training system.

Votes

Voted to reduce appropriations for defense procurement by $474,000.

THE 87TH CONGRESS

Votes

Voted to establish the U.S. Arms Control and Disarmament Agency for World Peace and Security.

THE 86TH CONGRESS

Legislation

S. 1059—To provide for education of children of members of the Armed Forces in communities in which public schools are closed.

Votes

Voted not to increase funds for procurement of equipment and missiles by the Army from $1.45 billion to $1.68 billion.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

TOXIC SUBSTANCES CONTROL ACT OF 1972

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate S. 1478, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1478) to amend the Federal Hazardous Substances Act, as amended, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment in the nature of a substitute.

The ACTING PRESIDENT pro tempore. Debate on the bill will be limited to 2 hours, with time on any amendment in the first degree limited to 1 hour, and time on any amendment to an amendment, debatable motion, or appeal, to 30 minutes.

The Senator from Virginia is recognized.

Mr. MANSFIELD. Mr. President, will the Senator from Virginia yield to me without losing his right to the floor?

Mr. SPONG. I am pleased to yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum without the time being taken out of either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. SPONG. Mr. President, I ask unanimous consent that Michael Pertschuk, Michael Brownlee, Barbara Dinsmore, Arthur Pankopf, David Clanton, Leonard Bickwit, and Allan Jones of the Commerce Committee staff and my staff be permitted to remain in the Chamber during the debate on the pending bill.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. SPONG. Mr. President, I ask unanimous consent that there may be a quorum call without the time being charged to either side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. SPONG. I yield myself 10 minutes.

Mr. President, passage of the Toxic Substances Control Act will represent a major advance in this Nation's efforts to halt the degradation of our environment. An April 1971 report of the Council on Environmental Quality revealed that there are about 2 million chemical compounds in existence with about 250,000 new compounds being produced each year. Most of these new compounds will never find their way into the marketplace. However, several hundred will be commercially produced. It is those few hundred chemicals as well as certain chemicals now in use that the Toxic Substances Control Act is designed to regulate.

The body of environmental law now in effect is indeed impressive. The Federal Government exercises control over air and water pollution, pesticides, drugs, food additives, radioactive materials, transportation of hazardous substances, and certain consumer products. In spite of all this, the environmental problems of dangerous industrial chemicals and chemicals in consumer products continue to plague us. Mercury in consumer products is a prime example. Industrial discharges of mercury have been of great concern, and rightly so. The progress made by the Federal Government in controlling industrial discharges of mercury is an environmental victory that we all can look to with pride and relief. Yet, testimony before the Subcommittee on the Environment revealed that an even greater threat may be posed by the presence of mercury in consumer products such as paint, home thermometers, sponges, and a variety of other products. When these products are disposed of, the mercury invariably goes either down the drain or out with the garbage. Municipal sewage treatment plants and solid waste disposal systems simply cannot cope with this source of mercury. In light of this, it seems far more prudent to limit the amounts of these materials in consumer products rather than letting them escape through a municipal sewage plant or asking the householder not to dispose of them at all. A variety of chemical substances present similar problems, including lead, cadmium, and other heavy metals; plastics; PCB's; and a variety of other synthetic organic compounds. The primary purpose of the Toxic Substances Control Act is to establish the needed control of products such as these.

The type of product control that is specified in the proposed legislation is not new. Pesticides, drugs, and food additives are all controlled at the point of manufacture. Yet, this control technique currently applies only to a small portion of the total number of potentially toxic substances. Moreover, existing controls do not deal with all the uses of a substance which may produce toxic effects.

The regulation provided for by this legislation would be similar to that governing pesticides, drugs, and food additives in another important respect. Under the statutes governing those substances, testing for public health and environmental effects is required prior to the introduction of those substances into commerce. The results of those tests must be cleared by the Federal Government prior to commercialization.

A similar arrangement is proposed under this legislation, but without those features which cause lengthy delays in marketing a product. For pesticides, drugs, and food additives to be marketed, an affirmative action is required on the part of a Federal administrator. Under the proposed Toxic Substances Control Act, an affirmative action would be required by the Environmental Protection Agency to keep something off the market. The requirement for affirmative action to restrict the chemical substance is coupled with a premarket screening feature that will give the EPA ample time to review the test data submitted.

Without premarket testing and review, the regulation of chemical substances would in many cases deal with a problem only after that problem is manifest. We will not tolerate those conditions to exist with respect to pesticides, drugs, and food additives. Neither should we tolerate similar threats with respect to other toxic substances.

Briefly, the proposed legislation has the following features:

First. It is required that certain chemical substances be tested for their environmental and public health effects and that the results of those tests and the intended uses of the chemical substance be furnished to the Environmental Protection Agency 90 days in advance of the commercial production of that substance. The 90-day grace period is for the purpose of giving EPA sufficient time to review the test data and impose restrictions if necessary. The 90-day grace period could be extended by an additional 90 days with good cause shown.

Second. EPA could require testing of existing substances if those substances are believed to pose unreasonable threats to human health or the environment.

Third. EPA would be empowered to restrict the use or distribution of a chemical substance during the premarket screening period, or at any later time, to the extent necessary to prevent unreasonable risks to human health and the environment.

Fourth. The district courts of the United States would be empowered to restrain the uses or distribution of a chemical substance if an imminent hazard exists.

Fifth. Products which violate provisions of the act would be liable to seizure in the district courts of the United States.

Sixth. Reports would be required of the manufacturers or processors of chemical substances to aid the Administrator in carrying out his functions under the act.

Seventh. A chemical substances board would be established to advise the Administrator on matters of science pertaining to chemical substances.

Eighth. EPA would be authorized to conduct research on chemical substances and to monitor those substances in the environment.

Ninth. Citizens would be afforded the opportunity to bring suit to enjoin certain violations of the act and to require the Administrator to perform mandatory duties.

Tenth. Finally, the Coast Guard would be authorized to establish regulations governing the transport of chemical substances on the navigable waters at its own initiative or upon notice of the Environmental Protection Agency.

It was my pleasure to chair the 8 days of hearings of the Subcommittee on the Environment on this legislation. A variety of witnesses were heard, including the Environmental Protection Agency, the chemical industry, environmental groups, and labor unions. All contributed to an ample record.

The Subcommittee on the Environment considered the proposed legislation in executive session on March 7 of this year and reported the bill to the full committee. The full committee unanimously ordered the bill reported on April 25.

As reported by the committee, the Toxic Substances Control Act represents a regulatory plan that will provide the degree of protection necessary without unduly burdening the chemical industry. I ask the Senate to give the bill favorable consideration.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BAKER. I yield myself 5 minutes on the bill.

Mr. President, I want to express at this time my support for the purposes of S. 1478, the Toxic Substances Control Act of 1972.

As the Members of this body will recall, this is one of several legislative proposals contained in the President's environmental message of February 8, 1971. No doubt pertinent portions of that earlier message with respect to toxic substances will be quoted during the consideration of this measure. However, I believe that the President's concluding remarks on the subject of toxic substances are most important and bear emphasis during the consideration of S. 1478. In these remarks, the President noted the following:

> This legislation, coupled with the proposal on pesticides and other existing laws, will provide greater protection to humans and wildlife from introduction of toxic substances into the environment. What I propose is not to ban beneficial uses of chemicals, but rather to control the use of those that may be harmful.

Mr. President, it is this fine balance between the appropriate control of the use of chemical substances, but without impeding their beneficial uses, to which the President referred which is of concern to me and which prompted me to write supplemental views in the report on this legislation and to offer two amend-

ments to the bill on the floor. Specifically, I am concerned over the inherent danger made possible by the broad language of section 103 and by the premarket screening provisions of section 104, which might have the result of depriving the public of the benefit of many new chemical products and of stifling development, particularly on the part of small chemical companies, of new products which may pose no hazard to health or the environment.

Mr. President, in this connection let me hasten to point out that I am not alone in my concern over the provision of S. 1478 dealing with premarket screening. By letter dated February 22, 1972, from the Honorable William D. Ruckelshaus, Administrator of the Environmental Protection Agency, to the distinguished senior Senator from Michigan (Mr. HART)—and which unfortunately is not reprinted in the committee report—the following is noted concerning premarket screening:

> We do not believe that there is adequate justification for pre-market screening at this time. We continue to believe that the Administration bill's requirement for pre-market testing by industry and reporting afford adequate protection to the public. * * *

Mr. Ruckelshaus then proceeded in his letter to recommend the deletion of the premarket screening provision of the bill.

Mr. President, I make this observation not in strenuous opposition to the purpose of the bill, S. 1478, which I support, but rather to emphasize that we are entering into a very delicate area of balancing the equities between environmental protection and the preservation of future technology. No one in this Chamber is more acutely aware of this delicate balance than is the Senator from Tennessee. I have the double privilege of serving both on the Committee on Public Works and the Committee on Commerce, which, between them, consider the bulk of environmental legislation which comes before this body. Moreover, during the past year, I have been actively serving as Chairman of the Secretary of State's Advisory Committee for the 1972 United Nations Conference on the Human Environment, which is to convene in Stockholm on June 5, only 1 week from today. Accordingly, it seems very appropriate that today we in this Chamber are undertaking consideration of this bill, S. 1478.

As one of the leading industrial nations of the world, the United States bears a certain obligation to lead the way in improving and saving the global environment. I feel that in recent years we have done this and that we have sought to do so in a realistic and careful manner without encroaching unduly upon the economic quality of our life.

In conclusion, Mr. President, I believe it would be appropriate for me to quote the following from the President's environmental message of February 8, 1971:

> As our nation comes to grips with our environmental problems, we will find that difficult choices have to be made, that substantial costs have to be met, and that sacrifices have to be made. Environmental quality cannot be achieved cheaply or easily. But, I believe the American people are ready to do what is necessary.
>
> This nation has met great challenges before. I believe that we shall meet this challenge. I call upon all Americans to dedicate themselves during the decade of the seventies to the goal of restoring the environment and reclaiming the earth for ourselves and our posterity. And I invite all peoples everywhere to join us in this great endeavor. Together, we hold this good earth in trust. We must—and together we can—prove ourselves worthy of that trust.

Mr. President, S. 1478—the Toxic Substances Control Act of 1972—is not intended, in the words of President Nixon:

> To ban beneficial uses of chemicals, but rather to control the use of those that may be harmful.

Let us insure that this meritorious goal is met and is carried forward.

Mr. President, I reserve the remainder of my time.

Mr. SPONG. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Virginia is recognized for 5 minutes.

Mr. SPONG. Mr. President, I have great regard for the opinions of the distinguished Senator from Tennessee (Mr. BAKER) on matters dealing with the environment. It has been my privilege to serve 4 years with him on the Air and Water Pollution Subcommittee of the Committee on Public Works. Today I serve with him on the Commerce Committee.

Mr. President, the RECORD should show certain things at this point. One is, the views of Mr. Ruckelshaus are included in the report, in paragraph 1 of a letter addressed to me, which appears on page 32 of the report. In that letter, Mr. Ruckelshaus makes clear his views on premarket screening.

The Senator from Tennessee (Mr. BAKER) is quite correct when he quotes from the President's message on the environment. That was made at a time when the mercury scare was rampant in this country, when there had been several instances of mercury poisoning. When the bill to carry out the administration's wishes in this matter was introduced, it required that new chemicals be tested, but it did not require that the results of those tests be made available unless EPA requested them.

After reviewing the administration bill, the Senator from Virginia and others felt it was necessary for EPA to have the authority to prevent chemicals from harming the environment or presenting a threat to the public health before the fact and not after the fact. Accordingly, I introduced amendments to the administration bill. In those amendments, premarket testing of new chemicals was required. In addition, new chemicals could not be marketed without the explicit approval of EPA. After hearings on the bill and on the amendments which I introduced, I became convinced that the weight of the evidence confirmed the fears of many in the chemical industry, that bureaucratic delay could hamper them if explicit approval was required, that there would be a tendency on the part of those in EPA not to take a chance on explicitly approving something if there were any doubt at all.

So the committee, after reviewing the administration's bill and my amendments, arrived at the premarket screening concept which has been covered in my earlier remarks.

The pending bill provides that test data for a new chemical substance must be submitted to EPA at least 90 days in advance of the commercial production of that substance. If the 90-day period is not sufficient then, for a good cause, an additional period of up to 90 days may be granted.

Because that history was not covered in my opening remarks, I thought the RECORD should show that we started with testing but with no requirement that the results be produced and made public.

We moved from that to premarket testing, with explicit approval required before a substance could be marketed. Finally, after weighing the testimony at lengthy hearings, the committee developed the premarket screening provision which, in my judgment, gives protection to the public and, at the same time, has safeguards for the industry.

Mr. BAKER. Mr. President, I yield myself 1 minute on the bill. On the first point made by the distinguished Senator from Virginia (Mr. SPONG), on the question of the letter from Mr. Ruckelshaus, I think what we have here are two letters of virtually identical import, one written from Mr. Ruckelshaus to the Senator from Michigan (Mr. HART) on February 22, 1972, from which I quoted, and the other written to the Senator from Virginia (Mr. SPONG) on March 3, 1972, which appears on page 32 of the report. Although the language is virtually identical, there are two different letters here.

AMENDMENT NO. 1205

At this time, Mr. President, I call up my amendment No. 1205 and ask that it be stated.

The PRESIDING OFFICER (Mr. BENTSEN). The amendment will be stated.

The legislative clerk proceeded to read the amendment, as follows:

S. 1478

> On page 31, line 22, beginning with the words "Such regulations" strike all through the period in line 6, page 32, and insert the following: "Such regulations shall apply to all chemical substances or specific classes and uses of such chemical substances which are produced in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment under intended and normal circumstances of use or disposition considering the quantities to be produced."
>
> On page 27, line 22, insert the word "hazardous" before the word "New".

Mr. BAKER. Mr. President, a parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Tennessee (Mr. BAKER), upon which there is a control of time of 1 hour, to be equally divided.

Mr. BAKER. The time is now under the control of the distinguished Senator from Virginia (Mr. SPONG) and the senior Senator from Tennessee on this amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, I yield myself 5 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 minutes.

Mr. BAKER. Mr. President, as reported by the Senate Commerce Committee, the Toxic Substances Control Act of 1972, S. 1478, would give the Administrator of the Environmental Protection Agency a broad range of new powers designed to permit him to cope with the kinds of problems which mercury and PCB may pose for human health and the environment.

These powers include the following:

One. Authority to require testing of all new chemical substances before they can be commercially produced.

Two. Authority to require environmental testing of any existing chemical substance.

Three. Authority to impose restrictions on the use or distribution of any chemical substance and such a restriction may include a total ban on use or distribution of the substance.

Four. In cases of imminent hazard, authority to petition a U.S. district court to restrain the use or distribution of a chemical substance or to order a recall.

Five. In cases where the regulations have been violated and where an Imminent hazard exists, chemical substances are subject to seizure—they can be snatched right out of the hands of the user.

Six. Authority to require all manufacturers of chemical substances to submit annual, or more frequent, reports to EPA detailing what is produced and how much.

This authority is very extensive—as extensive as the term chemical substance—which is defined as any organic or inorganic substance of a particular molecular identity. It is this vast range of new powers, conferred by this bill for the first time over a broad list of U.S. industries, that leads me to suggest some essentially minor revisions in the bill—not to curtail the power or authority of the EPA Administrator to protect health and the environment—but to make this vast and ambitious program more workable and realistic.

The pending amendment changes section 103 of the bill, page 31. As reported by the committee, section 103(a) first requires the Administrator of EPA within 1 year to "issue proposed regulations; (1) for such test protocols for various classes and uses of chemical substances, and (2) for the results to be achieved from these tests, as are necessary to protect health and the environment."

The next two sentences in the committee bill would be struck out by the pending amendment. They read as follows:

Such regulations shall apply to all chemical substances which are produced in commercial quantities, except that the Administrator shall not propose regulations for those chemical substances or classes or uses of chemical substances which (1) in his judgment, are of no unreasonable environmental or public health threat, or (2) are more efficiently controlled through the regulation of their components. To the extent feasible, such regulations shall indicate which uses correspond to specified test results.

In the place of this language in the committee bill the pending amendment inserts the following:

Such regulations shall apply to all chemical substances or specific classes and uses of such chemical substances which are produced in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment under intended and normal circumstances of use or disposition considering the quantities to be produced.

The essential difference between the bill and the pending amendment can be quickly and simply stated: The bill applies to all chemical substances, unless the Administrator, in the exercise of his judgment, says that a substance is of no unreasonable environmental or public health threat. The amendment says that a substance is not covered by section 103 of this bill—and therefore, not covered by section 104—unless the Administrator has reason to believe it may pose an unreasonable threat to human health or the environment under intended and normal circumstances of use or disposition considering the quantities to be produced.

The difference between the bill and the amendment can be quantified rather easily.

There are, according to the Council on Environmental Quality's report on toxic substances which led to this legislation, more than 2 million identified chemical substances. Under the committee bill, the Administrator must examine that roster of 2 million chemical substances and decide, in his judgment, which ones must be tested and which ones do not have to be tested. If the Administrator can do that enormous job in 10 years—let alone 1 year—I shall be greatly surprised.

The amendment approaches the problem from the other direction. It requires the Administrator to publish a list of those chemical substances which have to be tested. I expect him to start with the most serious problems first—with compounds containing mercury or cadmium with PCB's and with the type of compounds and chemicals which are known to cause cancer.

Years of research work in this area, by industry and Government and universities and others, have given scientists and technicians the capability to determine, even in advance, with a very high degree of accuracy, whether or not a new substance is likely to pose an unreasonable threat to human health or the environment. In other words, the EPA Administrator, drawing on the scientific resources provided by section 111 of the bill—the Chemical Substances Board—will have the capability to select the kinds and classes of substances that need to be tested because of their potentially unreasonable threat to the environment—without requiring costly and burdensome testing of substances that do not require it.

Adoption of the amendment will not weaken or diminish the authority of the Administrator to protect health and the environment from the effects of chemical substances. Modern chemical technology is first, clearly capable of determining in advance, with great accuracy, which chemicals may be environmental problems and which will not be. In addition, the Administrator of EPA retains all the other powers of the bill. He can issue restrictions on use or distribution; he can seize chemical substances if they pose an imminent hazard. Furthermore, he has the reporting provisions of section 109 which will provide him with full and current information as to the chemicals in current production and use in the United States. These powers give him a vast range of authority which he can use, if necessary, to protect the public and the environment.

The amendment will not impede the inventiveness or innovation of the chemical industry and there are fears that the committee bill will do so. It will not require elaborate and expensive tests for substances which do not need to be tested. Furthermore, this amendment, like other provisions in the bill, will not restrict the customary practice of market testing products before they are placed in full commercial production.

Mr. President, I urge the adoption of the amendment, and I reserve the remainder of my time.

Mr. SPONG. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Virginia is recognized for 5 minutes.

Mr. SPONG. Mr. President, I can appreciate the comments made by the distinguished Senator from Tennessee on his proposed amendment. However, I must oppose the amendment as its adoption would represent a serious weakening of the bill.

One of the most basic premises upon which the proposed legislation is based is that we often cannot predict what the adverse environmental or public health consequences of chemical substances will be. By looking at our past experience with classes of chemical substances, science can in some cases predict that new members of that class probably will cause problems. However, for many chemical substances, we simply cannot predict with accuracy what the environmental or public consequences will be.

While it is difficult, if not impossible, to cite what future examples might be, our recent experiences with certain chemical substances provide ample evidence of our inability to predict unreasonable hazards. Certainly our experience with mercury, which until a few years ago, was considered to be relatively harmless in the environment, is a good example. Industrial discharges of inorganic mercury were thought to lie in an inert state at the bottom of our lakes and rivers. However, further research showed that through the action of aquatic organisms the relatively innocuous forms of mercury could be converted to the very lethal methyl mercury. An unreasonable threat existed which was unknown to science.

The threat of PCB's, phosphates in detergents, and certain harmful components of plastics were all unrealized at the time of their introduction. I doubt very much whether the requisite "reason to believe" that an unreasonable hazard exists could have been demonstrated.

While it is also possible that the lan-

guage of the committee's bill would not have been adequate to uncover these threats at the time of production, it would surely have increased the chances. Many times where there is no "reason to believe" a hazard exists, there will also be no basis for a "judgment" that no unreasonable threat exists. In such situations the bill would operate to increase protection over what would be accomplished by the amendment of the distinguished Senator from Tennessee.

An important subcategory of this situation is one where we have absolutely no knowledge about a new and exotic chemical which is about to be produced. Plastics are a good example of a group of chemical substances which were new and exotic at the time of their introduction. Obviously, there are many more. While it is again difficult to predict how many exotic substances may be developed, it is a safe prediction to say that they will be developed.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPONG. Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 3 additional minutes.

Mr. SPONG. The hearings of the Subcommittee on the Environment have demonstrated over and over that we must have the capability to gain knowledge about new chemical substances about which we cannot predict whether there is even a reason to believe that unreasonable hazards exist. Chairman Train of the Council on Environmental Quality, while not commenting directly on the substance of the proposed amendment, made the point well in his testimony before the subcommittee. He said:

> Many of these chemicals ultimately are discharged into our water, air, and soil systems. After the substances enter the environment, they may be diluted or concentrated by physical forces, and they may undergo chemical changes, including combination with other chemicals that affect their toxicity. Substances may be picked up by living organisms which may further change and either store or eliminate them. The results of the interactions between living organisms and chemical species are often unpredictable, but such interactions may produce chemicals or concentrations that are more dangerous than that of the initial pollutant.

Chairman Train went on to say:

> We need no longer be limited to repairing damage after it has been done; nor should we allow our population to be used as a laboratory for discovering adverse health effects.

Mr. President, I submit that if the amendment is adopted there is a very real chance that many new chemical substances will escape regulatory scrutiny prior to their commercial production and will come back to haunt us in the future. I urge that the amendment not be accepted.

Mr. BAKER. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I do not intend to debate this amendment at great length. I do, however, intend to ask for the yeas and nays as soon as a sufficient number of Senators are present to do so.

Mr. President, I think the burden of the debate can best be summarized by saying that the question at hand is: As a matter of public policy should a substance be proven innocent before it can be marketed or should it be proven guilty before it can be marketed? The bill as drafted requires that a substance be proven innocent before it can be marketed. That might be simple, but we are dealing with at least 2 million chemical substances, and to prove innocence, even by the most modern, efficient proceedings, and even by the most premiere and efficient Washington bureaucracy, is overwhelming. So proving innocent before a chemical can be marketed is not practical and it is the reason for this amendment.

It is not the purpose of my amendment to weaken the bill, but to make it realistic and enforceable. If the Administrator has reason to believe a chemical may pose an environmental health hazard he may require premarket testing to determine its innocence. As far as I am concerned, the essence of the position I am trying to serve is not that it be proven guilty, as guilt in a criminal case, but rather that there be a reasonable indication that the chemical may pose an unreasonable health hazard.

Once again, as far as the Senator from Tennessee is concerned, if we could provide in the bill that whenever the Administrator finds that a substance poses an unreasonable health hazard, or has reason to believe that it poses an unreasonable health hazard, which is a degree less in probative value, then he would require testing, then our goals would be fulfilled, but to go "whole hog," so to speak, and say no chemical can be marketed unless it is proven innocent, that is, free of environmental consequences, seems to me exceeds the range of legislative practicality, because I assure Senators that on the basis of our proceedings so far, while there may be 2 million chemicals involved today, next year there may be 10 million chemicals involved.

The variation, inventiveness, and resourcefulness of the human mind, of industry and commerce, are without bounds. I suspect the future of our Nation depends on that inventiveness and that we will want to stimulate the development of new chemicals and not restrict that development. But if we are going to say that no new chemical substance can be marketed until it is proven innocent, we will deprive ourselves of many chemicals. I doubt many chemicals that are in use today could be proven innocent. I wonder if the burden of proving innocent or free of environmental consequences, gasoline, for instance, could be carried by this bill. I doubt it very much. I wonder if vaporized hydrocarbons which enter the atmosphere by mere evaporation could be classified a chemical substance free of environmental hazard, as defined by this bill.

The purpose of this amendment is to prove guilt rather than to prove the innocence of some 2 million items we are likely to be contending with.

I offer this point of view. As far as I am concerned, I am willing to settle for less than proving guilt in a criminal sense, far less than a civil sense, by saying a balancing of the equities, far less than any judicial proceeding, that there is not reason to believe it possesses some health hazard, and even that we might accomplish the same purpose, and that is my purpose, by saying, "If there is some evidence" the Administrator can require testing; but to require premarket testing when there is no evidence, and to make it show that it has no environmental impact, in my mind, is not workable and that is the basis for the amendment.

Mr. President, on my time, and for the purpose of trying to secure enough Senators to get the yeas and nays, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I reserve the remainder of my time.

Mr. SPONG. Mr. President, I yield myself 5 minutes on the amendment.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. SPONG. Mr. President, the Senator from Tennessee has talked initially in terms of 2 million chemical substances and then in terms of 8 million or 9 million chemical substances. The testimony in the record of the hearings by Mr. Russell Train, for whom I know the Senator from Tennessee and I have a high regard, is that we are dealing with 300 to 500 chemical substances which potentially could pose a threat to the environment or to public health.

I should like to point out to the Senator from Tennessee, with respect to his use of the words "innocent or guilty," that there are already written into the bill several exceptions. Under the language of the bill, the Administrator of EPA does not have to propose regulations for any chemical substance which in his judgment are of no unreasonable environmental or public health threat. So we are not saying ab initio that every new substance must be exposed to this procedure. The evidence before the committee is that we are talking about 300 to 500 new substances.

Let me return to the theme that I tried to spell out in my earlier remarks. In the path the subcommittee traveled in going from a bill that did not call for any public revelation of any testing unless EPA requested it to the present bill, requiring pre-market screening, what we were and are seeking to accomplish, is to find out the danger of a substance, if we can, prior to its going on the market.

First of all, in the amendment, the Administrator has to have reason to believe that something "may pose an unreasonable threat to human health or the environment." That places upon him a burden of knowledge that may be beyond his ken.

I earlier read and quoted from statements by Mr. Train that the effect of some of these chemicals as they go into nature is almost unpredictable. The problem is that under this amendment the Administrator would have the burden of being all-knowing with regard to the effects of chemical substances. Unless he had knowledge of such effects, he would have no basis to set standards for testing.

Let me mention the second thing that bothers me about the amendment. It is coupled with this language:

Under intended and normal circumstances of use or disposition considering the quantities to be proposed.

Let me give an example—and we have already had testimony as to this: Sponges or certain other articles are produced containing chemicals which, when they go into the environment, can cause hazards to health or to the environment. They may be labeled "Do Not Dispose Of," or "Do Not Flush Down The Water Systems." Under the language of the amendment, it states that no testing will be required if the products pose no threat "Under intended and normal circumstances." In this situation, under the language "Under intended and normal circumstances," there is no way in the world that it covers the housewife who neglects to follow those instructions. Yet this does not alter the situation that it may be possible to say, by testing and evaluation of test data, that these products should not be put on the market for the very reason that if they are disposed of in a careless manner they could present a hazard to public health or the environment. If they present no hazard when used as directed they would not be covered even if we were convinced they would not be so used.

Let me say, in closing, that I understand the fears and concerns of the Senator from Tennessee, and I commend him for his efforts——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPONG. I yield myself an additional 3 minutes.

I commend him for the efforts he has made in the full span of the environmental problems that the Senate has considered in the past five and a half years. But here we had the choice of passing legislation under which a chemical whose effects are unknown would not be tested until the danger has become known publicly and the condition exposed before we could get back to finding out what caused it, or of passing moderate legislation under which the public is protected against the unknown by requiring that where there is any suspicion of danger to the health or the environment, testing shall take place.

It is for these reasons that I and the subcommittee felt it was wise to be on the side of, if you will, demanding that innocence be proven in a small percentage of the overall new substances, and why this legislation passed out of the committee to the floor of the Senate.

Mr. BAKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. BAKER. I yield myself 2 minutes, and at that point I shall be willing to yield back the remainder of my time if the Senator from Virginia is willing to yield back his time.

The Senator from Virginia used an example that is of special note, in saying that the Administrator of the EPA, under my amendment, would be required to find that the substance constituted an unreasonable risk to the environment and that he was concerned about placing that responsibility on the Administrator of EPA. I suggest that that same rationale applies to the bill because it puts on the Administrator the burden of determination to find that there is no unreasonable risk to the environment.

When we talk about responsibility being placed on a bureaucratic official to define and find as gilt-edged and gold-plated that a substance is not unreasonably hazardous to public health, that is a great burden to place on such an official.

I am not so sure that most of them, as would be true of such officials, would find the safe thing to do is not to certify any, because how could he say it was not going to be harmful to the environment, and in that way no one would be served?

In the off chance that this amendment is adopted. I want the record to show that the amendment was adopted because it changed the purpose, in that, instead of all the substances having to be proved innocent, they have to be proved to pose an unreasonable threat. This means as long as there is any credible proof, as long as there is any legitimate concern for safety, then the administrator, in good grace and accordance with the requirements of the legislation, does not have to require premarket screening to require anybody to prove innocence before a substance is marketed is to stifle inventiveness and to stifle development of new products for civilization.

Mr. President, I am ready to yield back the remainder of my time.

Mr. SPONG. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Tennessee. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

On this vote, the Senator from West Virginia (Mr. ROBERT C. BYRD) is paired with the Senator from Louisiana (Mr. ELLENDER). If present and voting, the Senator from West Virginia would vote "yea" and the Senator from Louisiana would vote "nay."

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. MUSKIE), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Maryland (Mr. MATHIAS) is absent on official business.

The Senator from Delaware (Mr. BOGGS), the Senator from Colorado (Mr. DOMINICK), and the Senator from Ohio (Mr. TAFT) are detained on official business.

If present and voting the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 28, nays 43, as follows:

[No. 189 Leg.]

YEAS—28

Aiken	Cotton	Roth
Allen	Curtis	Scott
Allott	Dole	Stevens
Baker	Fannin	Talmadge
Beall	Gurney	Thurmond
Bennett	Hollings	Tower
Bentsen	Hruska	Weicker
Brock	Jordan, Idaho	Young
Cook	Miller	
Cooper	Randolph	

NAYS—43

Bible	Hughes	Pearson
Brooke	Inouye	Percy
Buckley	Jackson	Proxmire
Burdick	Javits	Ribicoff
Byrd, Harry F., Jr.	Kennedy	Saxbe
Cannon	Magnuson	Schweiker
Case	Mansfield	Smith
Church	McGee	Spong
Eagleton	McIntyre	Stafford
Fulbright	Metcalf	Stennis
Gambrell	Mondale	Stevenson
Griffin	Montoya	Symington
Hart	Nelson	Tunney
Hartke	Packwood	Williams
	Pastore	

NOT VOTING—29

Anderson	Ervin	Mathias
Bayh	Fong	McClellan
Bellmon	Goldwater	McGovern
Boggs	Gravel	Moss
Byrd, Robert C.	Hansen	Mundt
Chiles	Harris	Muskie
Cranston	Hatfield	Pell
Dominick	Humphrey	Sparkman
Eastland	Jordan, N.C.	Taft
Ellender	Long	

So Mr. BAKER's amendment was rejected.

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

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

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I would like to speak briefly in support of the bill reported by the committee.

In requesting additional authority to regulate toxic substances the administration recognized that gaps exist in our regulatory framework that permit public health and environmental hazards to occur without regulation. While the committee bill differs from the administration's approach to the problem, we are all in agreement that the gaps must be closed.

In spite of the growing body of environmental law, the Environmental Protection Agency is presently without power to control the manufacture, use and distribution of new chemical substances which may harm the environment and public health. For example, no example, no authority now exists to control the phosphate or NTA content of detergents or the mercury content of paint. We cannot continue to rely on persuasion by government and voluntary response by industry.

The basic thrust of the committee bill is that before we unleash thousands of pounds of new chemical substances into the environment, we must insure that adequate testing and evaluation of test data is performed.

To achieve the objective of guarding against unreasonable threats to man or the environment of toxic chemical substances, the bill would provide:

First, that new chemical substances should be tested by their manufacturer prior to their commercial production and that the test results should be reviewed by the Environmental Protection Agency prior to such production;

Second, that the Environmental Protection Agency will specify those existing chemical substances which there is reason to believe might present unreasonable threats to man or the environment, and that these substances will be tested as well;

Third, a variety of tools to regulate toxic substances, including the authority to restrict use and distribution, to seize chemical substances creating imminent hazards and to order such other action as is necessary to protect man or the environment;

Fourth, that manufacturers and processors of chemical substances be required to maintain certain records and reports to enable the Administrator to properly determine hazards;

Fifth, that citizens be allowed to bring suits to enjoin violations of title I and to require the performance of mandatory duties of the Administrator of the Environmental Protection Agency; and

Sixth, that, as provided in title II, the Environmental Protection Agency notify the Secretary of the Department in which the Coast Guard is operating of the potential environmental harm from the transportation of hazardous chemical substances, and that the Secretary may take such action as is necessary to protect against such harm.

The bill, in my view, is one of the most important pieces of environmental legislation ever considered by the Congress. It is my hope that we will move quickly to enact it this year.

Mr. COTTON. Mr. President, as the senior Republican member of the Committee on Commerce which considered this legislation I would like to make a few observations concerning it.

The origin of S. 1478, the Toxic Substances Control Act of 1972, was the environmental message of the President of the United States to the Congress on February 8, 1971. In that message concerning toxic substances the President announced that he would propose legislation on this subject. He also noted, in part, the following:

> As we have become increasingly dependent on many chemicals and metals, we have become acutely aware of the potential toxicity of the materials entering our environment. Each year hundreds of new chemicals are commercially marketed and some of these chemicals may pose serious potential threats.
>
> It is essential that we take steps to prevent chemical substances from becoming environmental hazards. Unless we develop better methods to assure adequate testing of chemicals, we will be inviting the environmental crises of the future.

As a result of the President's message, the Director of the Environmental Protection Agency submitted to the Congress on February 10, 1971, the draft of a bill covering the subject presently under consideration. This draft legislation was introduced on April 1, 1971 as S. 1478 by the distinguished chairman of our Committee on Commerce (Mr. MAGNUSON) and the distinguished senior Senator from Michigan (Mr. HART). Subsequently, the committee conducted extensive hearings on this legislative measure and proposed amendments to it covering a period of approximately 8 days. The bill now before the Senate represents the work product of those deliberations of the Committee on Commerce on this measure.

Mr. President, I support S. 1478—the Toxic Substances Control Act of 1972—and did so during the committee's deliberations on it.

As for the specific provisions of the bill, S. 1478, Mr. President, I wish to make but two observations. The first concerns the concept of "premarket testing" of chemical substances and the second, the seizure of chemical substances.

With respect to the first matter, premarket testing, I wish to discuss briefly its bearing upon the development of new chemicals and the broader, more productive use of existing chemicals. Section 103 of S. 1478 provides for the issuance of test protocols to determine the possible environmental and public health effects of certain new and existing chemical substances. These tests are designed to apply to the intended uses of these chemicals to determine whether and how they might reach the environment and the resultant degree of potential harm or benefit.

What I wish to emphasize—so that we are clear as to our legislative intent—is that in order to determine what an intended use of a chemical substance might be, the manufacturer of that substance must be allowed to engage in "test marketing." By test marketing I mean the marketing procedures necessary to determine not only if a substance is technically feasible but also economically attractive.

In other words, Mr. President, if a manufacturer is to produce a substance he must first know if anyone will buy it. In order to ascertain this needed information, a limited amount of commercial application is necessary. Thus, I believe it is important to point out that in drafting this bill, S. 1478, no attempt has been made to limit the ability of the manufacturer to test his product in the marketplace before he decides to undertake commercial production. On the contrary, the bill explicitly states that test data is not submitted for prescreening until 90 days before commercial production. For the manufacturer this does not take place until after he has had an opportunity to test market his product.

It is the buyer of the chemical substance that must ultimately determine whether it is technically and economically useful. The manufacturer, if innovation is to be preserved, must have the buyers decision before undertaking the expense of the testing required under this legislation.

On the second point, Mr. President, I wish to invite the attention of my colleagues to sections 107 and 108 concerning imminent hazard and seizure, respectively. These provisions authorize the Administrator of the Environmental Protection Agency to take appropriate action to declare a chemical substance an imminent hazard, restraining its use or distribution, and to bring about seizure of such chemical substances. I would hasten to point out that there is nowhere in S. 1478 any express provision authorizing either the Administrator of EPA or any other Government official to require the refund of the purchase price of any such chemical substance or replacement of such substance. And, no amount of legislative history should be accepted to infer that any such authority was conferred by the committee. In support of my position, I would simply refer interested parties to other consumer legislative measures such as the Child Protection and Toy Safety Act of 1969, which also was considered by the Committee on Commerce, and which expressly provided for such authority with respect to refund or replacement.

In conclusion, Mr. President, the committee did not expressly address this issue. It, therefore, should not be inferred that such authority is provided in this legislation. Perhaps, after experience with this new authority following enactment, evidence may demonstrate a need for such provision and, if so, then at that time I am sure that the Committee on Commerce would stand ready to consider it. But I wish to emphasize that the authority is not in S. 1478 and it cannot be so inferred.

AMENDMENT NO. 1206

Mr. BAKER. Mr. President, I call up my amendment No. 1206 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 35, line 3, strike all through line 12, page 35.

Mr. BAKER. I yield myself 2 minutes.

Mr. President, I might say, for the benefit of Senators, that on this amendment I intend to speak very briefly and to have a voice vote and that, so far as I am concerned, there are no more amendments to this bill.

Mr. President, section 104 of S. 1478 requires that manufacturers of new chemical substances submit their environmental test data to the Administrator of the Environmental Protection Agency 90 days in advance of the start of commercial production. The 90-day period is designed to permit the Administrator to complete a professional review of the test data to make sure that the chemical, when commercially produced and distributed, will not pose an unreasonable threat to human health or the environment.

If the bill stopped there, Mr. President, I would not have the same concern. A 90-day review period is ample. It is my understanding that a full and careful professional review of test data can be accomplished in less than 60 days, and the Administrator would still have 30 more days to determine whether or not the public interest requires the issuance of proposed restrictions on the use or distribution of the new chemical substance. And, under the terms of section 104(b), such proposed restrictions would be binding on the new chemical substance.

Unfortunately, however, the bill, in section 104(c), which the pending amendment would delete, gives the Administrator authority to add another 90-day delay. This second 90-day period of delay is not necessary for the protection of the public, and the Administrator of EPA has advised the committee, under date of March 3, 1972, that the delay is not needed.

In a letter to Senator SPONG, Mr. Ruckelshaus says, in brief, that the authority of what is now section 104(b) is adequate and that section 104(c) is not needed.

I ask unanimous consent to have the letter printed at this point in the RECORD.

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

Hon. WILLIAM B. SPONG, Jr.,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for information as to the operations of Section 5 of the Toxic Substances Bill, Staff Working Draft #1. As stated in the Environmental Protection Agency's letter of February 22, 1972, to Senator Hart, we are opposed to any pre-market screening provision of the toxic substances legislation. We feel that the reporting and testing provisions of S. 1478 afford adequate protection to the public and therefore, we think that Section 5 of the Committee Print should be deleted.

If, notwithstanding our objections, a pre-market screening provision is enacted, we estimate that initial screening of the majority of applications under such a provision could be accomplished within the 90-day time frame provided by Section 5. In certain circumstances, such as a product or substance involving a completely new compound or having properties whose toxic effects cannot be readily determined, more time to adequately review test data would be necessary. Our experience in the pesticides registration program has indicated that the length of time required to process applications is more than anything else a function of the availability of skilled personnel to conduct the necessary review. The length of time required for these unusual situations is impossible to estimate, but it would appear that, if Section 5 were enacted any problems of review could be adequately dealt with by the provisions of Section 5(b), of Staff Working Draft #1, under which the Administrator may effectively restrict use or distribution of a substance if warranted by data or the absence of data available to him.

We appreciate your interest in the development of the Toxic Substances Control Act, and although we disagree with utilization of a pre-market screening provision, we feel that it is important that this legislation should proceed towards enactment.

Sincerely yours,

WILLIAM D. RUCKELSHAUS,
Administrator.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAKER. I yield myself 2 additional minutes.

The extra 90-day period in section 104(c) can, on the other hand, have several serious disadvantages:

First, it may encourage delay and procrastination by the Agency. To stall and delay is a natural human tendency, and the presence of authority for an additional 90 days would seem to encourage such an approach.

Second, for the manufacturer of a new chemical substance, an extra 90 days' delay can be a most serious matter. For the producer of fertilizers, for example, an additional 90-day delay can mean a whole year's delay if he misses the growing season for that year. For the producer of textile dyes, or the manufacturer of flame-retardant chemicals, the delay can make him miss the season of heavy production. And in the vast majority of cases, the extra 90 days of unforeseen delay can impose extra costs which will burden the producer, discourage his efforts to produce improved products, and needlessly increase his costs.

Mr. President, for these reasons I urge the adoption of the amendment.

Mr. SPONG. Mr. President, I yield myself 4 minutes on the amendment.

The PRESIDING OFFICER (Mr. BUCKLEY). The Senator from Virginia is recognized for 4 minutes.

Mr. SPONG. Mr. President, the proposed legislation recommended by the committee contains the requirement that test data and intended uses of new chemical substances be submitted to the Environmental Protection Agency 90 days in advance of the commercial production of that substance. The Administrator of the Environmental Protection Agency would be authorized to extend that period by an additional 90 days if he has good cause. The amendment of the distinguished Senator from Tennessee would strike the authority of the Administrator to impose the 90-day extension.

The language of the legislation as recommended by the committee was worked out after careful thought and consideration. A variety of approaches were considered to give the Environmental Protection Agency enough time to review the data submitted without imposing unreasonable burdens on the chemical producer. In my view, the most convincing case on the need for the extension of the initial 90-day period is the fact that for a large number of chemical substances, EPA simply will not be able to conduct a proper review of the test data in the initial 90-day period.

A letter I received from Administrator Ruckelshaus of the Environmental Protection Agency states the case well. He says:

If notwithstanding our objections, a pre-market screening provision is enacted, we estimate that initial screening of the majority of applications under such a provision could be accomplished in the ninety-day time frame provided by section 5. (Now section 104.) In certain circumstances, such as a product or substance involving a completely new compound or having properties whose toxic effects cannot be readily determined, more time to adequately review test data would be necessary.

Thus, according to EPA, a very large number of chemical substances could not be reviewed within the initial 90-day period. To me, it seems inconsistent to say that we want EPA to review test data prior to the commercial production of a chemical substance and yet to thwart that aim by not giving them enough time to do so.

Let me assure my colleagues that the committee does not intend to accept bureaucratic laziness as the basis for invoking the extension. I quote from the committee report:

The Committee certainly does not intend that bureaucratic lethargy will constitute a good cause for providing a basis for invoking the extension. Furthermore, the Administrator's decision to extend and his reasons therefor will be published in the Federal Register and will be subject to judicial review under section 123(b). Thus, protection is built in to guard against extensions without basis. The committee intends to impose upon the Administrator a requirement not to extend the period for review unless the extension meets the objective test of a showing of good cause.

Thus, ample protection is built-in to guard against frivolous extensions by the Administrator. In my opinion, the language proposed by the committee is fair and would provide an opportunity for a good review. I would urge that the amendment not be accepted.

Mr. COTTON. Mr. President, will the Senator from Tennessee (Mr. BAKER) yield?

Mr. BAKER. I yield as much time as the Senator from New Hampshire may require.

Mr. COTTON. Mr. President, I invite the attention of the Senator from Tennessee (Mr. BAKER) to the language on page 21 of the committee report, which states:

If because of complicated data, the Administrator determines that the maximum total period of 180 days is not sufficient for review of the data in question, he may, in effect, grant himself an additional period of time beyond the 180 days for an adequate review of the data by proposing a restriction on use or distribution.

Now, of course, what the committee says in its report is not law. But, I should like to ask the Senator if he would not interpret that paragraph as being an invitation to "bureaucratic lethargy," to use the words of the Senator from Virginia (Mr. SPONG)?

Mr. BAKER. Replying to the question by the distinguished ranking Republican member of the Commerce Committee, the Senator from New Hampshire (Mr. COTTON), I must say that I share his concern as to the exact status of the Act in view of the report language. I assume that the report language would be looked into, if there is any room for disagreement as to what the bill means. I thought the language was not in disagreement, that it would be 90 plus 90, but the report language, by itself, might be enough to create the impression that if the statute were called into a construction of the litigation as to uncertainty of intent, and if there is uncertainty by its terms, then the intent is of paramount importance. If it is not uncertain by its terms, then the intent is immaterial, so I am afraid I would have to leave it to the courts to decide whether it is uncertain by its terms.

I suppose the best answer I can give to the distinguished ranking member is that the certainty would be far greater without the report language, but I am not sure I would agree that the statute itself is uncertain. It seems painfully certain to me.

Mr. COTTON. I would say to the Senator that at first blush I had not particularly favored his pending amendment. I voted for his other amendment. But, I did not favor this one because I have vivid recollections of the problems encountered by the Food and Drug Administration when it was required to analyze and consider the safety of a multitude of new drugs—the so-called wonder drugs and the antibiotics that were coming on the market. It became humanly impossible for the FDA to do this work in any reasonable time because of the tremendous workload which resulted.

In granting an extension of another 90 days, the committee thought it was much better to fix the goal at 180 days and hit that goal, rather than to establish a custom of running over the shorter time period.

But as to the report language which I have quoted, Mr. President, I personally believe that the legislative history of the bill should clearly show—and so far as this Senator is concerned, as a member of the committee, who went through the consideration of the bill—that there is no intent on the part of Congress to let the Administrator of EPA to have an open-ended time period as seems to be indicated by the report. We should repudiate that particular section in the report and give them a maximum of 180 days period. Otherwise, I would vote for the pending amendment. Certainly, if this time period is going to be a mark to shoot at, which no one will achieve then we should make it 90 days. It may serve to hasten the procedure in some way. Certainly, there is no bureaucracy which, by its very nature, does not need such encouragement. The agency will be faced with a lot of detail work and it will be all too easy to let the time lapse.

Mr. BAKER. I thank the Senator from New Hampshire. I join him in asking the distinguished manager of the bill if he could shed any light on this subject. As I said a moment ago, I am not sure that the language in the bill is open to more than one interpretation, if the rules of construction are called into play, and the utterances of the manager of the bill would be of greater force than this colloquy.

Mr. SPONG. Mr. President, I am inclined to agree with the initial answer given to the Senator from New Hampshire by the Senator from Tennessee that the language is fairly certain. I would say, however, that the committee report uses the language:

If, because of complicated data, the Administrator determines that the maximum total period of 180 days is not sufficient for review of the data in question he may in effect, grant himself an additional period of time beyond the 180 days.

I have questioned this from the beginning because I did not want to encourage delay in the EPA in the testing process. However, it is entirely possible, as the Senator from Tennessee has so adequately pointed out in our discussion of the earlier amendment, that initially there may be a great many of these tests, and even where the element of complicated data is not involved, a 90-day extension would be authorized for good cause if the agency were flooded with applications and therefore needed additional time for review beyond the initial 90 days. My judgment is that the use and distribution section, which is section 106 of the bill, would only come into play if there were complicated data involved. And I believe the language is fairly certain that in almost every instance only a 90-day extension will be allowed.

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

Mr. SPONG. I am happy to yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I am not quite clear in my own mind that the Senator's statement actually sums up the matter of this 180-day time period written in by the committee to allow some degree of latitude. However, because of the wording of the report, and because of the Senator's remarks at this time, if that in itself is not going to be regarded as a real effective limit, then I think I would be constrained to vote for the pending amendment of the Senator from Tennessee (Mr. BAKER). If it is just a mark to shoot at, and if the language is going to encourage delay, then we might just as well shoot at the mark of 90 days rather than 180 days.

Mr. SPONG. Mr. President, let me say to the Senator from New Hampshire that I consider the 90-day extension was a collective effort on the part of the committee because the committee felt that the 90-day period in the bill reported by the subcommittee was unreasonable. Now, in the great majority of instances, and in my judgment in almost all instances, the 90 days plus the 90 days would be all that we would be dealing with. I would interpret the statute as written to be that certain. However, I cannot truthfully say to the Senator from New Hampshire, because of the existence of section 106, that it is not possible for the administrator if the data is complicated to seek another extension beyond that.

Mr. COTTON. I think that is very clear. However, would the Senator from Virginia (Mr. SPONG) join in declaring here on the floor, that so that it will be a part of the legislative history of this bill, that only in extreme cases of necessity would it be the intent of Congress that more than 180 days be used? And, would the Senator further agree that the language which appears in the middle of page 21 of the committee report shall not be taken in any sense as a release from the express terms of the bill, or an invitation to extend the time period, except under extreme cases of necessity?

Mr. SPONG. The Senator from Virginia would be pleased to join with the Senator from New Hampshire in agreeing with the observation that this should be only in extreme cases. However, I cannot categorically say to him that under the legislation, as I understand it in its whole, an addition to the 180 days is not possible.

Mr. COTTON. Mr. President, I think the Senator does agree that the language in the report should not in a sense be regarded as an invitation to extend the period.

Mr. SPONG. Mr. President, as one who started out on this legislation recommending only 90 days, I would say to the Senator from New Hampshire that I certainly do agree.

Mr. BAKER. Mr. President, I yield myself 1 additional minute.

Is there anything else to be said on the amendment? The question of 90 days, 180 days, or 360 days has been pretty thoroughly discussed and it was explicit in the previous amendment. It is pretty much to establish the fact that something has to be proved to be or is essentially harmful. By this data I think we have clearly spelled out what I think is the policy. The printed law is not in dispute. It does not lend itself to statutory construction.

Mr. President, I yield back the remainder of my time.

Mr. SPONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Tennessee. (Putting the question.)

The amendment was rejected.

Mr. BAKER. Mr. President, while there are enough Senators on the floor, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. HART. Mr. President, will the Senator from Virginia yield?

Mr. SPONG. Mr. President, I am glad to yield to the Senator from Michigan, one of the original sponsors of the legis-

lation and chairman of the subcommittee.

Mr. HART. Mr. President, I would like to thank the Senator from Virginia for a very carefully developed hearing record. The Senator from Virginia was willing to assume the responsibility for the hearings and the management of the bill.

I think that even in the rather drab condition of the hearing record, it becomes clear that the Senator from Virginia was both thoughtful and knowledgeable and effective at every stage in the development of this legislation because of his skill, his interest, and his courage. So, I do thank him.

Mr. President, I ask unanimous consent that a statement by the Senator from Utah (Mr. Moss) be printed at this point in the RECORD. The Senator from Utah was very interested in this matter. He wanted very much to be present. However, he finds himself unable to be here.

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

STATEMENT BY SENATOR MOSS

In the past decade, most environmental legislation which has emerged from Congress has been directed at industrial effluent and emission controls. Yet many of our most toxic environmental contaminants today may be found not in the wastes of industrial production but rather in the products themselves. When these products—products such as cadmium batteries and lead-based paints—are marketed prior to adequate testing, their disposal down sinks and drains may significantly damage our natural resources and the public health. This phenomenon of "consumer pollution" has never received an adequate legislative response.

Now we have before us S. 1478, the Toxic Substances Control Act. The Commerce Committee held several days of hearings on both an administration bill, and an alternative proposal, Amendment No. 338 to that bill.

Two developments at the hearings underscored the need for this legislation. First, the mercury crisis was recharacterized as one caused primarliy by consumer pollution rather than industrial discharges. While wastes from chloralkali plants have certainly contributed to the problem, it was stressed that the disposal of products containing mercury constituted a much more serious worry.

The second development was the new concern over the dangers of polychlorinated biphenyls—(PCB's). These are industrial chemicals which increasingly have been discovered as contaminants of our food supply. Several witnesses testified that the prevalence of this contaminant argues strongly for direct controls over all potentially dangerous industrial chemicals.

But perhaps the classic case of "consumer pollution" is the use and disposal of phosphate detergents. Toward the end of the first session, a new chapter in the detergent controversy was added when Surgeon General Jesse Steinfeld advised housewives to use phosphate products in preference to more caustic substitutes. As a result of the clamor and confusion which followed this advice, the Committee decided to give special attention to the detergent problem, rather than treat it merely as an example of the need for toxic substance legislation.

Four days of hearings were held during which government, industry, and scientific witnesses commented on various aspects of the problem. Fearing that without more, the hearings would only add to the prevailing confusion, Senator William B. Spong, Jr., who chaired the hearing, prepared a report to the Committee evaluating competitive laundry products from the standpoints of safety and environmental protection.

The Congress must now step into this field with a general toxic substances control law. I urge your support for the bill.

Mr. HART. Mr. President, I ask unanimous consent that a letter under date of May 25, 1972, from the Senator from Washington (Mr. MAGNUSON), the Senator from Virginia (Mr. SPONG), and myself to our colleagues on the pending bill be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., May 25, 1972.

DEAR COLLEAGUE: The Toxic Substances Control Act, S. 1478, will be taken up on the floor in the next few days. The bill would require manufacturers of new chemical substances to test their products for possible adverse public health and environmental effects before commercial production. It would further require submission of test data to the Environmental Protection Agency for its evaluation ninety days prior to production. If more than ninety days were required for effective review, the Agency would be authorized to extend the review period for an additional 90 days upon a showing of good cause.

The Committee bill exempts from these requirements chemical substances which in the judgment of the Administrator of the Environmental Protection Agency do not pose an unreasonable environmental or public health threat. The bill envisions the development of a "Generally Recognized As Safe" list for classes and uses of new chemical substances.

When the bill is taken up on the floor at least two amendments may be offered. The first would restrict the bill to those substances which "the Administrator has reason to believe may pose an unreasonable threat to human health or the environment." The only difference between the coverage of the bill and that of the proposed amendment relates to chemicals about which we know little or nothing. Because the amendment requires a reason to believe that the hazard exists before the provisions of the act become applicable, substances about which we have no knowledge would not be covered. The bill as reported would cover them, since they would not fall into the exemption for those chemicals which in the Administrator's judgment pose no unreasonable environmental or public health threat. Given that nothing is known about these substances, the Administrator would have no basis for any such judgment.

We believe that the amendment should be opposed, so that this class of substances will be included within the provisions of the act. A major purpose of the bill, in our opinion, is to guard against dangerous chemicals, the production and dangers of which cannot be anticipated beforehand. Many of the chemicals we are now concerned about years ago would not have given us "reason to believe" that they posed an unreasonable threat.

The second amendment, which we also oppose, would strike the Agency's authority to extend the 90-day review period for an additional 90 days. While a majority of the chemicals to be marketed probably could be evaluated in 90 days, that period would not be sufficient in many cases. Experience under the pesticide law suggests that complicated data may require as many as 5 or 6 months to review. In such cases, the amendment would allow for production and sale before review is completed. We believe the resulting risks to the public would not be justified.

For these reasons, we urge you to join us in opposing these amendments.

With kind regards.

Sincerely,

WARREN G. MAGNUSON.
PHILIP A. HART.
WILLIAM B. SPONG, Jr.

Mr. BAKER. Mr. President, would the Senator yield me 1 minute on the bill?

Mr. COTTON. Mr. President, I yield 1 minute on the bill to the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I have offered two amendments to the bill that I thought were significant. I do not think that it would be amiss for me to say, at this point, that the bill has profited materially from the efforts of the distinguished Senator from Virginia who has worked diligently and in a professional way as a lawyer to improve the bill. We should be grateful to the Senator from Virginia for his craftmanship in that regard.

Notwithstanding that we disagree in certain respects on the bill, I take this opportunity to thank him for his diligent work on the legislation.

Mr. COTTON. Mr. President, I echo the statements of the Senator from Tennessee (Mr. BAKER) concerning the Senator from Virginia (Mr. SPONG).

We appreciate the work that the Senator from Virginia (Mr. SPONG) has put into the bill and thank him for his leadership.

I also wish to acknowledge the work of the chairman of the Committee on Commerce, the distinguished Senator from Washington (Mr. MAGNUSON). His name has become synonymous with product safety and consumer protection.

Mr. MAGNUSON. I thank the distinguished Senator from New Hampshire.

Mr. COTTON. I yield 5 minutes to the distinguished Senator from Nebraska (Mr. CURTIS).

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. CURTIS. Mr. President, I thank my distinguished colleague for yielding.

Mr. President, I rise for the purpose of asking a question or two of the distinguished Senator from Virginia with regard to the legislation.

Does this legislation grant authority to prohibit the manufacture of a chemical substance?

Mr. SPONG. It has authority, yes, to prohibit after certain things are made known and made public. It has authority if it believes any chemical substance poses an imminent hazard, to prohibit the manufacture.

First, it has the authority to set down standards for testing. Then it has authority to require that certain testing be done. Then, it has authority to examine that testing and to do testing of its own, and based on that it can keep certain chemical substances off the market

Mr. CURTIS. Suppose part of the use of those chemical substances does relate to substances coming under the jurisdiction of the Federal Insecticide, Fungicide, and Rodenticide Act. Will this proposed statute grant authority to prohibit manufacture, distribution, and use of sub-

stances that are permitted under this other act?

Mr. SPONG. The act does not cover any pesticides, and the language of the act excludes all of them.

Mr. CURTIS. But my point is this. The Senator has stated it does grant authority to prohibit the manufacture of chemical substances. Now, suppose that it is a substance that is permitted under the Pesticide Act.

Mr. SPONG. Well, it does not cover pesticides so there is no authority under this bill to prohibit that manufacture. That would have to be done under some other act or some other law.

Mr. CURTIS. I am looking at the exemption in section 110(a)(1), which states:

SEC. 110. (a) This title shall not apply to—(1) economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act, and chemical substances used in such poisons, except that if a chemical substance which constitutes such a poison or such an ingredient is or may be used for any purpose which is not regulated by the Federal Insecticide, Fungicide, and Rodenticide Act, this title shall apply to such other uses;

My point is: Does this act grant authority to stop the manufacture.

Mr. SPONG. It does not contain authority to prohibit its manufacture insofar as its use as a pesticide is concerned. It would control its use as other than a pesticide. So in answer to the original question, for use as a pesticide, the authority to stop the manufacture is not under this legislation, but for any uses other than as a pesticide, the authority would be there. But that would go to use and not to manufacture, in my judgment, as long as there is a use as a pesticide.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CURTIS. Mr. President, will the Senator yield to me for 5 additional minutes?

Mr. COTTON. Certainly. I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, then, they could not prohibit the manufacture of a chemical substance that is used in pesticides.

Mr. SPONG. As a pesticide. The Senator is correct. They could prohibit use of it as anything other than a pesticide.

Mr. CURTIS. And that would apply to herbicides and others.

Mr. SPONG. The Senator is correct.

Mr. CURTIS. The Committee on Agriculture and Forestry has before it now the Pesticide Act. I understand that the proposal that is before us today will not affect anything that comes out of that legislation and which may be enacted into law.

Mr. SPONG. The Senator is correct. I would repeat again for the RECORD that where there is an agricultural use or a pesticide or herbicide use—and there may be a nonpesticide and nonherbicide use—that this could reach it insofar as that use is concerned, but it could not stop the manufacture as it might in other instances.

Mr. CURTIS. It could regulate the distribution of it until it reached the point where it was used.

Mr. SPONG. No, it could regulate it insofar as the use is concerned. The committee was quite aware of pending legislation before the Committee on Agriculture and Forestry dealing with these matters and went to great pains in drafting this legislation, to incorporate clearly the exclusions of section 110 which the Senator has quoted.

Mr. CURTIS. The legislation before us will be administered by the Environmental Protection Agency. Is that correct?

Mr. SPONG. The Senator is correct.

Mr. CURTIS. Will they have any authority over the Food and Drug Act?

Mr. SPONG. No.

Mr. CURTIS. Not at all. I notice nine other exemptions. What will the act regulate?

Mr. SPONG. The act will regulate many chemical substances, new compounds being prepared for marketing that could or could not affect public health or the environment.

Outstanding examples are mercury, PCB's, and many other substances such as this. These are not presently reached by any law in the manner in which they are proposed to be covered by this bill.

Mr. CURTIS. What are these substances used for?

Mr. SPONG. For consumer and industrial products. Mercury in sponges is an example. We have had PCB's show up in chickenfeed, as the Senator knows. There are many manufactured items involved. Phosphates in detergents is another example.

Mr. COTTON. Mr. President, if the Senator will yield, I, too, was about to cite phosphates in detergents as an example, and other matters of that kind. I think, whether done successfully or not, the Senator from Nebraska can be assured that in section 110, starting on page 43 of the bill, the committee did try to lean over backward to insure this legislation would not intrude or in any way compromise measures already in effect dealing with insecticides and pesticides.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CURTIS. Mr. President, will the Senator yield me 1 more minute?

Mr. COTTON. I yield 1 minute to the Senator.

Mr. CURTIS. Is this a fair statement: That it is the intention of the legislation to regulate substances that are not now regulated, but not to impose the Environmental Protection Agency as a superagency over present regulations established by law?

Mr. COTTON. The Senator from New Hampshire understands that is absolutely correct.

Mr. SPONG. The answer would be "Yes."

I would point out further, as the Senator from Nebraska has already, that pesticides and food additives are controlled at the point of manufacture, but we are trying to reach substances that are not controlled at the point of manufacture, and there is not given to EPA any authority over areas that are excluded.

Mr. CURTIS. I thank the distinguished Senator.

Mr. AIKEN. Mr. President, if the Senator will yield, is there anything in this legislation which would permit the EPA to dictate the percentage of any toxic substance which is used in the manufacture of insecticides?

Mr. SPONG. No.

Mr. AIKEN. There is not?

Mr. SPONG. No.

Mr. AIKEN. That would be left to the insectide and pesticide laws themselves?

Mr. SPONG. That is correct.

Mr. COOK. Mr. President, will the Senator yield me 3 minutes?

Mr. SPONG. I yield.

Mr. COOK. I thank the Senator.

As the Senator knows, it was through the cooperation of the distinguished chairman of the committee, the Senator from Washington (Mr. MAGNUSON), and the distinguished Senator from New Hampshire (Mr. COTTON), that I was able to put title II in the bill, which is referred to as "Transport of Hazardous Chemical Substances on Navigable Waters."

As the Senator knows, during the course of the discussions in committee, I laid out some of the serious problems we have on the Ohio River; for instance, the fact that the harbor at Louisville, at least the bottom of it, looks similar to the bottom of Pearl Harbor, as a result of many barges sunk there by accidents which have occurred on the Ohio River.

Also, I made reference to the fact that earlier we had 640 tons of chlorine gas caught in the wickets at Louisville and it took several days to remove that gas, and on the last day that occurred the officials of the city of Louisville had to evacuate some 5,000 people in one section of Louisville. This hazard also occurred previously when a chlorine gas barge sunk in the lower Mississippi River.

I wish to ask, as a matter of legislative history, of the Senator from Virginia, the following question. On page 71 of the bill, under subsection (1), the language appears, "establish, operate, and maintain vessel traffic services and systems for ports, harbors," and so forth. Would that language be adequate to cover the control, under title II, for instance, of the period of time in which railroad bridges would be raised and lowered, or would it be necessary to attempt to control that under some other law? I happen to believe it is broad enough.

We have a problem approaching the locks at Louisville. For example, the Pennsylvania Railroad bridge is down rather than up. Consequently, as the tows come into the canal, they have to back off and wait for the bridge to be raised. This causes tremendous problems, particularly during high water.

I am wondering whether it is the intention of the Senator from Virginia, as it is mine, that the language is broad enough that, this being an integral part of the navigable system, the Coast Guard would have authority to regulate that, or would it be necessary for the tower operator, who now has no radio communication whatsoever with the barges, to come under regulations which would establish that such bridges must have radio systems so the contact with the bridge

operator would be made well in advance of the tow and the tug getting into the canal, if there were no traffic on the bridge, so that such a bridge would not be a hazard to navigation—as I say again, particularly in high water or bad weather?

Mr. SPONG. I would say to the Senator from Kentucky that I interpret section 201, on page 71, as does he. I think the Coast Guard, after complying with everything in this section with regard to consultation, would have that authority.

I would also like to say to the Senate that the Senator from Kentucky is responsible for title II as it appears in the bill. I think it is a very fine addition to the legislation. It is a part of the broad study that the Senator from Kentucky has followed in the Commerce Committee for some while, and I think it is a very constructive addition.

My answer to his question is "Yes."

Mr. COOK. I thank the Senator from Virginia.

Mr. SPONG. Mr. President, I would like the RECORD to reflect—and I had no opportunity to thank the Senator from Michigan and the Senator from Tennessee and the Senator from New Hampshire for their gracious remarks earlier—that had I been a little quicker on my feet, I might have done so at a proper time in the RECORD. I want the RECORD to show that each of these gentlemen on the committee and in the deliberations of the committee with regard to this legislation, which is somewhat complicated and very dry, certainly made a fine contribution in their own right to the bill that is presently before us. I would also like to express my gratitude and appreciation to the distinguished chairman of the committee, Mr. MAGNUSON, whose assistance was invaluable on the bill and to members of the majority and minority staffs of the committee and my own personal staff, particularly Peter Powell, David Clanton, Arthur Pankopf, Michael Brownlee, Alan Jones, and Leonard Bickwit, all of whom contributed so significantly to the development of this legislation.

Mr. President, I send to the desk a minor amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read the amendment, as follows:

On page 31, line 4, immediately following "chemically", insert "or used as a catalyst".

Mr. SPONG. Mr. President, I have sent to the desk a minor amendment relating to the definition of "intermediate chemical substance" which would have the effect of exempting certain chemicals known as catalysts from some of the provisions of the act.

Section 110(a)(5) provides that the act, other than the provisions relating to periodic reporting of data, shall not apply to "intermediate chemical substances, unless the Administrator finds that the chemical substances cannot be sufficiently regulated by the Clean Air Act, as amended, or the Federal Water Pollution Control Act as amended, to the extent necessary to protect health and the environment." "Intermediate chemical substance" is in turn defined by section 102(12) to mean "any chemical substance which is converted chemically in the manufacture of other chemical substances subject to this title."

The purpose of these provisions is to insure that the Administrator will not be overburdened with regulating intermediate substances the sole purpose of which is industrial use in the manufacture of other substances covered by the act. It has been pointed out to me, however, that certain chemical catalysts used in the manufacture of chemical substances would not fall within the definition of "intermediate chemical substance" in the bill reported by the committee. I have been told that as a rule these catalysts are not altered chemically in the manufacturing process, although they may be essential to that process.

Mr. President, I would argue that the policy reasons which led the committee to its qualified exemption of intermediate chemical substances are also applicable where catalytic substances are involved. My amendment would therefore include within the definition of "intermediate chemical substance" not only those substances which are "converted chemically," but also any substance which is "used as a catalyst" in the manufacture of other substances subject to the act.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield back his time?

Mr. COTTON. I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

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

The amendment was agreed to.

Mr. NELSON. Mr. President, the Toxic Substances Control Act of 1972 (S. 1478) is long overdue.

The legislation would establish a regulatory system over potentially harmful chemicals, in order to protect the environment and the public health, under the jurisdiction of the Environmental Protection Agency.

This is a reasonable approach to provide greater protection from chemical pollution.

The bill requires premarket testing and approval of new and existing chemicals that are considered a threat to man or the environment.

It provides tools for the Government to restrict the use of, or to seize, chemicals creating imminent hazards.

The bill allows for citizen suits; and for protection against environmental harm in navigable waters of the United States.

The object of the legislation is to insure that adequate information is accumulated and evaluated respecting the potential dangers involving the introduction of new chemicals into the marketplace. Historically, large numbers of chemical substances have been introduced into use, which later are found to pose human health hazards, or to endanger the air and water. This bill is a sensible proposal to prevent such problems from occurring.

It is well to take steps now to better regulate the use of toxic substances.

Mr. GRIFFIN. Mr. President, the pending bill, S. 1478, is an important measure designed to control the marketing of chemicals which may be potentially hazardous to human beings and the environment.

In the past, most efforts have been directed toward hazards and pollution already in the environment. However, this legislation is designed to operate like preventive medicine.

Among President Nixon's major recommendations last year in the environmental field was a proposal to control toxic substances. This bill is the product of his initiative.

In his environmental message to Congress in February 1971, the President pointed out that—

Each year hundreds of new chemicals are commercially marketed and some of these chemicals may pose serious potential threats. Many existing chemicals and metals, such as PCB's (polychlorinated biphenyls) and mercury, also represent a hazard.

As a practical matter, the genesis for this legislation grew out of the 1969 mercury scare in Lake St. Clair, Mich., when high levels of toxic methyl mercury were found in fish.

At that time, Michigan Gov. William G. Milliken spoke out forcefully on the need for an orderly procedure to screen out hazardous chemicals before they reach the market. Subsequently, the administration proposed the original version of S. 1478.

Mr. President, as far as the Great Lakes region is concerned, one of the most significant features of S. 1478 is the authority contained in the bill to restrict the use of phosphates in detergents. Last year I introduced S. 2553, the proposed Detergent Control Act, which would limit the phosphorus control of detergents to 8.7 percent by July 1972, and would direct the Administrator of EPA to set health and environmental standards for all detergents.

While the legislation before us does not go as far as my bill in specific terms, I do believe it is important to recognize that the phosphate content of detergents can be regulated under S. 1478.

As the committee report indicates—

A regulation might require that a phosplate-containing detergent could be used generally only if the test results revealed a very low level of plant stimulation characteristics. If a higher level were found, the detergent could be used everywhere except the Great Lakes Basin, where over-fertilization is a problem.

Furthermore, as the above language from the committee report suggests, distribution of phosphate detergents could be restricted on a geographic basis. In fact, section 102 of S. 1478 specifically states that hazardous chemicals may be restricted on a geographic basis. The committee report contains the following explanation:

Thus, to use detergents as an example the Administrator could specify different levels of phosphates to accommodate those areas where phosphate eutrophication is a

problem. The Administrator could also totally ban a substance.

Finally, it should be noted that S. 1478 would leave State and local governments with authority to impose a total ban on the use and distribution of hazardous chemicals, as a number of States and local governments have already done with respect to phosphate detergents. I believe this limited flexibility can be useful in many situations.

Mr. President, while I would like to see legislation enacted that would be directed specifically at phosphates, I am pleased by the progress which this bill represents. If this legislation is vigorously implemented, it can and should be effective in reducing the pollution problem caused by phosphate detergents.

SAFETY ON OUR WATERWAYS

Mr. BAYH. Mr. President, the Federal Hazardous Substances Act before the Senate today contains a very significant provision designed to establish safety standards for the transportation of hazardous substances on navigable waters. I wish to draw the attention of my colleagues to title II of this bill. Title II is designed to ensure appropriate regulation and coordination of traffic routes, time schedules, and loading procedures for vessels transporting hazardous chemical substances on our waterways.

The legislation is necessary to protect the safety of citizens living near navigable waters and to prevent those same waters from environmental harm caused by shipping accidents. I believe this legislation will establish a foundation for safety on our national system of shipping routes.

My concern over shipping safety began with Indiana. As only one State, she has witnessed 10 separate barge collisions along the Ohio River since October of last year. The most noteworthy, as you may recall, was the collision on March 19 of a chlorine barge and a sulfuric acid barge at McAlpine Dam. Fortunately the sulfuric acid barge was removed safely within a short period, but for over 2 weeks the citizens of the surrounding area lived with the fear that 640 tons of fatal chlorine gas might escape. Portland, Ky., was evaculated and plans were made for the evacuation of three cities, two of which are in Indiana: Louisville, New Albany, and Jeffersonville. Again, on April 20 a string of three barges containing gasoline broke loose, smashed into the Cannelton Dam and erupted into flames. Fed by an estimated 3 million gallons of gasoline that the barges had dumped into the Ohio, this fire raged for several days.

It is distressing that accidents continue to occur with such regularity. Clearly there is a need for reasonable legislation to prevent future collisions. Clearly there is a need for basic ground rules of operation for those vessels directly involved with dangerous cargoes. For quite sometime we have been concerned about safety on our highways and in our airports; it is time that we show similar concern for our waterways. I commend the committee for reporting title II and urge the Senate to pass this bill.

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

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Who yields time?

Mr. SPONG. Is the Senator from New Hampshire prepared to yield back his time?

Mr. COTTON. Yes.

Mr. SPONG. Mr. President, I yield back my time.

Mr. COTTON. I yield back my time.

The PRESIDING OFFICER (Mr. BUCKLEY). All time having been yielded back, the question, shall the bill pass?

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

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. CRANSTON) are necessarily absent.

I further announce that if present and voting, the Senator from Florida (Mr. CHILES), the Senator from Louisiana (Mr. ELLENDER), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Maryland (Mr. MATHIAS) is absent on official business.

The Senator from Ohio (Mr. TAFT) is detained on official business.

If present and voting, the Senator from Hawaii (Mr. FONG) would vote "yea."

The result was announced—yeas 77, nays 0, as follows:

[No. 190 Leg.]

YEAS—77

Aiken	Dominick	Nelson
Allen	Eagleton	Packwood
Allott	Fannin	Pastore
Baker	Fulbright	Pearson
Bayh	Gambrell	Percy
Beall	Griffin	Proxmire
Bellmon	Gurney	Randolph
Bennett	Hart	Ribicoff
Bentsen	Hartke	Roth
Bible	Hollings	Saxbe
Boggs	Hruska	Schweiker
Brock	Hughes	Scott
Brooke	Inouye	Smith
Buckley	Jackson	Spong
Burdick	Javits	Stafford
Byrd, Harry F., Jr.	Jordan, Idaho	Stennis
Byrd, Robert C.	Kennedy	Stevens
Cannon	Long	Stevenson
Case	Magnuson	Symington
Church	Mansfield	Talmadge
Cook	McGee	Thurmond
Cooper	McIntyre	Tower
Cotton	Metcalf	Tunney
Curtis	Miller	Weicker
Dole	Mondale	Williams
	Montoya	Young

NAYS—0

NOT VOTING—23

Anderson	Gravel	McGovern
Chiles	Hansen	Moss
Cranston	Harris	Mundt
Eastland	Hatfield	Muskie
Ellender	Humphrey	Pell
Ervin	Jordan, N.C.	Sparkman
Fong	Mathias	Taft
Goldwater	McClellan	

So the bill (S. 1478) was passed, as follows:

S. 1478

An act to amend the Federal Hazardous Substances Act, as amended, and for other purposes

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 "Toxic Substances Control Act of 1972".

TITLE I—TOXIC SUBSTANCES CONTROL

DECLARATION OF POLICY

SEC. 101. (a) The Congress finds that—

(1) man and the environment are being exposed to a large number of chemical substances each year;

(2) among the many chemical substances constantly being developed and produced are some which may pose an unreasonable threat to human health or the environment; and

(3) the effective regulation of interstate commerce in such chemical substances necessitates the regulation of transactions in such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) new chemical substances and hazardous or potentially hazardous existing chemical substances should be adequately tested with respect to their safety to man and the environment and that such testing should be the responsibility of those who produce such chemicals;

(2) adequate authority should exist to restrict the distribution and use of chemical substances found to pose an unreasonable threat to human health or the environment, and to seize chemical substances that pose imminent hazards;

(3) authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this title to assure that such innovation and commerce in such chemical substances does not pose an unreasonable threat to human health or the environment; and

(4) as set forth herein, citizens should be encouraged to participate in carrying out the purposes of this title.

DEFINITIONS

SEC. 102. As used in this title the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Chemical substance" means any organic or inorganic substance of a particular molecular identity, or any uncombined chemical radical or element;

(3) "New chemical substance" means any chemical substance which is first produced in commercial quantities after the effective date of any regulation promulgated pursuant to section 103 of this title which is applicable to such substance;

(4) "Existing chemical substance" means any chemical substance which has been produced in commercial quantities before the effective date of any regulation promulgated pursuant to section 103 of this title which is applicable to such substance;

(5) "Manufacturer" means any person engaged in the production or manufacture of chemical substances for purposes of sale or distribution in commercial quantities, or an importer thereof;

(6) "Processor" means any person engaged in the preparation of a chemical substance for distribution or use either in the form in which it is received or as part of another product, as defined by regulations of the Administrator;

(7) "Restrict the use or distribution" means to prescribe the amount sold to given types of processors, or to limit the type of processor to whom a substance may be sold, or to prescribe the amount which may be utilized by a given type of processor, or to limit the sale or the manner in which a substance may be used, handled, labeled, or disposed of by any person, including self-monitoring requirements for manufacturers and processors to insure that the chemical substance being manufactured or processed is of reasonably consistent composition, and such restriction on use or distribution may be applied on a geographic basis and may include a total ban;

(8) "Byproduct" means a chemical substance produced as a direct result of the production, manufacture, processing, use, or disposal of some other chemical substance which is subject to the provisions of this title;

(9) "Environment" includes water, air, land, all living things therein, and the interrelationships which exist among these;

(10) "Protect health and the environment" means protect against any unreasonable threat to human health or the environment resulting from any chemical reaction of a chemical substance taking into account the benefits of the chemical substance as compared to the risks to human health or the environment;

(11) "District courts of the United States", which courts shall have jurisdiction over actions arising under this title includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii;

(12) "Intermediate chemical substance" means any chemical substance which is converted chemically or used as a catalyst in the manufacture of other chemical substances subject to this title;

(13) "Test protocol" means a standardized procedure for performing tests as required by this title pursuant to regulations promulgated by the Administrator, the results of which will provide a basis for judging the effects of a chemical substance on human health or the environment; and

(14) "Laboratory reagent" means any chemical substance produced, distributed, or used for scientific experimentation or chemical research or analysis.

TEST STANDARDS

SEC. 103. (a) Within one year after enactment of this title and from time to time thereafter, the Administrator shall issue proposed regulations (i) for such test protocols for various classes and uses of chemical substances and (ii) for the results that must be achieved therefrom, as are necessary to protect health and environment. Such regulations shall apply to all chemical substances which are produced in commercial quantities, except that the Administrator shall not propose regulations for those chemical substances or classes or uses of chemical substances which (1) in his judgment, are of no unreasonable environmental or public health threat, or (2) are more efficiently controlled through the regulation of their components. To the extent feasible, such regulations shall indicate which uses correspond to specified test results.

(b) In determining what is necessary to protect health and the environment, the Administrator shall consider all relevant factors including but not limited to—

(1) the effects of the substance on human health;

(2) the effects of the substance on the environment;

(3) the benefits of the substance for various uses;

(4) the normal circumstances of such use;

(5) the degree to which the substance is released to the environment;

(6) the magnitude of exposure of humans and the environment to the substance;

(7) the extent to which the prescribed tests are reasonably predictive of the potential adverse effects of a substance on human health or the environment;

(8) the manner in which available data on the safety of classes and uses of chemical substances may be used in reducing the testing requirements; and

(9) the availability of less hazardous substitutes.

(c) Such test protocols may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative properties of the substance, the synergistic properties of the substance and other types of hazards, and epidemiological studies of the effects of the chemical substance.

(d) The Administrator shall specify in the proposed regulations the date on which such regulations shall take effect, except that such regulations shall take effect as soon as feasible, allowing sufficient time for the execution and reporting of the required tests.

PREMARKET SCREENING OF NEW CHEMICAL SUBSTANCES

SEC. 104. (a) After the effective date of initial regulations promulgated pursuant to section 103 of this title any manufacturer of a new chemical substance to which such regulations are applicable shall submit to the Administrator, at least ninety days in advance of the commercial production of such substance, the test data developed in accordance with the regulations issued pursuant to section 103 of this title for the intended use of such substance. Subject to section 115 of this title, the Administrator shall promptly publish in the Federal Register the identity of such chemical substance, the uses intended, and a statement of the availability of test data. Any subsequent manufacturer of a new chemical substance for which test data have been furnished to the Administrator under this subsection or any subsequent manufacturer of a new chemical substance falling within a class of chemical substances specified in regulations promulgated under section 103 of this title for which test data have been furnished to the Administrator, shall not be required to furnish test data which are duplicative of data submitted previously by another manufacturer, except such new chemical substances shall not be commercially produced prior to the commercial production of the chemical substance for which test data were furnished under this subsection. Any chemical substance or member of a class of chemical substances or any manufacturer or processor thereof referred to under the preceding sentence shall be subject to all other provisions of this title.

(b) If warranted by data or the absence of data available to him, the Administrator may propose by regulation to restrict the use or distribution of any such substance in accordance with section 106 of this title. If such regulation is proposed prior to the expiration of the ninety-day period referred to in subsection (a) of this section such proposed restrictions on use or distribution shall apply, pending the outcome of administrative proceedings on such proposal, to any subsequent commercial production of such new chemical substance as if such proposed regulation were final. After such regulation is proposed, the Administrator may refer it to a committee referred to in section 111(c) of this title. The Administrator shall refer such proposal to such committee if requested by any interested party.

(c) The Administrator may extend the date after which a new chemical substance may be commercially produced under this title for any particular use or uses beyond ninety days from the submission of test data required by section 103 of this title for an additional period, not to exceed ninety days, for good cause shown. Subject to section 115 of this title, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final action subject to judicial review in accordance with section 123(d) of this title.

(d) Nothing in this section shall be construed to prohibit the Administrator from restricting the use or distribution of any such new chemical substance pursuant to section 106 of this title after commercial production of such substance has begun or to take action against any substance which is found to be an imminent hazard pursuant to section 107 of this title.

(e) Whenever a manufacturer of a new chemical substance proposes to commercially produce such substance for a use with respect to which the Administrator has not received test data for such use pursuant to subsection (a) of this section, the manufacturer shall be required to follow the procedures of this section before such substance may be submitted to such use. The requirements of the preceding sentence shall apply notwithstanding the fact that the Administrator may previously have screened such substance for other uses without objection.

EXISTING CHEMICAL SUBSTANCES

SEC. 105. (a) The Administrator shall issue, within one year after the enactment of this title and from time to time thereafter, proposed regulations specifying those existing chemical substances the manufacture, processing, distribution, use, or disposal of which there is reason to believe may pose an unreasonable threat to human health or the environment. Concurrently with each proposal to specify such existing chemical substance, the Administrator shall propose regulations under section 103 of this title, if he has not previously done so, which are applicable to each existing chemical substance so specified. On or before the effective date of any applicable regulations under section 103 of this title any manufacturer of an existing chemical substance shall furnish the test data developed in accordance with such regulations to the Administrator. Subject to section 115 of this title, the Administrator shall, upon receipt of such test data from a manufacturer promptly publish in the Federal Register the identity of such existing chemical substance the uses to which the substance is

put and a statement of the availability of test data.

(b) Manufacturers of existing chemical substances for which testing is required under subsection (a) of this section shall not be required to submit test data which would duplicate applicable test data submitted previously by other manufacturers. Such chemical substances and the manufacturers thereof shall be subject to all other provisions of this title.

(c) Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a use to which a regulation under section 103 of this title is applicable and with respect to which the Administrator has not received test data for such use pursuant to subsection (a), the manufacturer shall be required to follow the procedures of this section notwithstanding the fact that no objection has been raised to other uses. Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a new use following the effective date of a regulation under section 103 of this title applicable to such use, the manufacturer shall be required to follow the procedures of section 104 of this title before such substance may be submitted to such use.

RESTRICTIONS ON USE OR DISTRIBUTION

SEC. 106. (a) If warranted by data available to him, or in the absence of acceptable test data required under sections 104 or 105 of this title, the Administrator may propose by regulation (1) to restrict the use or distribution of any chemical substance to the extent necessary to protect health and the environment; (2) to require that any or all persons engaged in the distribution of the chemical substance so regulated give notification to purchasers or other recipients of the substance of such restrictions in such form and manner as the Administrator determines is necessary to protect health and the environment including labeling requirements on such chemical substances or products containing such substances with appropriate warning provisions and directions for use and disposal; and (3) to require such other action as may be necessary to carry out such restrictions including recalling such product or substance from the market.

(b) In issuing such regulations the Administrator shall consider all relevant factors including—

(1) the effects of the substance on human health;

(2) the effects of the substance on the environment;

(3) the benefits of the substance for various uses;

(4) the normal circumstances of use;

(5) the degree to which the substance is released to the environment;

(6) the magnitude of exposure of humans and the environment to the substance; and

(7) the availability of less hazardous substitutes.

The Administrator shall specify in the order the date on which it shall take effect, which shall be as soon as feasible. To the extent possible, the manufacturer shall be responsible for supplying all necessary information for the Administrator to make findings under this subsection. All data relevant to the Administrator's findings shall be available to the public in accordance with section 115 of this title.

(c) Whenever the Administrator has good cause to believe that a particular manufacturer or processor is producing or processing a chemical substance not in compliance with a particular restriction on the use or distribution requiring reasonably consistent composition of such chemical substance—

(1) he may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance; and

(2) if he thereafter determines that such noncompliance is attributable to the inadequacy of the manufacturer's or processor's control procedures, he may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code order the manufacturer to revise such quality control procedures to the extent necessary to remedy such inadequacy.

IMMINENT HAZARD

SEC. 107. (a) An imminent hazard shall be considered to exist when the evidence is sufficient to show that the manufacture, processing, distribution, use, or disposal of a chemical substance will result in serious damage to human health or the environment prior to the completion of an administrative hearing or other formal proceeding held pursuant to this title.

(b) If the Administrator has reason to believe that an imminent hazard exists he may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to restrain the uses or distribution of the chemical substance responsible for the hazard, or to require that stocks of such substances be recalled by the manufacturer from wholesaler, retailers, and other distributors. The Administrator shall simultaneously, if he has not done so, propose any regulation which may be warranted under section 106 of this title.

SEIZURE

SEC. 108. (a) Any chemical substance which the Administrator finds (1) is manufactured, processed, distributed, used, or disposed of in violation of sections 103 or 106 of this title and (2) of itself constitutes an imminent hazard shall be liable to be proceeded against by the Administrator or the Attorney General on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found. Such substance shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury.

(b) Any substance condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States; but such substance shall not be sold under such decree contrary to the provisions of this title or the laws of the jurisdiction in which sold: *Provided*, That after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such substance shall not be sold or disposed of contrary to the provisions of this title or the laws of any State or territory in which sold, the court may by order direct that such substance be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of an officer or employee duly designated by the Administrator, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond.

(c) When a decree of condemnation is entered against the article, court costs and fees, and storage and other property expenses, shall be awarded against the person, if any, intervening as claimant of the article.

REPORTS

SEC. 109. (a) The Adminstrator shall require all manufacturers of chemical substances or processors, where appropriate, to submit reports to him annually and at such more frequent times as he may reasonably require containing any or all of the following—

(1) the names of any or all chemical substances produced, imported, or processed in commercial quantities by the manufacturer or processor thereof;

(2) the chemical identity and molecular structure of such substances insofar as is known;

(3) the categories of use of each such substance, insofar as they are known to him;

(4) reasonable estimates of the amounts of each substance produced or processed for each such category of use; and

(5) a description of the byproducts, if any, resulting from the production of each such substance, and insofar as they are known to him, from the processing, use, or disposal thereof.

The Administrator may, by regulation, exempt manufacturers or processors from all or part of the requirements of this section if he finds that such reports are not necessary to carry out the purposes of this title.

(b) Whenever the Administrator determines that such action would be necessary to allow him to carry out his responsibilities and authorities under this title, he may be publishing a notice in the Federal Register, invite and afford all interested persons an opportunity to provide in writing information respecting the human health or environmental effects of a chemical substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 110. (a) This title shall not apply to—

(1) economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act, and chemical substances used in such poisons, except that if a chemical substance which constitutes such a poison or such an ingredient is or may be used for any purpose which is not regulated by the Federal Insecticide, Fungicide, and Rodenticide Act, this title shall apply to such other uses;

(2) foods, drugs, devices, and cosmetics subject to the Federal Food, Drug, and Cosmetic Act, as amended, foods subject to the Federal Meat Inspection Act, the Egg Products Inspection Act, and the Poultry Products Inspection Act, and chemical substances used therein, except that if such an item or substance is or may be used for any purpose which is not regulated by such Acts this title shall apply to such other uses;

(3) any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission;

(4) except as otherwise provided for in title II of this Act, the transportation of hazardous materials insofar as it is regulated by the Secretary of the Department of Transportation;

(5) except for section 109 of this title, intermediate chemical substances, unless the Administrator finds that such chemical substances cannot be sufficiently regulated by the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended, to the extent necessary to protect health and the environment;

(6) except for section 109 of this title, any other chemical substance that the Administrator finds can be regulated more effectively by the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended, to the extent necessary to protect health and the environment;

(7) laboratory reagents, except those which there is reason to believe the manufacture, processing, distribution, use, or disposal of which may produce an unreasonable threat to human health or the environment;

(8) tobacco and tobacco products; and

(9) any extraction of any mineral deposit covered by the mining or minereal leasing laws of the United States, unless the Administrator finds, by regulation, that such extraction of such mineral deposit poses an unreasonable threat to human health or the

environment which cannot be effectively regulated under any other provisions of law.

(b) To the extent that such chemical substances are subject to regulation by other Federal laws, including the Occupational Safety and Health Act of 1970 and the Federal Hazardous Substances Act, as amended, the Administrator shall not regulate the use or distribution of a new or existing chemical substance on the basis of any possible hazard to employees in their place of employment, or the hazard directly to consumers resulting from the personal use, enjoyment, or consumption of marketed products which contain or might contain the substance.

(c) If it appears to the Administrator that any such substance may pose a hazard when transported, or when used on or in food or as a drug or cosmetic, or may be a hazard to employees in their place of employment, or may pose a hazard directly to consumers resulting from the personal use, enjoyment, or consumption of marketed products which contain or might contain the substance, he shall transmit any data received from manufacturers or processors or data otherwise in his possession which is relevant to such hazards to the Federal department or agency with authority to take legal action if a hazard is found to exist.

(d) The Administrator shall coordinate actions taken under this title with actions taken to implement the Federal Water Pollution Control Act and the Clean Air Act, and shall, where appropriate, use the authorities contained in such Acts to regulate chemical substances.

(e) The Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of other appropriate Federal agencies in administering the provisions of this title. The Administrator shall report annually to the Congress on actions taken to coordinate with other Federal agencies and actions taken to coordinate the authority under this title with the authority granted under other Acts referred to in this section.

(f) This title shall not be construed as superseding or impairing the provisions of any other law or treaty of the United States.

CHEMICAL SUBSTANCES BOARD

SEC. 111. (a) There shall be established in the Environmental Protection Agency a Chemical Substance Board (hereinafter referred to as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint members of the Board from a list of individuals recommended to him by the National Academy of Sciences, except that the Secretary of Health, Education, and Welfare shall appoint one member of the Board from whatever source he desires. Such Board shall include qualified scientists not more than one-third of which represent the chemical industry. None of the members of such Board, other than chemical industry representatives, shall have any significant economic interest in the chemical industry. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Thereafter, one-half of the members of the Board shall be appointed every two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The National Academy of Sciences, in consultation with the Board, shall maintain a list of qualified scientists, to assist in carrying out the provisions of this section. Such scientists may also be utilized as consultants to the Chemical Substances Board.

(c) Except as provided in section 104(b) of this title, before proposing any regulations under sections 103, 105, or 106 of this title, the Administrator shall refer his proposed action and the available evidence to a committee selected by the Administrator from members of the Board and the list of consultants to the Board, except that the Secretary of Health, Education, and Welfare may appoint one member of such committee from whatever source he desires. Concurrently with such referral, the Administrator shall publish in the Federal Register a notice of the referral identifying the proposed action. Such committee shall include qualified scientists not more than one-third of which represent the chemical industry. None of the members of such committee have a significant economic interest in the manufacturing, processing, distribution, or sale of any chemical substance which may, directly or indirectly, be affected by the proposed action. The committee shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines the extension necessary and such committee has made a good faith effort to report its views and reasons therefor within the initial forty-five day period. All such views shall be given due consideration by the Administrator. If the committee fails to report within the specified time, the Administrator may proceed to take action under this title. Subject to section 115 of this title, all proceedings and deliberations of such committees and their reports and reasons therefor shall be public record. The report of the committee and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(d) The Administrator may, at his discretion, also request the Board to convene a committee to consider other actions proposed to be taken under this title. In such case all provisions of this section shall apply.

(e) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(f) Members of the Board or committees who are not regular full-time employees of the United States shall, while serving on business of the Board or committee, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS–18 of the classified civil service, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH

SEC. 112. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this title. Such research and monitoring may be undertaken to determine proper test protocols and results to be obtained therefrom under section 103 of this title, determinations of what existing chemical substances might present unreasonable hazards under section 105 of this title, and such monitoring of chemical substances in man and in the environment as is otherwise necessary to carry out the purposes of this title. In addition, research may be undertaken to conform the results of tests required by this title. To the extent possible, such research and monitoring shall not duplicate the efforts of other Federal agencies or the research required of manufacturers under this title. In order to carry out the provisions of this section, the Administrator is authorized: (1) to make contracts and grants for such research and monitoring; and (2) to construct such research laboratories as may be necessary to carry out the purposes of this title (A) after fully utilizing the personnel, facilities, and other technical support available in other Federal agencies, (B) when authorized by the Congress to plan, design, and construct such laboratories, and (C) subject to the appropriation of funds for this purpose by the Congress.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 113. (a) (1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this title and otherwise facilitating the carrying out of his function under this title, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances are manufactured, processed, stored, held, or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipments data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this title); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of regulations issued under this title)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any other situation where a warrant is not constitutionally required.

(c) Issurance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this title, and seizures of property appropriate to such inspections. For the purposes of this subsection the term "probable cause" means a valid public interest in the effective enforcement of this title or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building, to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (a)(2) of this section to execute it. The warrant shall state the

grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, or building, identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS AND IMPORTS

SEC. 114. (a) Notwithstanding any other provision of this title, no chemical substance shall be deemed in violation of this title when intended solely for export to any foreign nation except that (1) test data which would be required to be submitted under section 104 or 105 of this title if such substance were produced for domestic use, shall be submitted to the Administrator in accordance with such sections; (2) such chemical substance shall be subject to the reporting requirements of section 109 of this title; and (3) no chemical substance may be exported if the Administrator by regulation finds that the chemical substance as exported and used will, directly or indirectly, pose an unreasonable threat to the human health of persons within the United States or the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 104 or 105 of this title, or restrictions on use or distribution have been imposed for a chemical substance under section 106 of this title, the Administrator, subject to section 115 of this title, shall furnish to the governments of the foreign nations to which such chemical substance may be exported (1) a notice of the availability of the data submitted to the Administrator under section 104 or 105 of this title concerning such chemical substance, and (2) any restrictions on use or distribution of such chemical substance that have been imposed or proposed by the Administrator under section 106 of this title.

(c) The Secretary of the Treasury shall refuse entry into the United States of any chemical substance or article containing such substance offered for entry if it fails to conform with regulations promulgated under this title. If a chemical substance or article is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or article refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regualtions as the Secretary of the Teasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or article pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and on refusal to return such substance or article for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (c) of this section.

CONFIDENTIALITY

SEC. 115. (a) Copies of any communications, documents, reports, or other information received or sent by the Administrator shall be made available to the public upon identifiable request, and at reasonable cost unless such information may not be publicly released under the terms of subsection (b) of this section.

(b) (1) The Administrator or any officer or employee of the Environmental Protection Agency or the Chemical Substances Board or committees established under section 111 of this title, shall not disclose any information which concerns or relates to a trade secret refererd to in section 1905 of title 18, United States Code, except that such information may be disclosed by the Administrator—

(A) to other Federal government departments, agencies, and officials for official use, upon request, and with reasonable need for such information;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

(D) if relevant in any proceeding under this title, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

(E) to the public in order to protect their health, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the manufacturer of any product to which the information appertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health).

In no event shall the names or other means of identification of injured persons be made public without their express written consent.

(2) Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter presently under consideration in a rulemaking or adjudicative proceeding in the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (b) of this section.

PROHIBITED ACTS

SEC. 116. The following acts and the causing thereof are prohibited—

(1) the failure to comply with any final regulation or order issued by the Administrator or the Secretary of the Treasury pursuant to this title;

(2) the failure or refusal to provide information as required by sections 104, 105, or 109 of this title;

(3) the manufacture, processing, sale, distribution, or importation into the United States of a chemical substance whenever such manufacture, processing, sale, distribution, or importation is known to be or should have been known to be for a use in violation of regulations promulgated under section 103 or 106 of this title, and the use, including disposal, of any such substance when such use or disposal is known or should have been known to be in violation of such regulations; and

(4) the failure of any person who purchases or receives a chemical substance and who is required to be given notice of restrictions on use or distribution of such substance pursuant to paragraph (2) of section 106(a) of this title, to comply with such restrictions on use or distribution.

PENALTIES AND REMEDIES

SEC. 117. (a) Any person willfully violating section 116 of this title shall on conviction be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

(b) (1) Any person not willfully violating section 116 of this title shall be liable to the United States for a civil penalty of a sum which is not more than $25,000 for each day of violation, to be assessed by the Administrator after notice and opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

(2) Upon failure of the offending party to pay the civil penalty, the Administrator may commence an action in the appropriate district court of the United States for such relief as may be appropriate or request the Attorney General to commence such an action.

(c) The Attorney General or the Administrator may bring an action in the appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of section 116 of this title, and the district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

CITIZEN CIVIL ACTION

SEC. 118. (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any regulation or order promulgated under section 103 or 106 of this title, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, with-

out regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation (1) to the Administrator, and (ii) to any alleged violator of the regulation or order, or

(B) if the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the regulation or order, but in any such action any person may intervene as a matter of right.

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator, except that such action may be brought ten days after such notification in the case of an action under this section for the failure of the Administrator to act under section 107 of this title. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any regulation or order or to seek any other relief.

(f) For purposes of this section, the term "person" means an individual, corporation, partnership, association, State, municipality, or political subdivision of a State.

(g) When any actions brought under this subsection involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 119. The Environmental Protection Agency shall in cooperation with the Council on Environmental Quality and other Federal agencies develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 120. Upon request by the Administrator, each Federal agency is authorized—

(a) to make its services, personnel, and facilities available with or without reimbursement to the greatest practicable extent within its capability to the Administrator to assist him in the performance of his functions; and

(b) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this title.

HEALTH AND ENVIRONMENTAL DATA

SEC. 121. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access to information respecting such materials.

STATE REGULATIONS

SEC. 122. (a) Nothing in this title shall affect the authority of any State or local government to restrict the use or distribution of any chemical substance, or to establish and enforce standards for test protocols for various classes and uses of chemical substances, and for the results that must be achieved therefrom, to protect human health or the environment, except that—

(1)(A) if the Administrator has published proposed regulations under section 106 of this title restricting the use or distribution of a chemical substance, a State or local government may not for purposes similar to this title thereafter impose restrictions on the use or distribution of such substance other than a total ban;

(B) if the Administrator has published proposed regulations under section 103 of this title applicable to any chemical substance a State or local government may not establish standards for test protocols and results that must be achieved therefrom for such substance for purposes similar to this title;

(2)(A) if the Administrator issues a final regulation under section 106 of this title restricting the use or distribution of a chemical substance a State or local government may not enforce any such restriction of its own for purposes similar to this title after the effective date of such regulation, other than a total ban on use or distribution; and

(B) if the Administrator issues a final regulation under section 103 of this title a State or local government may not enforce any standards for test protocols and the results to be achieved therefrom after the effective date of such regulation.

(b) Publication by the Administrator of proposed regulations under section 103 or 106 of this title shall not affect the authority of a State or local government to enforce standards for test protocols and results that must be achieved therefrom, or any restrictions on the use or distribution of any chemical substance, or its byproducts, in effect at the time any such proposed regulation is published.

(c) The Administrator may by regulation, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section with respect to a chemical substance if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

REGULATIONS, PROCEDURE, AND JUDICIAL REVIEW

SEC. 123. (a) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this title and to amend or rescind such regulations at any time.

(b) The Administrator shall publish any regulations proposed under this title in the Federal Register at least sixty days prior to the time when such regulations shall become final. The Administrator shall also publish in the Federal Register a notice of all petitions received under subsection (a) and, if such petition is denied, his reasons therefore. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data, views, or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(c) Proposed and final regulations issued under this title shall set forth findings of fact on which the regulations are based and the relationship of such findings to the regulations issued.

(d) Any judicial review of final regulations promulgated under this title and final actions under section 104(c) of this title shall be in accordance with section 701–706 of title 5, United States Code, except that (1) with respect to regulations promulgated under sections 103, 105, or 106 of this title, the findings of the Administrator as to the facts shall be sustained if based upon substantial evidence on the record considered as a whole, and (2) with respect to relief pending review, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay (a) is likely to prevail on the merits in the review proceeding and (b) will suffer irreparable harm pending such proceeding.

(e) Except as expressly modified by the provisions of this section, the provisions of the Administrative Procedures Act (5 U.S.C. 551 et seq.), shall apply to proceedings conducted by the Administrator under this title.

(f) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either (1) that the information is material and was not available at the time of the proceeding before the Administrator or (2) that failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

NATIONAL SECURITY WAIVER

SEC. 124. The Administrator may waive compliance with the provisions of this title, in whole or in part, upon receiving information from the Secretary of Defense that such waiver is in the interest of national security. Upon the issuance of such a waiver the Administrator shall publish in the Federal Register a notice that the waiver was granted for good cause shown by the Secretary of Defense in the interest of national security, unless the Administrator has been requested by the Secretary of Defense to omit such publication because the publication

would be contrary to the interests of national security.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 125. (a) There is hereby authorized to be appropriated such sums as may be necessary, but not to exceed $6,300,000, $10,400,000, and $9,600,000 for the fiscal years ending on June 30, 1973, June 30, 1974, and June 30, 1975, respectively, for the purposes and administration of this title. No part of the funds so authorized to be appropriated shall be used to plan, design, or construct any research laboratories unless specifically authorized by the Congress by law.

(b) To help defray the expenses of implementing the provisions of this title, the Administrator may by regulation require the payment of a reasonable fee from the manufacturer of each chemical substance for which test data has been submitted under this title.

TITLE II—TRANSPORT OF HAZARDOUS CHEMICAL SUBSTANCES ON NAVIGABLE WATERS

SEC. 201. In order to protect the navigable waters of the United States and the resources therein from environmental harm resulting from the transportation of hazardous chemical substances, the Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the "Secretary") after notice from the Administrator of the Environmental Protection Agency of potential environmental harm from such transport, and in consultation with the Administrator of the Environmental Protection Agency, may—

(1) establish, operate, and maintain vessel traffic services and systems for ports, harbors, and other waters used for the transportation of hazardous chemical substances;

(2) require vessels which are engaged in the transportation of hazardous chemical substances to utilize or comply with that service or system, including the carrying or installation of electronic or other devices necessary for the use of the service or system;

(3) control the traffic of vessels which are engaged in the transportation of hazardous chemical substances by—

(i) specifying times of entry, movement, or departure to, from, within, or through ports, locks, canals, harbors, or other waters;

(ii) establishing vessel traffic routing schemes;

(iii) establishing vessel size and speed limitations and operating conditions; and

(iv) restricting the operation of vessels engaged in the transportation of hazardous chemical substances to those vessels which have particular operating characteristics and capabilities which he considers necessary for safe operation under the circumstances;

(4) direct the anchoring, mooring, or movement of a vessel when necessary to reduce the risk of environmental harm from the hazardous chemical substance being transported;

(5) establish procedures, measures, and standards for the handling, loading, discharge, storage, stowage, and movement, including the emergency removal, control, and disposition, of hazardous chemical substances; and

(6) establish procedures for examination to assure compliance with the provisions of this title.

SEC. 202. In the exercise of his authority under this title, the Secretary shall consult with other Federal agencies, as appropriate, in order to give due consideration to their statutory and other responsibilities, and to assure consistency of regulations applicable to vessels and areas covered by this title. The Secretary may also consider, utilize, and incorporate regulations or similar directory materials issued by port or other State, Federal, and local authorities, including, but not limited to, the Office of Emergency Preparedness, the Corps of Engineers, and the Coast Guard.

SEC. 203. The Secretary may investigate any incident, accident, or act involving actual or potential harm to the navigable waters or the resources therein resulting from the transportation of hazardous chemical substances anywhere in the United States. In any investigation under this title, the Secretary may issue a subpoena to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpoena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

SEC. 204. The Secretary may, at any time, report to the Congress his recommendations for legislation which may be necessary to achieve coordination and/or eliminate duplication between the functions authorized by this title and the functions of any other agencies.

SEC. 205. A vessel used or employed in violation of a regulation under this title, shall be liable in rem and may be proceeded against in any district court of the United States having jurisdiction.

SEC. 206. Whoever willfully violates a regulation issued under this title shall be fined not less than $1,000 nor more than $100,000 or imprisoned for not more than one year, or both.

SEC. 207. Nothing contained in this title shall apply to the Saint Lawrence Seaway or to the Panama Canal.

The title was amended, so as to read: "A bill to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes."

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the passage of this measure, S. 1478, concerning the control of hazardous substances, marks in the Senate another exemplary achievement for the able and distinguished chairman of the Commerce Committee, the Senator from Washington (Mr. MAGNUSON). It marks as well a truly great accomplishment for the distinguished Senator from Virginia (Mr. SPONG) who so expeditiously guided this important measure through to successful completion. It marks another occasion where the support and assistance of the distinguished senior Senator from Michigan (Mr. HART) was indispensable. It was the skill and knowledge of all three Senators that contributed to the success of this all-important legislation designed to protect the consumers of the Nation. As is so often the case with major matters where public and private interests appear to conflict, the task of carving out legislation is not easy and the issues never uncomplicated. It is with great appreciation, therefore, that I rise to commend the chairman and the entire Commerce Committee for a job well done.

Especially to be commended as I noted already is the Senator from Virginia (Mr. SPONG) for his capable and articulate support of the measure before the Senate and the expertise which he displayed in the debate. As always, Senator SPONG presented his views with sincerity and clarity and we are indebted to him for his contribution to our understanding of the bill.

As ranking minority member of the Commerce Committee, the extremely capable and distinguished Senator from New Hampshire (Mr. COTTON) is to be commended. His advice and help both in committee and on the floor of the Senate were invaluable and I wish to thank him for aiding in the effort to have the Senate work its will in this instance.

The Senator from Tennessee (Mr. BAKER) also is to be singled out for special commendation for the expression of his thoughtful and strongly held opinions. His contributions to the debate are greatly appreciated. I also wish to thank again the Senator from Michigan (Mr. HART) for his outstanding assistance, his comments and observations. As the chairman of the subcommittee, his leadership, as always, was most welcome.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11350) to increase the limit on dues for U.S. membership in the International Criminal Police Organization; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. EDWARDS of California, Mr. CONYERS, and Mr. WIGGINS were appointed managers on the part of the House at the conference.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER. Pursuant to the previous order, the Chair lays before the Senate the unfinished business, which will be stated.

The legislative clerk read as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Amendment No. 1176, by the Senator from Colorado (Mr. DOMINICK), which will be stated.

The second assistant legislative clerk read as follows:

On page 27, line 16, strike out "$31,995,000" and insert in lieu thereof "$32,000,000".

On page 27, strike out lines 17 through 24.

The PRESIDING OFFICER. On this amendment, time is limited to one hour and a half, equally divided between both sides.

Mr. DOMINICK. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the time to be charged equally against both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMINICK. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 10 minutes.

Mr. DOMINICK. Mr. President, my amendment is cosponsored, I am happy to say, by the distinguished senior Senator from Texas (Mr. TOWER), the distinguished junior Senator from Texas (Mr. BENTSEN), the distinguished Senator from Florida (Mr. GURNEY), the distinguished Senator from Arizona (Mr. GOLDWATER), the distinguished Senator from New York (Mr. BUCKLEY), the distinguished Senator from Nevada (Mr. CANNON), the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), the distinguished Senator from New Hampshire (Mr. MCINTYRE), and the distinguished Senator from Utah (Mr. BENNETT).

It is a fairly diverse group geographically, a group that I think will carry considerable weight and one that will have looked at this situation as have I to see what is wrong with the proposal as it came from the committee.

Mr. President, my amendment No. 1176 to the Foreign Relations Authorization Act of 1972, S. 3526, delegates the $9,995,000 added to the fiscal year 1973 Arms Control and Disarmament Agency—ACDA—authorization for seismic research; and in so doing would leave this program and necessary funds in the Defense Military Procurement authorization bill, where it has been proposed in the budget as a continuing responsibility of the Advanced Research Projects Agency—ARPA. This research, in other words, has been carried on there before and will be carried on there in the future. It is in the budget, and it would be a continuing responsibility.

The transfer of the Seismic Research program from ARPA to ACDA has been proposed in S. 3526, as I understand it, because its sponsors consider this transfer essential to the achievement of an underground nuclear test ban treaty. I do not agree with this promise. As a matter of fact, while my opposition is based on a much broader set of facts, than just that and, as I will explain, I would like to make the point now that the even jeopardize rather than enhance such a test ban treaty.

It is true that former Arms Control and Disarmament Agency Assistant Director Adrian Fisher, when he appeared before the Committee on Foreign Relations on March 16, 1972, stated that "continuing to place full responsibility for all seismic research in the Defense Department has presented certain intellectual conflicts of interest—responsibility for developing nuclear weapons while refining the capability to monitor a nuclear test ban treaty. However, he also went on to state that ACDA might be in the same position of an intellectual conflict of interest in its efforts to find ways in which a determined evader could avoid detection. This would be conducted by the Arms Control and Disarmament Agency under the evasion research program proposed for transfer from ARPA.

The committee report on page 90, which refers to the statement by Mr. Fisher, who, incidentally, is Vice President of the Arms Control Association, is incomplete since it conveys only one aspect of his position. The committee report quotes him as saying:

> With the greatest personal respect for all concerned in conducting that research, I must say that they have been put in a somewhat conflicting position. The DOD is an agency charged with developing and maintaining a nuclear weapons arsenal, and naturally looks at U.S. security from the point of view of the continuing refinement of our weapons capability; at the same time it is given the responsibility for finding ways to refine our capability to monitor an agreement which would make it impossible for us to acquire and develop more and better nuclear weapons.

However, in his subsequent remarks, which are included in the hearings transcript, but are glaringly omitted from the committee report, Mr. Fisher qualifies this by stating:

> At the same time, however, we recognized full well the many practical problems which the Disarmament Agency would inherit, were it to take over and operate the seismic research program of the Department of Defense, not to mention the additional difficulties inherent in taking on programs requiring extensive logistic support from other agencies—a problem the DOD does not face. Furthermore, the Agency would have assumed not only an enormously complex operational project but also the burden of asking for funds from what—let's face it—has often been a Congress somewhat resistant to applications for research funding for ACDA on the same scale that it would more readily grant such funds to the Department of Defense. I don't need to remind the Senators present of the legislative history behind the creation of this agency and the reviews that took place in this and in the companion committee of the House in the early years of its operation. Quite frankly, at that time we were willing, if reluctantly so, to leave the funding for seismic research in the Department of Defense as the price for a fair assurance that the program would be adequately funded. If it is now decided to transfer Defense Department funds to ACDA it is important to understand that the program must not only be supported this year but in future years as well.

In my opinion, this does not make any kind of clear case to transfer the program from ARPA to ACDA.

Mr. President, what perhaps is the weakest link in the arguments to transfer this function is the unequivocal opposition of ACDA to the proposed transfer, as stated by its director, Gerard Smith. His views were expressed in a letter dated March 23, 1972 to Senator CASE, responding to the Senator's proposal. Although this letter is alluded to on page 91 o the Foreign Relations Committee Report No. 92–754, on S. 3526, it is passed over in just a single sentence stating that it contains ACDA views in opposition. Mr. Smith's letter appears on page 42 of the ACDA authorization hearings.

Because of its importance to this issue, Mr. President, I ask unanimous consent that Mr. Smith's letter to Senator CASE be printed at this point in the RECORD so that the full Senate may have the benefit of the explicit views of the Director of ACDA.

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

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

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, D.C., March 23, 1972.

DEAR SENATOR CASE: This is in response to your request for comments on your proposal that the Arms Control and Disarmament Agency be given responsibility for the seismic research now carried out by the Advanced Research Projects Agency.

In 1959 ARPA was assigned primary responsibility for research on seismic detection and identification and since then has expended some $250 million in connection with this activity. ACDA has followed this program very closely and has been given full access to the information resulting from this research. The ACDA staff includes a number of scientists who are highly qualified to evaluate independently ARPA's research findings. It has been and continues to be our considered judgment that this program has been well handled and that arms control requirements in this area are being met by the ARPA research effort. It should be recognized that ARPA has supported the research that has produced practically all of the advances in detection and identification technology over the past ten years. Moreover, we have been assured that ARPA does not plan to phase out this research and will continue an active program in the future to improve our detection and identification capabilities and investigate countermeasures against possible evasion techniques.

ARPA's seismic research is designed not only to serve the U.S. effort to develop a capability to verify a possible treaty banning underground nuclear tests, but also to improve our capabilities to monitor underground nuclear testing that is being conducted in the absence of such a ban. The latter mission was one of the "safeguards" undertaken in connection with our ratification of the Limited Test Ban Treaty. The Defense Department, of course, has a special interest in, and responsibility for, this mission. Since the same research program serves both purposes, I believe these two missions should be kept in mind in assessing the ARPA programs. In this connection, I would like to point out that ACDA's interest in technical developments in this field parallels our interest in other technical intelligence capabilities which are developed by the Department of Defense and which, by increasing U.S. unilateral capabilities, open up new possibilities for arms control.

While the results of the ARPA research program have been available to us, we have not sought to participate formally in the details of program planning and budgeting for ARPA research since the program was proceeding to our satisfaction, and there has been ample opportunity to suggest changes in ARPA programs. We have recently strengthened our staff in this field, and we plan to work closely with ARPA in the development of their on-going seismic research program. Looking to the future, ARPA assures us that ACDA is welcome to play an active role in all phases of the planning and evaluation of the ARPA seismic research program.

In assessing the practical consequences of your proposal, I believe that a transfer to ACDA would entail some very serious problems that could adversely affect ACDA as well as the seismic research program. These problems are pointed up by the fact

that transferring the ARPA Seismic research program to ACDA would double the ACDA annual budget. Taking over management of this research program in ACDA would impose a large additional task on ACDA that could interfere with other priority activities. This does not take into account the substantial additional effort that would be involved if we were to undertake responsibility for the installation and operation of the multi-million dollar seismic network to which you referred in your letter. Finally, significant supporting resources are available to ARPA within the Department of Defense which would not be available to ACDA to support an added research effort.

I should also point out that the amendment to the ACDA Act that you enclosed with your letter to me would earmark a specific amount, which is roughly the same as our proposed FY 73 budget, for seismic research. If the total amount authorized by our authorization bill so amended should not be appropriated by the Congress, our funds for current efforts, including SALT, would be reduced while the funds for seismic research would be preserved intact.

In summary, I do not see compelling reasons favoring the transfer you propose and I foresee many serious problems. I regret therefore not to be able to support this proposal.

Sincerely,

GERARD SMITH, *Director.*

Mr. DOMINICK. Mr. President, I think I should emphasize a portion of this letter. He summarizes his opinion on page 3 of his letter as follows:

In summary, I do not see compelling reasons favoring the transfer you propose and I foresee many serious problems. I regret therefore not to be able to support this proposal.

Mr. President, Mr. Smith is well known to many of us, and most certainly to me. He had just successfully completed the negotiations on SALT, which were signed in Moscow. He is an extremely capable and able man, and when he states, as he does in his letter in detail, the reasons why the transfer for seismic research should not be made to ACDA, I think we should take a very careful look at his opinion. Obviously the Senate is not bound by his opinion, but if the head of that agency that is to be given this program says, "I do not want it, we cannot handle it, and we do not have the ability to take care of it," what in the world are we doing by putting it in there?

Mr. President, the Department of Defense is also strongly opposed to this measure. Dr. John S. Foster, Jr., Director of Defense Research and Engineering, on May 2, 1972, wrote to the Senator from Mississippi (Mr. STENNIS) stating the Department's position.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the letter dated May 2, 1972.

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

DIRECTOR OF DEFENSE,
RESEARCH AND ENGINEERING,
Washington, D.C., May 2, 1972.

Hon. JOHN C. STENNIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STENNIS: I understand that an amendment is being introduced to the Military Procurement Authorization bill for fiscal year 1973 which would delete $9,995,000 for the ARPA VELA seismic research program; and that S. 3526 which provides authorization for the Arms Control and Disarmament Agency (ACDA) has been reported by the Senate Foreign Relations Committee adds this program and related funds to the authorization for that Agency. It is also my understanding that ACDA opposes this transfer. I would like to add my strongest opposition too.

This program shows every promise of being eminently successful. It has begun to define the limits of applicability of seismic means to the verification of a comprehensive test ban treaty. Clearly, the problems of identifying events of low seismic magnitudes and the potentialities of evasion techniques must continue to be taken into account in our future work, and you may rest assured that the Defense Department is continuing to give the matter its most earnest attention.

We have always viewed this program as one that is national in its scope and implications. At the same time, the program has supported Defense Department responsibilities for monitoring the terms of the Limited Test Ban Treaty and for the collection of information related to foreign nuclear developments. Thus working relationships, which include close coordination of the ARPA seismic research program, between the Department and other agencies concerned with various aspects of the program, including the Arms Control and Disarmament Agency, the Atomic Energy Commission, the Departments of Commerce and Interior have been established. These have been enormously helpful in the past and will, of course, be continued.

In continuing the VELA program, we will direct the program to the following tasks:

Categorize the geographical areas which give rise to anomalous seismic events and understand the mechanism of those events with a view to reducing the false alarm problem.

Design a worldwide seismic monitoring network utilizing options generated by previous VELA seismic research including automatic data processing of the large number of events at low seismic magnitude.

Develop treaty evasion and evasion countermeasures concepts for incorporation into the design of seismic systems and consider the impact of non-seismic means to deter the use of potential evasion techniques.

As you observe, the thrust of our future research will be directed toward urgent and relevant questions concerned with verifying a Comprehensive Test Ban Treaty. We believe that this is an important function of the Department charged with national security and one which should not be delegated. The Department of Defense has every intention, therefore, of pursuing these activities vigorously and to allocate the appropriate funding. I also have every confidence that the quality and relevance of the research will be consistent with the Advanced Research Projects Agency's excellent record in the VELA program to date.

Sincerely,

JOHN S. FOSTER, Jr.

Mr. DOMINICK. It is helpful here to point out a few of the statements made by Dr. Foster in the letter.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMINICK. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMINICK. Mr. President, Dr. Foster stated in his letter of May 2, 1972:

It is also my understanding that ACDA opposes this transfer. I would like to add my strongest opposition too.

This program shows every promise of being eminently successful. It has begun to define the limits of applicability of seismic means to the verification of a comprehensive test ban treaty. Clearly, the problems of identifying events of low seismic magnitudes and the potentialities of evasion techniques must continue to be taken into account in our future work, and you may rest assured that the Defense Department is continuing to give the matter its most earnest attention.

Mr. President, I point that out because it seems apparent, extrapolating from my speech for a moment, that if we are going to have a realistic SALT agreement, and I think we have one, the seismic research to maintain assurance to the people of the United States that this is not being violated by the Soviet Union is of enormous importance. At the same time, while we are not only monitoring that, we also are doing our best to assure a reasonable defense effort so far as the United States is concerned. So the Department of Defense is in this matter for the security of our country, and to transfer this program after all this work and put it under ACDA makes no sense to me.

I do not understand, Mr. President, why the Committee on Foreign Relations proposes to transfer a program from one agency of the Government to another where both agencies are flatly opposed to such a move, and when the programs involved are successful and have been managed to the complete satisfaction of both agencies for over 10 years.

Now, Mr. President, I would like to address some of the major problems that would be created by the proposed transfer.

The committee report states that the "proposed shift in responsibilities should not present many practical difficulties." This is a gross misstatement of the facts and is a point over which former ACDA Assistant Director Fisher, and present Director Smith both expressed concern. I would like to provide the relevant background information on this point, information that I derive from the thorough review of this and other Defense Department programs as part of the activity of the R. & D. Subcommittee of the Armed Services Committee. During fiscal year 1972 the program in question was funded at a level of $14,172,000. These funds were used for about 65 separate projects involving 42 different organizations, and including 16 universities, four not-for-profits, 14 industrial organizations, three DOD in-house laboratories, and five other government agency in-house laboratories.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a list of these projects in all their detail.

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

VELA RESEARCH FUNDING

[In thousands of dollars]

	Fiscal year—	
	1972	1973
Seismic verification:		
Funded through other Defense agencies	9,606	7,405
Funded through non-Defense agencies	None	None
Foreign contractors	[1] (808)	[1] (860)
Evasion research:		
Funded through other Defense agencies	3,303	1,750
Funded through non-Defense agencies	1,263	840
Foreign contractors	None	None
Total	14,172	9,995

[1] Funded through other Defense agencies.

LIST OF ARPA PERFORMING AGENCIES

DEFENSE AGENCIES

AFOSR—Air Force Office of Scientific Research
AFTAC—Air Force Technical Applications Center
AFSC/ESD—Air Force Systems Command/Electronics System Division
DNA—Defense Nuclear Agency
COE—U.S. Army Corps of Engineers
AFWL—Air Force Weapons Laboratory
DSSW—Defense Supply Service—Washington
DCA—Defense Communications Agency
ARO-A—Army Research Office—Arlington
RADC—Air Force Rome Air Development Center
ONR—U.S. Navy Office of Naval Research
NRL—U.S. Navy Naval Research Laboratory
AFCRL—Air Force Cambridge Research Laboratory

NON-DEFENSE AGENCIES

AEC/DMA—U.S. Atomic Energy Commission/Division of Military Applications
USGS—U.S. Geological Survey
NSF—National Science Foundation
NASA—National Aeronautical and Space Administration

SEISMIC VERIFICATION—CONTRACTED THROUGH OTHER DEPARTMENT OF DEFENSE AGENCIES

Contractor	Title	DOD agency	Date of initiating ARPA order	Funded to—	Funding (in thousands) Fiscal year 1972 committed	Fiscal year 1973 proposed	To be continued after fiscal year 1973
Columbia University	Strong motion network and a review of existing seismic data.	AFOSR	February 1972	Apr. 30, 1973	$62	$50	Yes.
Cal Institute of Technology	Field studies using near field long period stations	AFOSR	do	do	101	50	Yes.
University of Washington	Long period station, and review of existing data	AFOSR	do	Mar. 31, 1973	97	50	Yes.
University of Nevada	Long period stations—Near field studies	AFOSR	do	do	111	50	Yes.
Systems Science and Software	Numerical model of earthquake sources	AFOSR	do	May 31, 1973	72	0	Yes.
Texas Instruments	Computer determination of fault dislocation motions	AFOSR	do	June 30, 1973	51	0	Yes.
University of Michigan	Review of existing short period data	AFOSR	do	May 31, 1973	39	40	Yes.
Southern Methodist University	Long period signal/noise improvement	AFOSR	November 1962	Apr. 1, 1973	90	100	Yes.
Columbia University	Identification studies using long period seismic data	AFOSR	February 1972	June 30, 1973	313	150	Yes.
National Oceanic and Atmospheric Administration.	Very long period seismic experiment	AFOSR	do	do	546	100	Yes.
Teledyne Geotech	VELA Seismic Center, operation and research	AFTAC	October 1964	Oct. 31, 1972	650	650	Yes.
Do	Long period seismic measurements	AFTAC	do	Sept. 1, 1972	100	225	Yes.
Do	Tonto Forest Seismic Observatory and VELA Seismic Center support.	AFTAC	do	June 30, 1973	150	100	Yes.
Philco-Ford	Montana LASA operations	AFTAC	September 1967	Dec 31, 1972	1,000	1,030	Yes.
Teledyne Geotech	Retrofit ALPA for very long period capability	AFTAC	April 1971	July 1, 1972	250	0	No.
Teledyne Corp	SAAC large array analysis and evaluation	AFTAC	January 1971	Dec. 31, 1972	1,008	1,000	Yes
IBM	Computer-peripheral equipment rental and maintenance.	AFTAC	October 1971	Dec. 1, 1972	492	215	No.
IBM	Computers for SAAC/SDL	AFTAC	February 1972	NA	481	0	No.
Texas Instruments	Long period array—Network evaluation	AFTAC	April 1971	Apr. 1, 1973	400	375	Yes.
MIT, Lincoln Labs	Seismic identification research	AFSC/ESD	October 1963	Sept. 30, 1972	1,015	1,000	Yes.
Norwegian Council for Scientific and Industrial Research	NORSAR seismic data collection	AFSC/ESD	September 1970	June 30, 1973	760	810	Yes.
IBM	NORSAR seismic data processing research	AFSC/ESD	June 1966	Oct. 15, 1972	500	0	No.
University of Bergen	Long period seismic experiment site preparation, Norway.	AFOSR	February 1972	Mar. 31, 1973	9	10	Yes.
San Calixto Observatory	Very long period seismic station, La Paz, Bolivia	AFOSR	do	May 1, 1973	18	0	Yes.
Spanish Seismological Observatory	Very long period seismic station, Toledo, Spain	AFOSR	do	do	10	0	Yes.
California Institute of Technology	Study of seismic phenomena related to earthquakes and explosions.	AFOSR	June 1963	Apr. 30, 1973	116	100	Yes.
MIT	Diagnostic techniques with the large seismic arrays	AFOSR	December 1970	Dec. 31, 1972	152	200	Yes.
DIAX Inc	Engineering feasibility study of "block accelerometer"	AFOSR	February 1972	Oct. 31, 1972	107	0	No.
MIT	Evaluation of the near field experiment	AFOSR	do	Aug. 31, 1973	5	0	Yes.
NOAA	Fault displacement sensors	AFOSR	do	May 31, 1973	40	0	No.
University of California, Berkeley	Accelerometer array for seismic studies close to explosions.	AFOSR	do	Apr. 30, 1973	80	0	Yes.
University of Helsinki	Compression wave power spectrum from seismic sources.	AFOSR	do	June 30, 1973	11	10	Yes.
Informatics	Soviet and Chinese R. & D. in geophysics	AFOSR	May 1970	Dec. 31, 1972	47	240	Yes.
Bolt Beranek & Newman	SAAC-ARPA network interface equipment	DSSW	December 1971	Dec. 30, 1972	225	200	No.
RAND	Analysis of Soviet R. & D. in geophysics	DSSW	October 1970	Dec. 31, 1972	206	250	Yes.
Teledyne Geotech	Large array data processing	ONR				100	Yes.
ITT	Large array data links	DCA	January 1968	Oct. 31, 1972	292	300	Yes.
Total					9,606	7,405	

SEISMIC VERIFICATION—CONSOLIDATED LIST OF FOREIGN CONTRACTORS

Norwegian Council for scientific and industrial Research.	NORSAR seismic data collection	AFSC/ESD	September 1970	June 30, 1973	$760	$850	Yes.
University of Helsinki	Compression wave power spectrum from seismic sources.	AFOSR	February 1972	do	11	10	Yes.
University of Bergen	Long period seismic experiment site preparation, Norway.	AFSOR	do	Mar. 31, 1973	9	10	Yes.
San Calixto Observatory	Very long period seismic station—La Paz, Bolivia	AFOSR	do	May 1, 1973	18	0	Yes.
Spanish Seismological Observatory	Very long period seismic station—Toledo, Spain	AFOSR	do	do	10	0	Yes.
Total					808	870	

EVASION RESEARCH—CONTRACTED THROUGH OTHER DEPARTMENT OF DEFENSE AGENCIES

Stanford Research Institute	Field testing of stress measurement gauge	DNA	August 1970	May 1, 1973	$106	0	No.
Systems, Science, and Software	Computer code calculations utilizing the inhomogeneities of the materials of the earth.	DNA	April 1969	Feb. 15, 1973	275	$175	Yes.
TRW Corp	Development of instrument for measuring strain in rock.	DNA	do	Dec. 31, 1972	68	0	No.
Science Applications Inc	Conversion of radiation transport code to ILLIAC computer usage.	DNA	October 1971	Mar. 9, 1973	100	75	No.
Iowa State University	Test and evaluation of triaxial seismometer	DNA			0	30	No.
Systems, Science, and Software	Seismic source functions	DNA			0	100	Yes.
Not selected	Adapting an evasion code to ILLIAC IV	DNA			0	160	Yes.
Do	Seismic radiation from a nuclear explosion	DNA			0	250	Yes.
Pacific Sierra Corp	Quantitative evaluation of the possibilities of evasion	DNA	March 1971	Mar. 15, 1973	197	250	Yes.
Defense Nuclear Agency	Tamped nuclear explosion calibration experiment for cavity evasion techniques.	DNA	December 1972	Dec. 31, 1972	1,750	0	Yes.
University of Michigan	Close in seismic measurements for tamped nuclear explosion in tuff.	AFOSR	February 1972	June 14, 1972	71	75	Yes.
General Atronics Corp	The separation of mixed seismic events	AFOSR	May 1970	June 30, 1972	121	0	No.
University of Michigan	Seismic measurements for the demonstration of nuclear evation technique.	AFOSR	February 1970	June 14, 1972	25	0	Yes.
U.S. Geological Survey	Close in seismic measurements for tamped nuclear explosion in tuff.	AFOSR	February 1972	Aug. 31, 1972	15		Yes.

EVASION RESEARCH—CONTRACTED THROUGH OTHER DEPARTMENT OF DEFENSE AGENCIES—Continued

Contractor	Title	DOD agency	Date of initiating ARPA order	Funded to—	Funding (in thousands) Fiscal year 1972 committed	Fiscal year 1973 proposed	To be continued after fiscal year 1973
National Oceanic and Atmospheric Administration.	Close in seismic studies for tamped nuclear explosion in tuff.	AFOSR	March 1971	March 15, 1973	7	0	Yes.
Terra Tech Corp	Measurement of in situ stress in rock	AFWL	September 1969	May 1, 1973	116	0	No.
New Mexico Institute of Mining and Technology.	The modeling of the propagation of fractures in rock	AFWL	July 1970	Oct. 1, 1972	55	0	No.
Corps of Engineers	Identification of possible underground nuclear test sites in the U.S.S.R.	COE	September 1969	June 30, 1972	18	0	No.
Texas A & M University	The effect of variable strain rates on the transmission of seismic waves.	COE	September 1967	Oct. 31, 1973	53	20	No.
U.S Army Cold Regions Research and Engineering Laboratory.	Investigations of the seismic properties of permafrost	COE	March 1970	June 30, 1972	20	75	Yes.
Terra Tech Corp	do	COE	December 1971	Dec 31, 1972	60	0	No.
Teledyne Geotech	Counter evasion methods	AFTAC	October 1964	Oct. 31, 1972	100	100	Yes.
Science Applications, Inc	Conversion of 3-Dimensional explosion code to ILLIAC computer usage	NRL	December 1971	Dec. 13, 1972	66	0	No.
City University of New York	The effect of pore pressure on the strength of rock	ARO-A	March 1969	Oct 30, 1972	32	0	No
American Electronics Laboratory	Evaluation of an evasion technique by hiding in an earthquake.	AFCRL			0	100	Yes
Texas Instruments, Inc	An evaluation of potential evasion techniques	AFRADC	May 1971	June 9, 1972	48	340	Yes.
Subtotal, DOD agents					3,303	1,750	

EVASION RESEARCH—CONTRACTED THROUGH NON-DEPARTMENT OF DEFENSE AGENCIES

University of California, Lawrence Livermore Laboratory.	Research into evasion techniques	AEC/DMA	April 1970	June 30, 1972	$230	$250	Yes.
Do	Evaluation of clandestine nuclear test scenarios	AEC/DMA	July 1966	do	193	200	Yes.
Do	Adaptation of shock code to ILLIAC computer usage	AEC/DMA	April 1971	June 30, 1973	140	0	No.
U.S. Geological Survey	Search for clandestine nuclear test sites in the U.S.S.R.	USGS	January 1972	do	273	0	Yes.
Do	Studies on foreign nuclear explosions	USGS			0	110	Yes.
National Academy of Sciences	NAS consulting on rock mechanics	NSF	September 1969	Jan. 1, 1973	10	10	No.
NASA	ILLIAC computer operations	NASA/AMES	March 1971	June 1, 1972	417	270	Yes.
Total, non-DOD agents					1,263	840	

Organization	Personnel involved	Agency fees (thousands)
OTHER DEFENSE AGENCIES		
AFOSR—Air Force Office of Scientific Research	7	$12
AFTAC—Air Force Technical Applications Center	32	22
AFSC/ESD—Air Force Systems Command/Electronics Systems Division	8	10
AFWL—Air Force Weapons Laboratory	4	2
AFCRL—Air Force Cambridge Research Laboratory	4	3
RADC—Air Force Rome Air Development Center	4	4
ARO-A—Army Research Office, Arlington	4	0
COE—U.S. Army Corp of Engineers	4	0
ONR—U.S. Navy Office of Naval Research	4	0
NRL—U.S. Navy Naval Research Laboratory	4	0
DSSW—Defense Supply Service Washington	7	0
DCA—Defense Communications Agency	3	0
DNA—Defense Nuclear Agency	13	$13
Total	98	66
NON-DEPARTMENT OF DEFENSE AGENCIES		
AEC/DMA—Atomic Energy Commission—Division of Military Applications	10	0
NSF—National Science Foundation	3	0
USGS—U.S. Geological Survey	3	0
NASA—National Aeronautical and Space Administration	3	0
Total	19	0

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMINICK. Mr. President, I yield myself 3 additional minutes.

This activity, as well as approximately $20 million of other closely related geophysical research, which comprise eight other projects in the ARPA program, is managed by the Nuclear Monitoring Research Office of the Advanced Research Projects Agency. This office consists of five civilian professionals, three military professionals, and five civilian support personnel. In addition, the support of the ARPA Program Management Office is required as well as the support of 13 other Defense organizations and four other nondefense organizations which write the actual contracts, monitor technical progress, assure acceptability of the work performed under the contract, perform the necessary audit and property accounting, and assure compliance with all the applicable statutes and procurement regulations. This heavy volume of day-to-day work involves about 100 additional people in the Defense Department alone. It is simply too big a task to be thrust upon ACDA, an oranization with only 30 individuals who have the technical qualifications to manage their full-time ongoing science and technology programs without imposing the very heavy workload that goes with the ARPA programs in seismic research. These people are lacking in research and development contract experience and have virtually none involving the large hardware procurements and operations needed for seismic research.

Furthermore, these contracts in many cases go back to the early 1960's. The effort to close out these contracts and initiate new contracts under the ACDA procurement regulations would be enormously disruptive if not impossible of accomplishment in any orderly manner. Also consider that this 12-year program has forged strong interagency relationships within Defense, with nondefense agencies, with other performing organizations, and with foreign contractors which entails international governmental relationships.

These relationships would be weakened if not broken. ARPA has made many preparations in support of the fiscal 1973 program and is firming up numerous procurement actions to be taken at the beginning of the fiscal year, only 2 months away. If appropriations are delayed beyond July 1, 1972, it is questionable as to whether ACDA will be able to apply fiscal year 1973 funds based on a continuing resolution. Thus, the net result could be to bring major segments of the program to a grinding halt. Research teams in being for many years will be broken up. Instead of giving seismic research a boost, precisely the opposite will result if section 302 remains. The momentum of 12 years of research will be destroyed and a program close to fruition will be set back rather than advanced.

A great deal has been said over an alleged conflict of interest in the Defense Department in its conduct of seismic research viewed purely as an arms control measure and its responsibility for weapon development. The two are by no means incompatible. The arms control aspect of seismic research is completely complementary to the Defense Department's role in support of the fourth safeguard to the Limited Test Ban Treaty, viz., "The improvement of our capability, within feasible and practical limits, to monitor the terms of the treaty, to detect violations, and to maintain our knowledge of Sino-Soviet nuclear activity, capabilities, and achieve-

ments," and also to the Department's responsibilities for the collection of intelligence related to foreign nuclear developments. The same research supports all three activities and the three objectives are inseparable rather than in conflict. At the same time, the Department has been able to discharge its research responsibility by means of a completely unclassified program and in a manner totally consistent with the tradition of free exchange of seismic data between scientists of all countries.

Not only that, they are totally compatible because unless we have the ability to defend this country and determine whether those with whom we have reached agreement are being bound by that agreement, we are not providing for the security of the people of the United States. Thus all seismic data from the ARPA-supported facilities is available to all without limit. This will continue to be the ARPA policy.

The committee report stresses that:

> During this same period there have been great advances in the state-of-the-art in seismic monitoring techniques.

What is not pointed out is that, rather than arising spontaneously, these advances are the direct result of the seismic research program managed by the Defense Department's Advanced Research Projects Agency. How then can it be argued that the Defense Department is not giving adequate emphasis to these efforts? What is the logic of transferring a program from the agency that is responsible for the outstanding progress thus far to an agency that, by virtue of its lack of R. & D. management experience and support resources, will be unable to sustain that rate of progress? And this fact has been stated emphatically in the letter from the Director of ACDA.

The implication is made that in decreasing the funding for seismic research the Defense Department is perhaps attempting to strangle the program. This is simply not so. The large expenditures in the past refer to a time when it was necessary to establish and operate expensive research facilities such as the worldwide standard seismograph network, $10 million; the large aperture seismic array in Montana, $15 million; the Norwegian seismic array, $10 million; the very long period experiment, $2 million; the Alaskan long-period array, $3 million; the Seismic Array Analysis Center, $35 million; the five smaller VELA arrays, $14 million; the long-range seismic measurements program, $15 million; the Seismic Data Laboratory, $14 million; the unmanned seismic observatory program, $3 million; and seven underground nuclear tests, $36 million. These major capital expenditures are completed; the instruments are developed and emplaced, the computers are purchased, and what is required is to operate these facilities, gather the data for which they were designed, study the research results that will be obtained, and when we know what to do next, proceed to do it. Rather than cast aspersions on the Department that has done all this, I think we should congratulate them on the purposeful and thorough way they have executed their national responsibility.

The implication is also made that the Defense Department has failed to exploit the monitoring opportunities opened up by these seismic advances. This is not true. Key facilities needed to acquire teleseismic data on earthquakes and explosions in the crucial region below a seismic magnitude of 4.5 are just now coming into operation. For example, the Norwegian seismic array only became operational in September 1971 and the ninth of 11 planned very long period seismic stations was installed in Hawaii in March. We will obtain a great deal of vital information from these new facilities during the next several years.

The case has been made that we should move out immediately on a further expansion of seismic monitoring facilities. While we have learned a great deal to date and while we know the kind of improvements that can be made, it would not seem to make a great deal of sense to jump the gun, as it were, and do this before the completion of the research program intended to answer such questions, and whose lack of vigor is of such concern to Senator CASE. The finest seismic facilities in the world are those that have been installed over the years by ARPA. Where have they been delinquent? Are they to be maligned because they have resisted overly enthusiastic attempts which could quite possibly lead to squandering of the taxpayers' money?

What then is the outlook for the future? The program will continue beyond fiscal year 1973, despite earlier statements to the contrary. The May 2 letter from Dr. Foster to Senator STENNIS, which I inserted earlier in my statement, makes this commitment clearly a matter of record.

It reflects the most current planning of the Department of Defense. Seismic research on the identification problem will continue at the current level. So will the research to examine ways in which a treaty violator could conduct a clandestine nuclear weapon development program. Ways of improving monitoring systems will be studied so that they will be able to detect evasion attempts. Finally, as the performance of ARPA's most recently installed seismic instrumentation is evaluated, the design of a follow-on seismic system will be undertaken and, where appropriate, field surveys of possible sites for additional instrumentation will be performed. In view of the difficulty of the problem and the fact that progress is limited by the rate at which suitable small magnitude earthquakes and explosions can be detected and analyzed, this seems to me to be a well-thought-out program oriented to a realistic goal.

Mr. President, it is clear from a review of the facts that the proposed transfer of the very important seismic research program from ARPA to ACDA should be categorically rejected by the Senate because it is unjustified, it is unsound, it would be highly disruptive of programs and organizational relationships and procedures that have been working smoothly for the past 12 years. Most important, it is opposed both by the Department of Defense and by the Arms Control and Disarmament Agency.

I urge my colleagues to join with me in voting for this amendment.

Mr. President, I reserve the remainder of my time pending hearing from the distinguished Senator from New Jersey.

Mr. CASE. Mr. President, it looks as if the Senator from New Jersey is in charge of the time in opposition to the amendment, and on that assumption I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CASE. Mr. President, as a point of information, what is the time under the agreement?

The PRESIDING OFFICER. There is an hour and a half equally divided, 45 minutes to a side.

Mr. CASE. I thank the Presiding Officer.

The pending amendment introduced by Senator DOMINICK proposes to strike section 302 of the State Department-USIA authorization bill (S. 3526).

As adopted by the Foreign Relations Committee, section 302 has the effect of authorizing funds so that the U.S. Arms Control and Disarmament Agency can for the first time in its history fulfill its responsibility for seismic research as is provided for in law. This action by the Foreign Relations Committee had its origins in an amendment introduced by me and the following cosponsors: Senators HART, CHURCH, PELL, HUMPHREY, KENNEDY, MONDALE, STEVENSON, MAGNUSON, HARRIS, PERCY, CRANSTON, NELSON, MOSS, INOUYE, WILLIAMS, MCGOVERN, FULBRIGHT, SCHWEIKER, and GRAVEL.

Senator DOMINICK's amendment would have the effect of retaining the present jurisdiction by the Defense Department over this program of research and development into the seismic means of verifying compliance with an eventual treaty to end underground nuclear testing.

I am opposed to Senator DOMINICK's amendment because I believe the evidence is clear that the Defense Department's responsibility for this research program, so essential to our national commitment to bring about an end to underground nuclear testing inevitably conflicts with its primary military role.

I do not believe that Congress intended that the Defense Department should be in the position of both controlling the development of the means by which underground testing can be ended and serving as the advocate of the military importance of continued testing.

For almost 9 years, the United States and the Soviet Union have been deadlocked in the negotiation of an underground nuclear test ban treaty. One of the principal causes of this deadlock has been United States insistence upon and Soviet resistance to, on-site inspections as a means of verifying compliance with such a treaty.

During this same period there have been great advances in the state of the art in seismic monitoring techniques. The potential of these discoveries is that

the United States may be able to rely upon seismic means for verifying compliance and drop its insistence upon on-site inspections.

Has the Defense Department pursued and exploited the opportunities offered by these advances in a manner commensurate with our treaty obligation to do everything in our power to bring about an end to underground nuclear testing?

DOD JURISDICTION—AND ITS CONSEQUENCES

Seismic research was once a high-priority program.

In 1963, when a total nuclear test ban was the focus of widespread public attention, funds available for seismic research totaled $41.4 million—1963 turned out to be the high point. Since then, the trend in funding has been straight down.

By 1966, $30.2 million; 1968, $20.4 million; 1972, $14 million, or slightly more than one-third the 1963 funding level.

For the coming 1973 fiscal year, the Defense Department's request is below $10 million, and reports are persistent that plans are under way to phase out this research program entirely.

Has this declining effort simply reflected reduced scientific promise of seismic systems to distinguish between underground nuclear explosions and earthquakes in the Soviet Union?

I think not.

Despite the attempts of some individuals in the Defense Department to suppress public knowledge of the potential advances in U.S. capability to monitor without the necessity for on-site inspections, Defense officials admit that significant improvements in our existing capabilities remain unexploited at this late date. Nonetheless, the Department has continued to request less and less funds for seismic research.

The ready availability of these means of improvement, together with the recognition that they as yet remain unrealized, was recently made the subject of specific mention by the Senate Armed Services Committee. Senator HENRY M. JACKSON, in his capacity as chairman of the subcommittee which maintains oversight over U.S. monitoring capabilities, had this to say about the U.S. seismic network:

It is in this area of research and development that highly worthwhile advances are still feasible and this work should be continued and enlarged. *Even at this time, a relatively inexpensive improvement of the seismic detection system could markedly reduce the number of events which are not unambiguously identified. Such improvements and continuing research on seismic detection methods and systems are particularly desirable and necessary* in view of discussion of a possible comprehensive test ban, especially in view of the possibility that deliberate evasive techniques could be applied in clandestine testing. (emphasis added)

For the Defense Department, Dr. Stephen Lukasik, Director of the Advanced Research Projects Agency, said on June 30, 1971:

Improved seismic instrumentation is clearly needed to attain further advances below magnitude 4.5 and to assess the limits of teleseismic discrimination. . . . We have seen that to translate the greater scientific understanding of the identification problem into improvements in the seismic verification capability requires more sophisticated installations than currently exist.

On July 23, 1971, Dr. Carl Walske, Assistant to the Secretary of Defense for Atomic Energy, subsequently referred to these improvements as being "highly desirable:"

Many of these improvements would undoubtedly require considerable time and they would represent a substantial capital investment. Much effort would have to go into determining where these additional facilities should be located in order to achieve maximum performance. (emphasis added)

But he also failed to offer any concrete plan of action which would realize these gains. Instead, he dwelled upon the cost and effort which would be required and then dropped the subject.

Defense officials have also referred to relocation of existing seismic stations to quieter locations where monitoring capabilities would be improved. As recently as October 27, 1971, this long-available means of improvement was still being offered as a good idea.

Dr. Lukasik said:

One should note that it is possible to improve some stations by moving them to quieter locations.

But again, this was not followed by any specific recommendation.

Indeed, I understand that several years ago the Defense Department on its own decided that a project which would have substantially upgraded the performance of our worldwide existing seismic network, in part through relocation, should not be further explored. This decision was based upon the judgment that this task would be politically difficult and might be unacceptable to the host countries involved. But should the Defense Department alone be responsible for policy decisions of this nature?

Should the Defense Department bureaucracy, in a matter bearing upon U.S. treaty obligations, determine the degree of effort to be put forth, and even decide what diplomatic initiatives are possible or not possible?

Last year, I attempted to track down a report that a Pentagon-sponsored conference of scientists had concluded that we now have the capability to identify explosions as small as 1 to 2 kilotons by seismic means alone.

Before I was able to confirm this report—and I finally had to canvass the scientific community myself to do so—I had to deal with censored documents, a series of contradictory statements, and generally a run-around from Defense Department officials.

Certain Pentagon officials even classified the previously unclassified summary of the conference itself. And when I protested this tactic, an unidentified Pentagon official told reporters that the summary represented the views of only one participant at the conference—a statement refuted by six of the seismologists who attended the conference.

It appears to me as one of the original cosponsors of the legislation establishing the Arms Control Agency that Defense Department jurisdiction over this arms control program was never intended.

THE ORIGINAL INTENT OF THE CONGRESS

Under the terms of section 31 of the Arms Control and Disarmament Act of 1961, the Director of the Arms Control Agency is authorized and directed to exercise his powers in insuring, arranging for, and coordinating research in the following fields:

(a) the detection, identification, inspection, monitoring . . . and elimination of . . . armaments . . . including thermonuclear (and) nuclear . . . weapons.

(b) the techniques and systems of detecting, identifying, inspecting, and monitoring of tests of nuclear, thermonuclear and other weapons.

It seems to me that is so clear that anyone who runs can read.

In testifying before the House Foreign Affairs Committee in 1961, former Deputy Secretary Gilpatric forcefully stated the need for and function of this agency:

I think that the basic thought behind this legislation is to give this Agency a status, a position where it can build up a staff and can do a job that I don't believe can be done in Defense.

He was speaking of the Defense Department—

With our primary emphasis on security, or State, which isn't equipped to do research work and many facets of this disarmament and controls business that require talents that are not in the State Department.

Later, in stating the Defense Department's support for the assumption of research responsibility by the Arms Control Agency, Secretary Gilpatric underlined the primary role expected of it:

The Department of Defense expects the new Agency to make its principal, biggest contribution in the area of policy formulation. Such policy formulation will be assisted by the provision in the proposed legislation enabling the new Agency to conduct and coordinate research in the disarmament area. Research in the disarmament field requires the greatest possible efforts and the use of the best minds of the country—foreign policy experts, scientists, and military strategists.

The legislative history is also unmistakably clear that the Arms Control Agency was meant to be fully in charge of developing the means for vertifying compliance with such agreements as an underground test ban. In the following colloquy, Senator HUMPHREY specifically questioned Mr. John J. McCloy, the President's representative, on this point:

Senator HUMPHREY. Is it not a fact that the disarmament agency, as it is suggested in the bill, particularly with responsibilities that the agency would have in its functions under title III, could accelerate research, exploration, and development in this field of detection?

Mr. MCCLOY. Oh yes.

Senator HUMPHREY. And control?

Mr. MCCLOY. Yes.

Senator HUMPHREY. Now, this agency could have the responsibility, and could be able to center attention upon these fundamental areas of research; is that not correct?

Mr. MCCLOY. That is right.

And, of course, that was right. Everyone intended that this should be its responsibility and its function, and not someone else's. The Defense Department said so, Mr. McCloy said so, and the record is replete with the definition of everyone's intention at the time.

Mr. McCloy later referred to the post-World War II experience with disarmament negotiations which made Arms Control Agency responsibility for this research of such pressing importance. As a general proposition, it remains as valid today as justification for the amendment which I have introduced and which the Senator from Colorado would hand out to transfer jurisdiction over this research to the Arms Control Agency.

What he said was this:

The experience in the disarmament negotiations which have been conducted since the termination of World War II shows the importance of research in the field of disarmament. The problems of disarmament are highly complex, for they encompass not only technical questions concerning the reliability of inspection and control systems and techniques for their implementation, but also basic political questions concerning the maintenance of peace and security under various levels of disarmament. . . . For this reason research and study of the type authorized by S. 2180 must be a primary function of an agency dealing with disarmament, not simply for the short term with respect to current negotiations, but especially for the long term.

I emphasize that again. Yet I think no one could question the tremendous job that the agency has done in the negotiations conducted in Austria and in Helsinki, and no one could be in any way niggardly in his praise of the achievement which has resulted. But at the same time, negotiations of agreements do not constitute the sole function of the Arms Control Agency. It was not intended just to be a negotiating arm of the President. It was intended to be charged with the responsibility for research, for developing ideas, for presenting new thoughts and new ways of accomplishing things, and not just to act under the direction of the President as an executive agent. That is the reason it was given responsibility for research, responsibility for determining how much money should be requested for research purposes, and not just to act as an agent of the President in particular negotiations, as was very clearly brought out here by Mr. McCloy, not simply for the short term with respect to current negotiations, but especially for the long term, and that is why we want responsibility for this research, which is long term research, directly under the Arms Control Agency.

Of course, the Arms Control Agency can use the Defense Department and any other branch of government, and outside agencies as well. It is specifically authorized to do that under the law. But it should have the primary responsibility. It should be answerable directly to Congress and to the President for the success or failure of this research, the termination of these efforts, and the success of such efforts should not be placed in an agency which has a divided responsibility. It cannot do it. It is not fair to the agency or to the Defense Department to ask it to do it, and it is not fair to the program to have it in the hands of the Department of Defense, which at least in part has every reason not to want to come to a nuclear test ban, but to continue on its course. This I do not say is wrong on the part of the Department of Defense. That is its primary obligation. Even if there is a slightest glimmer that continued nuclear testing might help, it is up to the Defense Department to make the argument that it should continue. We cannot ask the agency charged with that responsibility to do any kind of a job in trying to work itself out of business. It makes no sense to do that.

A DEPARTURE FROM CONGRESSIONAL INTENT

No doubt it will be contended that the Arms Control Agency has, in fact, exercised a measure of supervision over the Defense Department's handling of the seismic research program.

Even should this be claimed, the fact is that responsibility has been delegated to the Defense Department to such an extent as to defeat one of the very purposes for which the Agency has been established.

My investigation has led me to believe that the Arms Control Agency has not participated in even the most basic decisions regarding funding or program content. Typically, I am told, the Agency does not even learn how much money will be spent on seismic research until after the decision has been made and the budget information released to the public.

The blunt judgment of one scientist who is intimately aware of the history of this program was expressed to me as follows:

Although there has always been the fiction that the seismic research program was being conducted by the Defense Department in a manner responsive to the Arms Control Agency's wishes, the fact of the matter has been that the Agency has exercised no influence on program formulation or on specific content.

There never have been any discussions between the Arms Control Agency and ARPA (the Defense Department organization in charge of seismic research) as to major research results required or as to fund allocations, either to major program elements or to specific contractors.

Program outlines as regards research planned or contractors were not submitted to the Arms Control Agency either for review or as information.

In fact, the climate has developed whereby ARPA considers the seismic research program as theirs to conform and direct as they choose, with the Arms Control Agency consisting a minor irritant to be ignored.

In exercising real control over this program, the Agency itself would have to set the goals to be achieved and recommend the funding required to achieve them.

Had this been the case, seismic research would have had an obvious visibility which would have made its neglect less likely. And it would have been treated as what it is—an arms control measure—not as just another research program in the Department of Defense.

As visualized by John J. McCloy, when he testified in favor of the Arms Control and Disarmament Act of 1961, responsibility for this program would have been very specifically assigned:

With such an organization as this . . . you would then know who was responsible (for this research). You would have an agency with a director that you would know was charged with responsibility, and you would know where the fault lay.

NOBODY'S BUSINESS

Neither the Defense Department or the Arms Control Agency is solely to blame for what has developed. For it is clear that this state of affairs would not have obtained had the Congress sustained a high degree of interest over the years in doing everything possible to bring about a test ban.

This must be said because simply transferring responsibility for seismic research to the Arms Control Agency will not bring about the kind of major initiative which will be necessary if the prospects for an underground test ban are to be realized.

The U.S. negotiating position on the test ban has remained static since 1963. This has been so, as I have outlined, even though there have been enormous improvements in the past nine years in our ability to monitor compliance with such a treaty by seismic means.

In 1963, U. S. insistence upon on-site inspections was probably justifiable in view of our then-relatively primitive ability to verify compliance solely by seismic monitoring stations on our own soil or on that of countries bordering on the Soviet Union.

As was stated before this committee last year by Dr. Franklin A. Long, formerly Assistant Director of the Arms Control Agency:

It was generally agreed (in 1963) that one could not, in any real sense, "identify" underground nuclear explosions by national means alone.

Earthquakes could not be distinguished from underground nuclear explosions by seismic means, and, in Dr. Long's words, the only way "to get at possible explosions—was by—a process of elimination."

Now the seismic state of the art has advanced so far that the controversy is no longer about whether we can tell the difference between earthquakes and underground explosions. Now the debate is over how small an underground explosion can be identified. Now even Defense Department officials admit that in principle we will be able to identify tests as small as one or two kilotons—by way of comparison, the yield of the Hiroshima bomb was 14 kilotons.

Contrast these enormous strides with the lack of any alteration whatever in the U.S. position on on-site inspections:

(Acting Director of the Arms Control Agency, Philip J. Farley, on July 22, 1971): ". . . we have not had occasion to review formally the precise number and have not either introduced or determined privately a new number since we last spoke of seven, I think it was in 1963."

But the roots of this stand-pat attitude extend beyond the Arms Control Agency. This was borne out by Mr. Farley's further remarks reflecting the apparent absence of any interest in even exploring the possibility of breaking the impasse in our negotiations with the Soviet Union:

. . . *we have not been required* to formally review our position as to the precise number of inspections we would require (emphasis added).

GETTING BACK ON THE TRACK

There is presently disagreement among arms control experts as to whether any further improvement in our seismic monitoring capabilities is even necessary. Some contend that the United States can now begin serious negotiations of a test ban without requiring on-site inspections in the Soviet Union to verify compliance.

Others, especially within the Defense Department, argue that our seismic systems will never be sufficiently reliable and sensitive to deter covert underground testing.

The advocates of "negotiation now" are concerned that primary emphasis upon the technical issue—our seismic monitoring capabilities—can lead to interminable bickering among contending scientists and the construction of unnecessarily sophisticated and evermore-refined monitoring systems. They contend that, in the final analysis, entering into an underground test ban treaty is necessarily a political decision.

Whatever the outcome of that controversy, it presents no argument against the transfer of responsibility for seismic research to the Arms Control Agency.

All avenues must be explored in order that the prospects for an underground nuclear test ban can be realized. Reviving our seismic research effort is surely one step to that end. It by no means excludes a revision of our negotiating position.

There are compelling reasons to pursue this matter. I do not need to remind the committee that:

Since the date of the conclusion of the Limited Nuclear Test Ban Treaty, the rate of nuclear testing has actually increased.

The nonnuclear powers have become increasingly restive at the prolonged delay in ending nuclear testing. The Nuclear Non-Proliferation Treaty itself is further endangered with the passage of every day—and we have been specifically warned by nations who have not yet ratified it that time is running out.

The United States and the Soviet Union continue their inexorable competition to refine their warheads through this testing, with always the potential for a technical breakthrough by either side which would wreck our hopes for arms limitation.

As one step in the effort to resolve the impasse in which we find ourselves, I ask the Senate to support the provisions of the bill as reported by the Senate Foreign Relations Committee and to reject the Dominick amendment.

Mr. President, I think it is absolutely clear that not only in principle is it wrong to give to the Defense Department this responsibility, but that it was intended from the beginning, from the initial creation of the Arms Control Agency, that it should have the responsibility, and it is up to us, it seems to me, to insist that it exercise that responsibility as it was intended to do.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. I yield myself 2 minutes, and then I will yield to the Senator from New Hampshire (Mr. McINTYRE).

Mr. President, I listened with interest to the statement of the Senator from New Jersey (Mr. CASE). What it comes down to is that he says he wants to do more in seismic research. That is fine. I do not think any of us would object to that. That is one of the things we have been trying to do.

The other point he seems to be making is that because DOD is doing this, this is not running in accordance with his concept of the responsibility of the Disarmament Agency. Yet, the head of the Agency, Mr. Smith, in his letter to the Senator, wrote as follows:

> . . . the program was proceeding to our satisfaction, and there has been ample opportunity to suggest changes in ARPA programs. We have recently strengthened our staff in this field, and we plan to work closely with ARPA in the development of their ongoing seismic research program.

That is by the head of the Agency.

I do not know who the one scientist is that the Senator quoted, but all I can say is that with that testimony before the committee, I have grave difficulty in seeing the real strength of his argument.

Mr. President, I yield 6 minutes to the Senator from New Hampshire.

Mr. McINTYRE. I thank the distinguished Senator from Colorado.

Mr. President, I support the amendment of the distinguished Senator from Colorado.

I shall address myself to the issues which arise from the provision of the authorization bill, S. 3526, which would remove the VELA seismic research project from the Department of Defense and transfer it to the Arms Control and Disarmament Agency. The motives behind this move appear to stem in part from the feeling that if the Department of Defense continues to be responsible for what some believe is essentially an arms control measure, this responsibility conflicts with the primary military role of the Department of Defense.

Let us examine the specifics of this issue. First, Project VELA is not "essentially an arms control measure." Project VELA is the national research and development effort to improve the U.S. capability to detect and identify nuclear explosives in all environments, not just underground. It was assigned to the Department of Defense in 1959 following discussions between the Joint Committee on Atomic Energy, the President's Science Adviser, and representatives of the Atomic Energy Commission, the State Department, the Arms Control and Disarmament Agency, and the Department of Defense.

It was intended that all Government organizations be able to discuss the pros and cons of verifying a comprehensive test ban treaty from a common technical basis. The Joint Committee, the National Security Council, the State Department, the AEC Commissioners, the Joint Chiefs of Staff, and the Armed Services, as well as the Director of the Arms Control and Disarmament Agency, all have valid needs for objective answers to scientific and technical questions. Project VELA is not intended to provide justification either for or against nuclear test ban treaties. VELA does provide technical answers to technical questions posed by those who are concerned with such treaties.

The United States did negotiate, sign, and ratify the Limited Test Ban Treaty after research sponsored by Project VELA was able to show that a treaty prohibiting nuclear explosions in space, the atmosphere and in the oceans could be verified. Indeed sensors and techniques developed by Project VELA are today providing the means by which compliance with the treaty is verified. The Department of Defense has, of course, continued a strong research effort to determine how a ban on underground testing could be verified.

Past experience has shown that answering the highly technical questions concerning verification of nuclear test ban treaties requires a strong and experienced research and development organization. I do not question the capability of the Arms Control and Disarmament Agency if it should assume responsibility for Project VELA; I do question the utility of placing a large research and development program in an agency that has not conducted large R. & D. programs and without the inhouse assistance that the Department of Defense has provided its organizations. The Director of the Arms Control and Disarmament Agency also shares my feelings and he has stated in writing that VELA should remain in the Department of Defense.

I also invite attention to an important characteristic of seismic research. By its very nature, a comprehensive program must be worldwide in scope and requires the installation of seismic stations on foreign soil. Negotiations to accomplish such deployments are often delicate and protracted. They are frequently conducted at a much higher level in foreign governments than in the United States and disenchantment with even routine administrative matters can have serious political implications. Recent experience indicates that the presence of U.S. installations in foreign countries increasingly arouses their national sensitivities and constitutes a factor in foreign relations which simply cannot be ignored. The task of monitoring seismic research has been admirably discharged by the Defense Department through such agencies as the Air Force Office of Scientific Research and the Air Force Electronic Systems Division. Such experience and expertise simply cannot be replaced. These organizations are unique in this respect. The excellent relations which we now enjoy in countries where we support seismic research should not be jeopardized by transferring the program and possibly removing these seasoned people from its management. I strongly recommend that the amendment, introduced by my good friend, the Senator from Colorado, reversing the reassignment of Project VELA to the Arms Control and Disarmament Agency and keeping it in the Department of Defense, be adopted.

Mr. DOMINICK. I thank the Senator from New Hampshire for an extremely able statement.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, I yield 3 minutes to the distinguished Senator from Kentucky.

Mr. COOPER. Mr. President, in committee, I voted against the amendment offered by the distinguished Senator from New Jersey and, therefore, I should like to give my reasons for so doing, and for supporting the amendment of the Senator from Colorado, Senator DOMINICK.

The Senator from New Jersey, Senator CASE, has presented a very logical case showing the historical background of the Arms Control and Disarmament Agency, and the functions that were assigned to it. I know that he feels, also, that it is incompatible for the Department of Defense, which is concerned with the refinement and development of nuclear weapons, to be assigned the role of developing methods for arms control purposes to monitor underground tests.

However, even though from the pragmatic viewpoint the Arms Control and Disarmament Agency is the logical one to which this task and function should be assigned, we still have to depend on scientific analysis and upon objective findings no matter which agency has control. If they are honest—and I believe that scientists must be factual and objective in their judgments—I do not think that the findings on seismic capability will be different, no matter to what agency the project is assigned.

Also, from listening to witnesses, I think there is still a question, at this point, although seismic detection capabilities are much improved, as to whether one can distinguish absolutely between a nuclear explosion underground and a natural phenomenon at levels below 4.0. The Department of Defense does have the duty of defense of the country.

I was influenced, too, by the statements of Mr. Farley, representing Ambassador Smith, who said during the hearings the Arms Control and Disarmament Agency did not want the function, that they relied on and believed in the work that was being done in this field by the Department of Defense, and that ACDA could influence it by recommendations.

I realize that a comprehensive test ban treaty, correctly enforced, would halt in great measure the development of nuclear weapons. But, from all the evidence, I do not believe that we have yet reached the point that we can make these judgments.

The ACDA, after 3 years of negotiations under Ambassador Smith, has brought about one of the most unusual and significant agreements in the history of nuclear weapons—perhaps in the history of the world. They have not yet finished their work. If the treaty should be approved by the Senate, and I believe it will be approved, the second phase will begin, with respect to the interim agreement on defensive weapons, to negotiate a treaty to limit offensive nuclear weapons and, we hope, upon a reduction in nuclear arms.

The ACDA has testified it does not want to be saddled with this program of seismic testing and research at this time. I do not believe the committee gave to Senator CASE's amendment the fullest consideration, other than the fine work that the Senator from New Jersey (Mr. CASE) put into it. This transfer should be made at some point, but when ACDA, with the fine work it is doing, says it does not want to undertake the responsibility and is satisfied with the program, I feel, as a practical matter, that we should not change this assignment at this time. I voted against the amendment in committee and I shall vote for the amendment of the Senator from Colorado (Mr. DOMINICK).

Mr. DOMINICK. Mr. President, I want to express my thanks to the distinguished Senator from Kentucky, who has his usual broad gaged viewpoint on matters of this kind.

It is important to point out that seismic research is something which is important scientifically, as the Senator said, to all phases of humanity, whether it deals with tidal waves or nuclear explosions. Whatever we can do to support it, I think we should do. I do not see, however, why we should shift it over to the Disarmament Agency which is already saddled with many other responsibilities, and which it does not want.

Mr. President, I now yield 5 minutes to the distinguished Senator from Texas (Mr. BENTSEN).

The PRESIDING OFFICER (Mr. BUCKLEY). The Senator from Texas is recognized for 5 minutes.

Mr. BENTSEN. I thank the Senator from Colorado.

Mr. President, I rise in support of his amendment. The opponents of this amendment have already offered compelling reasons why it should be supported; but, because of its importance, I should like to amplify on a couple of points.

The opponents of the amendment state that it is incompatible with the tasks of the Defense Department in trying to determine whether we can develop a system of monitoring nuclear tests. They state there is a waning interest on the part of the Defense Department because of a lessening in appropriations for it, and that there is going to be a phasing out of the program.

First, I think that this is inaccurate. The President has assigned the project to the Defense Department and to the Atomic Energy Commission. It was assigned to them, not for political purposes or to promote or to frustrate a nuclear test ban treaty, but to see whether we could not establish a scientific, technical basis on which to monitor nuclear tests. That is a question that definitely involves the national security of this country. Therefore, I think it is important, proper, and necessary that it be assigned to the Defense Department.

Second, it has been stated that the funding levels for the VELA seismic research program have declined each year since 1963 and that this once high priority program has become less important to the Defense Department as reflected by this decrease in funding. Some have even made the accusation that plans are under way to phase out this research program entirely.

In fact, Mr. President, the VELA seismic research program is still a high priority program of the Defense Department and there is no intention of phasing it out as suggested by critics of the ARPA program. It is true that annual funding levels have decreased since 1963 but the explanation for the decrease lies in the changing nature of the technical program, not in any decrease of interest in the program on the part of the Defense Department. Past funding levels included heavy capital expenditures for the development and installation of data acquisition and processing equipment, such as the large seismic arrays and data analysis centers that are required to conduct the seismic research program. The costs of operating these research tools are obviously much less than the original costs involved in their acquisition.

Another factor in the changing cost picture is the fact that in the early days of the VELA program considerable expenditures were made for nuclear tests, conducted specifically for the VELA program, which were needed to provide data for seismic research. In recent years it has been possible for the VELA program to participate in nuclear tests conducted for other purposes by the Atomic Energy Commission and the Department of Defense. Lower funding levels in recent budgets for the seismic research program, therefore, do not at all mean that the seismic research is now considered any less important by the Department of Defense.

Finally, with regard to the progress being as a result of the VELA seismic research program, it is clear from testimony before the Joint Committee on Atomic Energy in October of 1971 that the VELA program has been very successful in advancing the science of seismology and that substantial improvements have been made in understanding the problems of seismic detection, location, and identification. Some technical problems remain, though, and it would seem only reasonable to continue to research and solve these problems with the same team that has been responsible for the excellent progress made to date.

The Arms Control and Disarmament Agency has been kept informed of the results of the VELA research program and, according to the statements of its Director Mr. Gerard Smith, the ACDA actually favors continued operation of the program under the Department of Defense.

In view of these facts, Mr. President, I see no reason to consider the transfer of the VELA program to the Arms Control and Disarmament Agency, and I hope that the Senate will support the amendment of the Senator from Colorado to the authorization bill which would prevent the transfer of this most successful project.

Mr. DOMINICK. Mr. President, may I express my thanks to the distinguished Senator from Texas for what I think is a very able and cogent analysis of the problem we are faced with here.

I reserve the remainder of my time.

Mr. FULBRIGHT. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Will the Senator kindly make it 6 minutes?

Mr. FULBRIGHT. I yield 6 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 6 minutes.

Mr. KENNEDY. Mr. President, I join Senator CASE in urging that the amendment proposed by Senator DOMINICK be defeated.

The proposed amendment would delete section 302 from the bill before us. I was pleased to join Senator CASE in cosponsoring the provision now in the bill providing for the transfer of seismic research related to underground nuclear testing from the control of the Department of Defense to the control of the Arms Control and Disarmament Agency.

To state the matter succinctly, there is a conflict of interest when the Defense Department is both the leading advocate of the military significance of continued underground testing and the erstwhile director of research into the means by which that testing can be halted.

For 9 years we have witnessed an actual increase in the rate of nuclear testing as the United States and the Soviet Union pursued vigorous underground testing programs.

Yet for the same time period we have been committed to negotiate a comprehensive test ban treaty. But we have continued to oppose such a treaty until the U.S.S.R. accepts on-site inspection. In 9 years, we have refused to take notice of the advances in seismic and satellite technology and our negotiating position has not moved 1 inch.

The major public reason for the refusal of successive administrations to alter the demand for on-site inspections has been the debate over how well we could detect Soviet underground testing by national means alone.

In that regard, we have been dependent on the Pentagon for development of our seismic detection capabilities.

Yet, the commitment of the Pentagon to achieving breakthroughs in sesmic detection is shown in the declining resources it has committed to that effort.

In 1963, seismic research received $41.4 million. Last year, barely $14 million was available and this year, DOD is requesting less than $10 million.

Mr. President, I listened to the distinguished Senator from Texas (Mr. BENTSEN) explaining that the reduction is an indication in the early part of the 1960's, the costs were high, because they involved initial capital investment. Yet we have seen little willingness on the part of the Department to implement the recent recommendations of participants in the Woods Hole seminar, concrete suggestions which have been most persuasive in trying to immediately increase our seismic capabilities.

What is even worse than the evidence of declining interest and concern over the development of means to detect underground nuclear tests, is the flagrant effort of some persons in DOD to prevent the Congress from discovering what our capabilities actually are.

After DOD scientists met at Woods Hole to discuss the stage of seismic research, they issued a summary conclusion that we had reached the level where the potential existed for detection and identification of explosions down to 1 or 2 kilotons by seismic means alone. But when Senator CASE sought to acquire that summary, it was first denied, then classified, then described as the views of only one participant.

Finally, after Senator CASE personally received confirmation from a half dozen of the seminar participants as to the summary's accuracy, it was reluctantly made available.

Clearly, the Congress cannot legislate or make recommendations intelligently if information concerning this vital field is denied to us.

By transferring the seismic research program to ACDA, we are returning that program to the Arms Control Agency where it originally was the congressional intent to place it.

The Arms Control Agency is directed, in the Arms Control and Disarmament Act of 1961, title 22, U.S.C. 2551, to:

> Provide the essential scientific, economic, political, military, psychological, and technological information upon which realistic arms control and disarmament policy must be based. It must be able to carry out the following primary functions:
>
> (a) The conduct, support, and coordination of research for arms control and disarmament policy formulation;
>
> (b) the preparation for and management of United States participation in international negotiations in the arms control and disarmament field;
>
> (c) The dissemination and coordination of public information concerning arms control and disarmament; and
>
> (d) The preparation for, operation of, or as appropriate, direction of United States participation in such control systems as may become part of United States arms control and disarmament activities.

Thus, as the language of the act makes clear, the intent of the Congress in passing the arms control legislation was that the conduct and coordination of research in the disarmament field would be under the control of the Arms Control Agency rather than the Pentagon.

In the testimony of President Kennedy's special representative on arms control, John J. McCloy, before the Foreign Relations Committee, the argument was concise and compelling.

Mr. McCloy wrote:

> The problems of disarmament are highly complex, for they encompass not only technical questions concerning the reliability of inspection and control systems and techniques for their implementation, but also basic political questions concerning the maintenance of peace and security under various levels of disarmament. . . . For this reason, research and study of the type authorized by S. 2180 must be a primary function of an agency dealing with disarmament, not simply for the short term with respect to current negotiations, but especially for the long term.

It was this testimony that reflected the majority consensus of the committee, that the new agency should have direction over research and development to permit it to be "prepared to submit practical and serious proposals in this field—of arms control."

Thus, the original charter creating the Arms Control Agency and the legislative history surrounding the establishment of the agency clearly calls for it to direct research such as the seismic testing program which is vital to nuclear disarmament negotiations.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield another 2 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for an additional 2 minutes.

Mr. KENNEDY. Mr. President, at a moment in history when even Pentagon experts are conceding the tremendous gains we have made in our potential for identifying underground tests, it is unforgivable to downgrade the seismic research program. The most vigorous research and development should be underway now to push the state of the art even further.

I have introduced a resolution urging a moratorium on underground nuclear testing by both the United States and the Soviet Union as well as prompt new negotiations for the conclusion of a comprehensive test ban treaty. It is clear from the hearings that have been held that an ultimate decision will depend on our political judgment as to what is in our national interest. That decision I believe will depend on our overall assessment of the benefits to be derived as opposed to the potential risks involved. It will be a political decision and not a technical decision. And it will be a judgment reached on the basis of the best information we have available.

And it is in that context that it is vital to transfer this research program from the Defense Department to the Arms Control and Disarmament Agency to insure that the seismic research program is actively pursued and that the Congress always has full and adequate access to the information on the results of that research.

For these reasons, I urge my colleagues to defeat the amendment of the Senator from Colorado.

Mr. FULBRIGHT. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 3 minutes.

Mr. FULBRIGHT. Mr. President, the distinguished Senator from New Jersey has covered the basic arguments and facts and the history of this matter very well. The Senator deserves our gratitude for having done such a fine job in presenting the basic facts regarding this problem.

To have the Defense Department conduct this kind of research creates a fundamental conflict of interest. It is not in their interest, in my view, to really pursue this matter with great vigor.

As the Senator from New Jersey has pointed out there has been a great increase on our part in underground testing since the Nuclear Test Ban Treaty. Of course, it is not offensive to the treaty. There is no limit under that treaty as to what we may do. However, I think that we have done more than three times as much underground testing as have the Russians.

Mr. President, it was the original intent of the Arms Control Act that the Agency responsible for programs for the

curtailment of armaments, especially nuclear armaments, was to be the Agency responsible for the finding of ways and means to make arms control measures acceptable. And, of course, one of the principal ways of making a total test ban acceptable is to have reliable techniques for the detection of seismic phenomena.

So I support the amendment. It seems to me, to make good sense.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 additional minute.

Mr. FULBRIGHT. Mr. President, regardless of Mr. Farley's views representing the Agency, as we have seen so often, the representatives who appear before us at the local level, come before our committee under instructions. They are not free to choose between one view or another. I do not say that in any critical way. It is the only way in which a big government, such as ours, could operate. The individuals are part of the administration. If they want to continue to be such, they must reflect the views of their superiors.

That is why we have the Senate and House of Representatives. The Senate and the House of Representatives are not constituted of employees. They are not appointed by the administration. And it is essential that we use our commonsense and make decisions on matters of this kind. It is a matter of policy.

I think very highly of Mr. Farley in his position as Deputy Director of the Agency. However, the fact that he says something is of no real consequence in the decision as to whether it makes sense that the Agency responsible for promoting arms control should not be responsible for the seismic program.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 additional minute.

Mr. FULBRIGHT. Mr. President, I think there is also a rather substantial domestic program of applied research in seismic matters under the Commerce Department. I am not sure that it is particularly relevant to the Dominick amendment. However, there is other research in the civilian area of the country that is not designed especially or directly for the detection of atomic phenomena, but for the study of earthquakes and seismic developments with a view to predicting and analyzing the effects of such earthquakes as occurred in California last year. It is related to this subject.

I only mention that incidentally because I was not aware of it until recently.

I hope that the Senate will support the committee and the views of the Senator from New Jersey concerning the most effective and efficient way to carry on this research, because it is consistent with the purposes of the Agency.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. DOMINICK. Mr. President, I listened with interest to the Senator from Massachusetts, the Senator from Arkansas, and the Senator from New Jersey. And not once did they answer the question as to why in the world we should transfer a program from one agency that is doing the job and wants to keep it into another agency which does not want the job, does not have the funds, does not have the finances needed, and does not want it.

Here is what the letter from Mr. Smith says, and Mr. Smith is the man who just did such a superb job in the SALT talks. Here is what he had to say:

> In 1959 ARPA was assigned primary responsibility for research on seismic detection and identification and since then has expended some $250 million in connection with this activity. ACDA has followed this program very closely and has been given full access to the information resulting from this research. The ACDA staff includes a number of scientists who are highly qualified to evaluate independently ARPA's research findings. It has been and continues to be our considered judgment that this program has been well handled and that arms control requirements in this area are being met by the ARPA research effort. It should be recognized that ARPA has supported the research that has produced practically all of the advances in detection and identification technology over the past ten years. Moreover, we have been assured that ARPA does not plan to phase out this research and will continue an active program in the future to improve our detection and identification capabilities and investigate countermeasures against possible evasion techniques.

Nothing could be clearer than that. They do not want it. They have already developed measures which have been substantially useful in the Disarmament Agency. They do not want the added responsibility. We have this enormous number of interagency programs working right now with universities and other agencies of Government through the leadership of the ARPA.

Mr. President, if the language which the Senator from New Jersey (Mr. CASE) placed in the bill is left in the bill we will be destroying that Agency and reducing the possibilities of our getting any reasonable type of seismic research evaluation.

The amendment should be agreed to in order to maintain our progress in this field.

Mr. FULBRIGHT. Mr. President, I yield the remainder of my time to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CASE. Mr. President, the Arms Control and Disarmament Agency will have the money, and it will do this if we say it should do it. The Arms Control and Disarmament Agency does not decide what it wants to do. Congress is the policymaking body of this Nation.

Naturally, the Department of Defense would like to keep its finger in here, and it certainly has an interest in the matter of protection and a legitimate responsibility of its own. But the primary responsibility should be where Congress originally placed it.

In 1959 when ARPA was given responsibility in this area the Arms Control Agency did not exist. We created that Agency several years later and we gave it precisely this function and we did it because we wanted an agency whose sole responsibility would be unconfused and without conflict, and it should have as its work the lessening of armaments, the control of armaments, and all manner and means necessary for that purpose, and this is vital to that purpose.

If the Department of Defense needs to do this for purposes of defense, I am not for taking anything away from the defense of this country, but I am in favor of placing the primary emphasis on the need for nuclear testing, and I am not for leaving that in the hands of those who feel that nuclear testing should continue forever. There are those in the Department of Defense who sincerely believe that; and that is fine for them but they should not have the responsibility for the research which is necessary to find ways in which we can eliminate all nuclear testing.

It seems clear that the Arms Control and Disarmament Agency has not participated in the most basic decisions about the content of this research. I am told the Agency does not know how much is going to be spent until the decision is made.

The blunt judgment of one scientist who was intimately aware of the history of this program was expressed to me as follows:

> Although there has always been the fiction that the seismic research program was being conducted by the Defense Department in a manner responsive to the Arms Control Agency's wishes, the fact of the matter has been that the Agency has exercised no influence on program formulation or on specific content.
>
> There never have been any discussions between the Arms Control Agency and ARPA (the Defense Department organization in charge of seismic research) as to major research results required or as to fund allocations, either to major program elements or to specific contractors.
>
> Program outlines as regards research planned or contractors were not submitted to the Arms Control Agency either for review or as information.
>
> In fact, the climate has developed whereby ARPA considers the seismic research program as theirs to conform and direct as they choose, with the Arms Control Agency constituting a minor irritant to be ignored.

This is not the way Congress intended the matter to rest. Congress intended when it created the Arms Control Agency to give it full authority.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CASE. There is no time remaining?

The PRESIDING OFFICER. The Senator from Colorado has 3 minutes remaining.

Mr. DOMINICK. Mr. President, I am willing to give the Senator from New Jersey an additional minute if he needs it.

Mr. CASE. The Senator is very gracious. I will not trespass on the time of the Senator.

It was the intent of Congress that this be handled by the Arms Control Agency and Congress should insist that this be carried out.

Mr. DOMINICK. Mr. President, I will take 1 minute, and then I will yield back the remaining minute.

I am consistently amazed or perplexed when we get quotations from a scientist from an agency who claims this, that, and the other, when we have a letter dated in March from the Disarmament Agency saying that cooperation is fine, and stating they have no problem and absolute cooperation. So I cannot understand why we should go forward and transfer an ongoing program to a going agency which does not want it on the say so of some scientist who may be a disgruntled employee, whose name is not mentioned.

Mr. President, I urge support for my amendment.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. DOMINICK. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Colorado. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

On this vote the Senator from South Dakota (Mr. MCGOVERN) is paired with the Senator from North Carolina (Mr. ERVIN).

If present and voting, the Senator from South Dakota would vote "nay" and the Senator from North Carolina would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Maryland (Mr. MATHIAS) is absent on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 45, nays 34, as follows:

[No. 191 Leg.]

YEAS—45

Aiken	Cook	Packwood
Allen	Cooper	Pearson
Allott	Cotton	Randolph
Baker	Curtis	Roth
Beall	Dole	Saxbe
Bellmon	Dominick	Smith
Bennett	Eagleton	Stafford
Bentsen	Fannin	Stennis
Bible	Gambrell	Symington
Boggs	Griffin	Taft
Brock	Gurney	Talmadge
Buckley	Hruska	Thurmond
Byrd, Harry F., Jr.	Jackson	Tower
Byrd, Robert C.	Jordan, Idaho	Young
Cannon	McIntyre	
	Miller	

NAYS—34

Bayh	Javits	Proxmire
Brooke	Kennedy	Ribicoff
Burdick	Long	Schweiker
Case	Magnuson	Scott
Church	Mansfield	Spong
Ellender	McGee	Stevens
Fulbright	Metcalf	Stevenson
Hart	Mondale	Tunney
Hartke	Montoya	Weicker
Hollings	Nelson	Williams
Hughes	Pastore	
Inouye	Percy	

NOT VOTING—21

Anderson	Gravel	McClellan
Chiles	Hansen	McGovern
Cranston	Harris	Moss
Eastland	Hatfield	Mundt
Ervin	Humphrey	Muskie
Fong	Jordan, N.C.	Pell
Goldwater	Mathias	Sparkman

So Mr. DOMINICK's amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1191

The PRESIDING OFFICER (Mr. BUCKLEY). Pursuant to the previous order, the Chair lays before the Senate amendment No. 1191 of the Senator from Massachusetts (Mr. BROOKE), on which there is a time limitation of 2 hours.

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 26, line 11, before the word "shall" insert the following: "(other than 'Problems of Communism', which may continue to be sold by the Government Printing Office)".

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

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BROOKE. I ask unanimous consent that the name of the distinguished Senator from Maryland (Mr. BEALL) be added as a cosponsor of amendment No. 1191.

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

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. There is a limitation of 2 hours on this amendment. Who yields time?

Mr. BROOKE. I yield myself 10 minutes.

PROBLEMS OF COMMUNISM

Mr. President, contained within the State Department/USIA authorization bill presently pending before this body is a prohibition on the distribution of USIA materials within the United States.

I understand the reasoning which led the Committee on Foreign Relations to adopt this provision: Funds authorized and appropriated for USIA are for the purpose of sharing American news and views with peoples around the world. Our own people have this information readily available through other channels, and materials produced for foreign consumption should not be distributed at home at the taxpayer's expense.

There is, however, one major exception to this line of reasoning. USIA produces an excellent, scholarly journal, entitled "Problems of Communism," which is unique in its field and serves as a rich source of information for several thousand prominent American scholars and researchers.

Problems of Communism is a bimonthly scholarly journal providing significant information and analysis about Communist societies and movements throughout the world. Now in the 21st year, the journal enjoys a worldwide reputation for high standards of factual accuracy and academic thoroughness. Its contributors include distinguished scholars and journalists from many disciplines in foreign area studies both here and abroad. Its audience likewise consists of scholars, writers, journalists and other influential figures who need the unbiased, objective information and analyses on Communist affairs which the journal provides.

Problems of Communism has been available for the past 15 years to any U.S. resident who wishes to pay for it at a Government Printing Office sales stand or subscription outlet. The journal currently enjoys a 5,000-copy, paid circulation in the United States, at no cost to the U.S. taxpayer. This circulation is in addition to the 30,000 copies distributed abroad by the U.S. information service. This is a good arrangement and should be continued. There is no other major journal here or abroad which fulfills this purpose, with the possible exception of the British journal Survey. Problems of Communism meets a need, and it meets it in a sane and balanced fashion.

I believe any attempt to deny U.S. readership for this well-established, scholarly journal would be self-defeating. The journal has become an institution in the United States as it is abroad. There are few among the leading American scholars in Soviet and Asian area studies who have not contributed to it or drawn upon its materials in their works. There are many distinguished foreign scholars who have depended upon it as a text, or have made it required reading for their students. It is a basis for communication among foreign and American scholars on issues of major significance. Its authority has been cited and its contents reprinted in the CONGRESSIONAL RECORD by Members on both sides of the aisle.

There is a clear need for reason and objectivity in our perception of Commu-

nist affairs. The monolith of Stalin's day has fragmented into a variety of more or less authoritarian national states. Some of these polities remain hostile to their non-Communist neighbors. Others are evolving toward a posture of coexistence. And yet others demonstrate a growing willingness to cooperate to their and our mutual advantage. All are undergoing change in one form or another. But none of these states will necessarily continue changing in a direction favorable to us or to our allies. It is very much in our interest and that of our allies that we lose no opportunity to maintain and foster a continuing, sophisticated awareness of the sources, nature, and direction of change in these evolving Communist societies. "Problems of Communism" provides a highly respected and scholarly forum through which such an awareness can be maintained within a framework of reasoned discourse.

We need such a forum. The distinguished scholars and journalists who have given "Problems of Communism" a worldwide reputation for high standards of factual accuracy and academic thoroughness will be justifiably reluctant to write for a journal which is a one-way street. And we, with our traditions, should be reluctant to distribute a journal which does not represent the highest standards of scholarly research. I strongly recommend that the amendment attached to the State-USIA authorization bill, prohibiting distribution of USIA materials to the U.S. public, be revised to permit the continued sale of "Problems of Communism" to residents of the United States through the U.S. Government Printing Office.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

This magazine is a bimonthly publication. It costs approximately $175,000 a year to publish. Again, this amendment involves a question that has arisen before: Do we wish to use the taxpayers' money to publish journals of this kind, as the Senator from Massachusetts says, for the benefit of academics?

Its total worldwide circulation, I might say, is 35,000. It is a very costly magazine. If it adds anything to the knowledge of people generally of problems of communism, I would be greatly surprised. The State Department also publishes a journal entitled "Sino-Soviet Affairs, a Journal of Reference and Record," which seems to cover the same territory.

I suppose the Pentagon has more publications than anybody else in the world. I think I saw the other day that the Pentagon publishes approximately 1,400 periodicals. The Pentagon also maintains hundreds of radio and television stations.

However, because I know the facts of life and because I know how persuasive the Senator from Massachusetts is, I am prepared to accept the amendment. I do not know why the Senator asked for the yeas and nays. There is no point in my opposing it. It is going to be adopted.

I should like to make clear for the record that this, by indirection, recognizes the validity of the provision in the bill that the activities of the USIA are not to be used to propagandize the American people. This was the original intent of the act, I might say. It was always understood to be that way, until Mr. Kleindienst overruled that in a recent ruling regarding the showing of a USIA movie on television.

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

Mr. FULBRIGHT. I yield.

Mr. BROOKE. I agree with the Senator that it is not the purpose of USIA to propagandize the American people. But does the Senator believe that the journal "Problems of Communism" is used for propagandizing the American people? Only 5,000 copies of the journal "Problems of Communism" are distributed in the United States.

Mr. FULBRIGHT. Why should the USIA do it? Was the USIA not created to propagandize foreign people? Until recently, was it not considered to be an agency to influence foreign opinion?

Mr. BROOKE. That is correct.

Mr. FULBRIGHT. The Senator is breaking it down. I can see the way it is going in the Senate. Granted, it may be a good journal, but why should the USIA do it? Of all the agencies, why does not some agency with a domestic orientation do it within a recognized legal authority? The Senator is creating an exemption to what we have always considered to be the law.

This was not my idea at all. I remember that Senator MUNDT and former Senator Hickenlooper were two of the leading spirits against allowing the USIA to do this sort of thing. This was a Democratic President. They thought it would be bad for the Federal Government to engage in propagandizing the American people. Just because there is a Republican President, everybody thinks it is all right, that there is no danger in turning loose a $200 million agency to publish material for Americans.

I am ready to accept the amendment. I think it is bad practice to make this exemption, because next year they will be back to try to exempt something else. And the prohibition will be broken down and we may end up having a Mr. Goebbels running it. If that is the way the Senator wants to do it, I cannot do anything about it.

This magazine is not very different from the one put out by the State Department. And there are probably others.

Mr. BROOKE. In all fairness, I think the journal "Problems of Communism" is a unique journal. The greatest Soviet scholars in the country contribute to this journal. It would not be so if it were published by, say, a commercial corporation.

Mr. FULBRIGHT. Harvard has a great press. If it is all this good, why does not the Harvard Press put it out, or Atlantic Monthly, or anybody except an agency that was created to influence foreign opinion about America? Why does the Senator pick out that agency to do it?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. I yield myself whatever time is necessary.

Mr. BROOKE. If the USIA would publish "Problems of Communism" only abroad and there was, say, an American outfit, some other agency, that published it at home, that would be banned under the amendment which is now in the bill of the Committee on Foreign Relations. They could not make distribution of it in the United States. So the United States would be deprived of this valuable resource.

Mr. FULBRIGHT. I cannot make my point clear. The point is that the USIA is a Government-supported operation designed for the purpose of influencing foreign opinion. Now the Senator is distorting that and is saying that some of their material is good for Americans. If some is good, I do not know why all of it is not good. This is a Government-operated operation. Why does not Harvard publish it if it is all that good? I do not think it is that good. I doubt that they could sell it. Why does the Senator want the Government to subsidize it?

Mr. BROOKE. Since the Senator doubts whether it can be sold, the USIA does not publish this free to the 5,000 persons in the United States. It is sold through the Government Printing Office at a cost of approximately 50 cents a copy. I think it costs about 40 cents a copy. So the USIA makes 10 cents a copy. It is not a question of the taxpayers paying for it. The Government Printing Office orders the number of copies it uses. The USIA is not distributing it according to its own wishes or according to its own distribution formula.

Mr. AIKEN. Mr. President, will the Senator yield

Mr. FULBRIGHT. I yield.

Mr. AIKEN. The USIA issues many publications in circulation around the world which it would like to have made available to people in the United States. Some publications undoubtedly would be more valuable to our own people than this one, which it is proposed to exempt.

My question is this: If we make an exemption for one of these publications, where do we stop, when there are others which the USIA will tell you are more valuable and would be more valuable to the citizens of the United States than this one? In fact, I think the USIA would like to make many of its publications available to people in the United States—and probably they should.

That question came up a few years ago, and Congress decided against it, because they were afraid the USIA would get into politics. I do not know whether the document to which the amendment applies is good for communism or bad for communism, because I admit that I have not read it. If we do it for one publication, how can we say that they cannot distribute any others?

Mr. BROOKE. Prior to this ban in the present USIA bill, there was no prohibition other than the intent of Congress, which was quite correctly indicated by the Chairman of the Committee on Foreign Relations.

There are other publications—"America Illustrated," for example—of which

I think some 60,000 copies are distributed to the Soviet Union, and approximately 25 copies are distributed in the United States to Soviet scholars and institutes. That is at the cost of the USIA. So some flexibility has been given to USIA in these cases.

However, the journal "Problems of Communism" cannot be compared with the other publications the Senator has mentioned which are distributed in the United States. So I think there is no real fear that we are going to open the floodgates to all the publications that are sent out across the world by USIA.

Mr. AIKEN. I do not say that this is a bad publication. I simply say that I have not read it. But I do say that I am sure that USIA has other publications it would like to have made available to the people in the United States—not political, but publications which perhaps would tell us something about our own country that we do not know too much about.

If we make an exemption for one publication by law, I was wondering where we stop. I am sure the USIA has other publications which they would like to have made available to people in this country.

Mr. BROOKE. USIA has asked for an exemption for this publication. They have not asked for an exemption for any other publication. They fear that they could not get this resource if they did not have the journal "Problems of Communism." They would not get the contributions from the Soviet scholars in the United States if they did not have it. They would not want to contribute to a publication to which they were denied access themselves. They could not even read it. It would be detrimental to the success of the publication if readership was denied in the United States.

Mr. AIKEN. I have to confess that I am sure the USIA has other publications it would like to make available to the people of the United States. I have that on pretty good reliable authority.

Mr. JAVITS. Mr. President, as a member of the committee, I am pleased that the chairman has agreed to accept this amendment. I am dismayed by the fact that he considers it some exercise of "force majeur," in that the Brooke amendment has the votes, but I would like to point out that originally I had proposed to ask for this amendment myself but in deference to the chairman, who carries such a heavy load, I did not want to be the one to raise the question. I am glad the Senator from Massachusetts (Mr. BROOKE) did.

In answer to the main point made, that the USIA may want other things distributed here, it is significant that we have, and the committee inserted, a complete barrier to any information of the USIA's being disseminated. This is a small exception because the prohibition is a blanket one covering all other materials. I should like to point out that this changes the existing law which was confined to a prohibition only against press releases and radio scripts. Now the prohibition is that any information shall not be disseminated within the United States, its territories, or possessions. The exception in Senator BROOKE's amendment makes it solely this one, scholarly publication.

The reason for this publication is that, as happens with publications which have a tradition, this one has attracted erudite participation by its many distinguished contributors.

I ask unanimous consent to have printed in the RECORD a list of some of these major contributors as well as a telegram from a constituent of mine, Professor Brzezinski, who teaches at Columbia, pointing out the critical importance as he sees it to American academic life of the continuance of this journal. It is my understanding that other members of the academic community have been in touch with their Senators on this matter.

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

LIST OF MAJOR CONTRIBUTORS

G. F. Hudson, of Oxford University, on Chinese Foreign Policy.

Robert Scalapino, of California (Berkeley) on Asian Communism.

Leonard Schapiro, of the London School of Economics, on the Soviet Union.

Tilman Durdin, of the New York Times, on China.

Colin Legum, of the London Observer, on African revolutionaries.

Robert Moss, of the London Economist, on Urucuayan Tupomaros.

Merle Fainsod, of Harvard, on the Soviet journal USA.

Harold Berman, of Harvard, on Socialist law.

James Thomson, of Harvard, on Chinese foreign policy.

Bhabani Sen Gupta, of Nehru University New Delhi, on Indian Communism.

Peter Ludz of Germany, and advisor to Chancellor Brandt, on East Germany.

Allen Whiting, of Michigan (Ann Arbor), on Chinese affairs.

Ruth McVey, of the London School of Economics, on Indonesian Communism.

NEW YORK, N.Y.,
April 26, 1972.

Senator JACOB JAVITS,
Washington, D.C.

With reference to conversations between Ken Gunther and Smith and Fernandez of USIA I wish to reiterate the enormous importance to American Academic Life of Free Circulation within the USA of the magazine Problems of Communism. This magazine is the principal academic magazine on Soviet affairs and it would be ironic to prevent its circulation within the USA while the Soviets are stepping up studies of America. The magazine is scholarly and a vital tool for research and teaching within American Universities. It operated on the basis of subscriptions and is intellectually open minded. I will be glad to brief you further on this but we need your help urgently.

ZBIGNIEW BRZEZINSKI.

Mr. JAVITS. Mr. President, I would add my hope that a private agency could be found to publish this journal, and that the USIA would turn it over to such a private agency which would assure publication. But these things are difficult to come by in publishing ventures which have certain established traditions with the agency which publishes them, and that is the situation here.

Mr. President, I also agree thoroughly with the chairman of the committee, and also with the Senator from Massachusetts (Mr. BROOKE), that the agency should not be used to propagandize America. But, at the same time, we cannot be parochial and close our minds to the fact that we may want to continue what the agency is already doing, if it is doing something worthwhile and useful. We should not have such an iron rule as to defeat ourselves. Certain material such as Problems of Communism certainly is not meant to propagandize our people. It depends on what the material is, how it is put out, and what we do with it.

I think there is no question about the policy of Congress of not allowing the agency directly, indirectly, or impliedly to propagandize our people. I think we are buttoning up the law, probably to excess, in the Committee amendment, which is the subject of Senator BROOKE's amendment. I believe that the case is most strongly made by the scholars, and the situation, for this exception offered by Senator BROOKE. I am very much pleased, much as I regret the Chairman's reasons for it—that the Chairman is willing to accept this particular amendment. Perhaps we can find other times, places, and means including legislation to change the feeling that he has. I would very much embrace that hope, since he has led and will continue to lead the country on many important issues.

Mr. President, it is particularly germane that the Senate today is considering an amendment by Senator BROOKE which would allow the continued domestic circulation of the distinguished USIA publication "Problems of Communism." President Nixon has just completed a historic visit to the Soviet Union and various accords vital to the peace and security of the United States, the Soviet Union and the world have been signed. It is my expectation that the distinguished scholars dealing with Sino-Soviet and Eastern European affairs will be analyzing this material in the months and years ahead and passage of the Brooke amendment would insure that this impartial analysis will continue to be circulated to the maximum extent possible among the American and foreign academic community interested in this subject matter.

"Problems of Communism" is now in its 21st year and enjoys a worldwide reputation for high standards of factual accuracy and academic thoroughness. There is no other major journal here or abroad which fulfills this purpose with the possible exception of the British journal survey. At this time in particular we must not lose any opportunity to maintain and foster a continuing, sophisticated awareness of the sources, nature and direction of change in these evolving Communist societies. "Problems of Communism" provides a forum through which such an awareness can be maintained within a framework of reasoned discourse. Passage of the Brooke amendment would insure the continued availability of this valuable publication to the scholars, writers, journalists, and other influential figures

who need the unbiased, objective information and analysis on Communist affairs which this publication provides.

Mr. FULBRIGHT. Mr. President, may I ask the distinguished Senator from Massachusetts, has he already obtained the yeas and nays?

Mr. BROOKE. Yes.

Mr. FULBRIGHT. I thank the Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD a short statement, including hearings held by the committee on June 11, 1968, which gives some of the legislative history behind this issue. It throws a good deal of light on what the committee and the USIA thought at that time about the status of the law.

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

STATEMENT ON USIA FILMS

Section 204 of the Foreign Relations Authorization Act would amend the present Smith-Mundt Act, establishing the USIA, to make it clear that the internal distribution of USIA materials is prohibited. We thought this had been made clear when the following proviso was added to the act authorizing the showing in the United States of a film concerning the late President Kennedy.

"It is further the sense of Congress that the expression of Congressional intent embodied in this joint resolution is to be limited solely to the film referred to herein and that nothing contained in this joint resolution should be construed to establish a precedent for making other materials prepared by the United States Information Agency available for general distribution in the United States."

Some however, notably USIA and the Justice Department have disputed the interpretation placed on it. A little noticed legislative chapter, however, buttresses the views of those of us "strict constructionists" who have claimed all along it meant a total prohibition.

This somewhat obscure legislative history concerns S. 3535, a bill to authorize the exhibition and examination, within Presidential archival depositories, of certain motion-picture and other films prepared by the United States Information Agency. The bill was introduced (by request of the Administration) on May 23, 1968 and the Committee on Foreign Relations had a public hearing on it on June 11, 1968. This hearing was never printed because the bill died in Committee. It died because of the vigorous opposition of a number of Committee members to give special authorization to even the most carefully restricted use of USIA films for research purposes only by scholars in Presidential Archives, and then only after the President had left office.

This hearing is particularly interesting, not only because of the questions raised by Committee members then, but also because of the interpretation USIA officials at the time made of the restrictions of the statute.

I quote Richard M. Schmidt, then General Counsel of the Agency: "Over the years Congress had repeatedly declared its intent that the language of section 501 be construed to prohibit the Agency from making its output generally available for distribution or dissemination in the United States . . .

"I can assure this Committee that our Agency strictly and conscientiously adheres to both the letter and the spirit of congressional injunctions against domestic distribution of our output."

It is amazing to read this record four years later and see what the change in USIA's interpretation of its basic authority that has taken place. It is equally amazing to recall the attitude of Foreign Relations Committee members who were so deeply concerned about opening the door to distribution of USIA films even a crack that the bill was allowed to die in Committee.

I believe it is well for us to be reminded of this little chapter in USIA legislative history which is very pertinent to recent developments and statements. I ask unanimous request that the entire proceedings be printed in the RECORD at this point and urge all my colleagues to read it.

S. 3535

A bill to authorize the exhibit and examination within Presidential archival depositories, of certain motion picture and other films prepared by the U.S. Information Agency

TUESDAY, JUNE 11, 1968

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice at 10:10 a.m., in room 4221, New Senate Office Building, Senator Albert Gore, presiding.

Present: Senators Gore, Morse, Lausche, Symington, Williams, Mundt, Case, and Cooper.

* * * * *

Senator GORE. The committee now will proceed to S. 3535, a bill to authorize the exhibit and examination, within Presidential archival depositories, of certain motion picture and other films prepared by the U.S. Information Agency.

(S. 3535 follows:)

[S. 3535, 90th Cong., second sess.]

A bill to authorize the exhibit and examination, within Presidential archival depositories, of certain motion-picture and other films prepared by the United States Information Agency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Information and Educational Exchange Act of 1948 (62 Stat. 6, as amended; 22 U.S.C. 1431 et seq.) is further amended by adding immediately after section 501 thereof the following new section:

"SEC. 501A. Motion-picture and other films prepared by or for the United States Information Agency relating to any President or former President of the United States or to officials and events of the administration of any President or former President, the distribution or exhibition of which is restricted by the provisions of this or any other Act, may nevertheless, when transferred to the Administrator of General Services, be exhibited, or made available for examination for research purposes, solely within a Presidential archival depository, but no such films relating to a particular President or his administration shall be so exhibited or made available as long as he remains in office. As used in this section, the term 'Presidential archival depository' shall have the meaning set forth in paragraph (1) of subsection (j) of section 507 of the Act of June 30, 1949, as added September 5, 1950 (64 Stat. 583, as amended; 44 U.S.C. 397)".

Senator GORE. The witness will be Mr. Richard M. Schmidt.

STATEMENT OF RICHARD M. SCHMIDT, GENERAL COUNSEL, U.S. INFORMATION AGENCY

Mr. SCHMIDT. Senator and chairman, thank you for the opportunity of appearing before your committee concerning S. 3535. This bill will authorize the exhibit and examination, solely within Presidential archival depositories, of certain motion picture and other films prepared by the U.S. Information Agency.

LIMITATIONS ON DOMESTIC DISTRIBUTION OF USIA PRODUCTS

As this committee knows, section 501 of the U.S. Information and Educational Exchange Act of 1948, as amended (Public Law 402, 80th Cong.; 62 Stat. 6; 22 U.S.C. 1431, et seq.) and Reorganization Plan No. 8 of 1953, authorize our Agency to prepare and disseminate abroad information about the United States, its people and its policies, through various media of communications, including motion pictures. Section 501 of the Act further provides that following its release as information abroad, such material shall be made available, upon request, for examination by representatives of U.S. press associations, newspapers, magazines, radio systems and stations, and Members of Congress.

Over the years Congress has repeatedly declared its intent that the language of section 501 be construed to prohibit the Agency from making its output generally available for distribution or examination in the United States. Moreover, the fact that a joint congressional resolution was required to authorize the domestic release of the Agency film, "John F. Kennedy—Years of Lightning, Day of Drums," underscores the frequently expressed attitude of Congress on this point. The joint resolution just mentioned (S.J. Res. 106; Public Law 89–274; 79 Stat. 1009) specifically provides "that the expression of congressional intent embodied in this joint resolution is to be limited solely to the film referred to herein, and that nothing contained in this joint resolution should be construed to establish a precedent for making other materials prepared by the U.S. Information Agency available for general distribution in the United States." In addition, section 4 of this joint resolution contains the following language:

"Any documentary film which has been, or is now being, or is hereafter produced by any Government department or agency with appropriations out of the Treasury concerning the life, character, and public service of any individual who has served or is serving the Government of the United States in any official capacity shall not be distributed or shown in public in this country during the lifetime of the said official or after the death of such official unless authorized by law in each specific case."

I can assure this committee that our Agency strictly and conscientiously adheres to both the letter and the spirit of congressional injunctions against domestic distribution of our output.

LIMITED PURPOSE OF S. 3535

The only and very limited purpose of the bill before you is to allow motion picture and other films prepared by or for the Agency relating to any President or former President of the United States, or to officials and events of his administration, to be exhibited and made available for examination for research purposes solely within a Presidential archival depository and only after the particular President concerned has left office.

The bill defines the term "Presidential archival depository" to be the same as set forth in section 507(j)(1) of the act of June 30, 1949, as added, September 5, 1950 (64 Stat. 583, as amended; 44 U.S.C. 397). As so defined, such a depository is "an institution operated by the United States to house and preserve the papers and books of a President or former President of the United States, together with other historical materials belonging to a President or former President of the United States, or related to his papers or to the events of his official or personal life."

The value to the public and to historians and other scholars of having such films made

available for exhibit and examination is readily apparent and needs no further elaboration. At the same time the bill would, in no significant way, change the basic functions of our Agency or broaden the scope of its authority in domestic distribution.

This concludes my statement. I shall be happy to try to answer any questions that the committee may have. I should also like to state that the Bureau of the Budget informs us that it has no objection.

WHO REQUESTED THE LEGISLATION?

Senator GORE. What is the genesis of the bill?

Mr. SCHMIDT. We have repeated requests, Senator, from scholars and others asking for the film history that the U.S. Information Agency has made of previous Presidents in office and we always have to turn them down. We have numerous requests each month. We deposit our films in the National Archives with the provision that no one may see them. The National Archives holds our product but has not allowed anyone to view them.

Senator GORE. Are you saying that this request originated with your Agency?

Mr. SCHMIDT. Basically in our Agency as the result of the repeated requests from scholars, yes. With the creation of the Eisenhower Library, the Truman Library, and the Kennedy Library, these requests have become more frequent, and we came forth with this bill in answer thereto.

Senator GORE. Senator Morse?

LIST OF FILMS AND DOCUMENTARIES REQUESTED

Senator MORSE. Mr. Schmidt, could you supply the committee with a listing of the films and documentaries that are now on file in the Archives, and a brief description of the contents of each film? I think it would be helpful if we had that material before us when we come to consider the bill in executive session.

(The information referred to appears at the end of the hearing.)

PROCEDURE FOR ACCESS TO THE MATERIAL

Senator MORSE. When you say that the viewing is to be limited to the depository, it means the scholar would go there and ask to see the film, take his notes, and record what he saw for his own research writings. I am not passing value judgment on whether this should be or should not be done, but I am trying to find out what the procedure would be. Does this mean that the viewers would be limited in number and would be restricted to those scholars doing research on the subject matter; would that be correct?

Mr. SCHMIDT. Well, it would be whatever the rules of the archives, of the particular archives, are, Senator, as to their definition of scholars. We would turn these films over to GSA which operates the Presidential archival depositories. There is no definition of "scholar" here, but the people who would have access to the materials within the Presidential archives would be the ones who would also have access to these films.

Senator MORSE. I haven't any doubt that a good many of the films that you have on deposit would have great educational value, for example, to a political science class or a history class. I am speaking hypothetically now.

Let's take a political science class, an undergraduate or a graduate seminar, concerned about the Teheran Conference. Let's assume that there was on file some film of the Teheran Conference. From the standpoint of educational impact it would be of great value to that class or that seminar. Of course, this raises the problem of the time-lag—how much time should elapse before that kind of a showing could be made possible—because, as you know, there is always the argument raised as to the political implications of such films and the value of such films if they had wide dissemination in connection with political issues of the day or party issues of the day, or campaign use of the present time.

On the other hand, it seems to me if this work is well done, it represents a recording of American history that can be of great value to the student.

These are just some suggestions I am raising by these hypotheticals. I think we have to pay some attention to the timelag factor before they can be shown to a broader audience than the limited one that I have suggested—where the researcher, the Ph. D. candidate, the history professor, the political science professor, or the author wants to come in and see the film.

As a general proposition I think it is difficult to defend locking up knowledge.

You can have the book in the library on the Teheran Conference that is accessible. If you have a film on it, under whatever reasonable safeguards that you decide you ought to impose, it ought to be accessible. I think behind all this is the worry on the part of some that we should not encourage the Government to play the role of political propagandist. But I think you can provide some reasonable safeguards against that.

I think if we could have a listing of what is available and some description of it, it would be helpful.

Mr. SCHMIDT. Senator, I might add we operate under the Smith-Mundt Act and the only materials we would have would be from the date of the inception of that act, which would be 1948, the Smith-Mundt Act, Public Law 402.

Basically our material, film materials, would be dated back to 1948. Film of OWI and other predecessor agencies would not be governed by this prohibition against domestic distribution which we have in our law.

Senator MORSE. That is all.

Senator GORE. Senator Mundt.

REQUESTS FOR USIA MATERIALS

Senator MUNDT. You mentioned that the scholars have asked you for this change in legislation. I was wondering if there were any others besides scholars? Have any of the former Presidents or present Presidents or present members of the administration made the same requests?

Mr. SCHMIDT. I have had no communication from any Presidents, Senator. I have discussed this with representatives of the Department of Justice and with the General Services Administration in drafting the language. We do get repeated requests as you know, from people for our output, which we regularly deny, except to the people who are now qualified under the law, that is, the press and Members of Congress.

PRESIDENTIAL ARCHIVES AND ADMINISTRATIONS

Senator MUNDT. How many Presidential archives are now actually operating as libraries to which the public has access? How many of these are planned?

Mr. SCHMIDT. I don't know the exact number in actual operation. I know, of course, of the Eisenhower Library in Kansas, the Truman Library in Missouri, the Kennedy Library which is being developed in Massachusetts, and the Johnson Library in Texas. There is also a Hoover Library in California. We would have no films in our catalog right now of Hoover because we weren't in existence at that time.

However, if we were to make a film, a historical concept, covering the Hoover administration, we would be presently barred from showing it, too, at any place in this country without this legislation.

We also provide, as you will note in the bill, that these films could not be shown in an archival depository so long as they concerned an incumbent President. They could be shown only after he left office.

Senator WILLIAMS. If you would yield, just how would the film on the Hoover administration be affected by the existing law?

Mr. SCHMIDT. Well, I think, under section 4 of the Kennedy film law, which states that any documentary film which concerns the life, character, and public service of any individual who has served or is serving the Government of the United States in any official capacity shall not be distributed or shown either before or after his death if produced with appropriated funds—and obviously everything we make is with appropriated funds, so we would be barred at the present time from letting out in this country any films concerning even George Washington or Abraham Lincoln. I use the Hoover example because I know there is a Hoover Library.

Senator MUNDT. The bill refers to research purposes. Who is going to determine whether anybody who examines a film is doing it for research purposes or anything else?

Mr. SCHMIDT. This would be under the rules administered by the Presidential archival depository under the GSA. In other words, the public doesn't have access to everything in the Presidential libraries any more than they do in the Archives. The rule is you must show you are admitted for reasons of research because you are a scholar or teacher. The press would always have availability anyway.

WHEN ARE PRESIDENTIAL PAPERS OPENED TO SCHOLARS?

Senator MUNDT. Does a certain time have to elapse before a research student has access to Presidential papers?

Mr. SCHMIDT. Not that I know of. I think that after they are once cataloged and examined by the original research staff in the archival depository they are put into the scholars library for availability. But not until that time, until they are completely cataloged and reviewed by the staff.

Senator MUNDT. As I understand the procedure, USIA makes its films available to the GSA?

Mr. SCHMIDT. That is right. We would not administer it.

Senator MUNDT. You would not administer it. Do you know whether the General Services Administration makes those films available immediately to the libraries? Does a year elapse, 5 years elapse? What are the rules?

Mr. SCHMIDT. I don't know, Senator. We would have to check with GSA.

Senator MUNDT. Could you find out?

Mr. SCHMIDT. Yes; I would be happy to check and find out.

Senator MUNDT. For the record.

(The information referred to appears at the end of the hearing.)

INCLUSION OF OFFICIALS AND EVENTS OF AN ADMINISTRATION

Senator MUNDT. I am a little curious about one statement in the bill. I can see the appeal of doing this for Presidents, former Presidents of the United States, but the bill also includes "officials and events of the administration of any President or former President." Very frequently the officials of one administration 4, 8, 10, 12 years later become candidates for the office of Presidency. I am a little bit dubious about opening it up, perhaps widely, unless you put in some very proper precautions on using the films during the Presidential occupancy of any individual so that it would not be done to help any individual with his political career.

You open a very wide loophole there when you include the officials of any administration of any President or former President. I am just not sure that we want to get involved in doing anything that either helps or hinders the chances of a minor or major official of an administration who comes down the path, 4, 8, 12, or any other number of years later as a candidate for office, when

there is in the library an official firm paid for by public funds, which would either help him or hurt him. This opens it up widely because most scholars or researchers are engaged in this business of getting raw material for publication, utilization, and dissemination.

So I was wondering why you opened the door so widely. Why not limit it to the President or former Presidents of the United States?

Mr. SCHMIDT. Senator, under the existing language of the Kennedy film resolution if we had limited it to the President—for example, let's take the Teheran Conference and let's assume the Secretary of State was present. While we could show an Agency film of that event concerning the President we would somehow have to cut out showing the Secretary of State because he was an official and appeared along with the President. It is very rare, as you know, to have film coverage of the President as an individual without someone in his administration being around him.

Senator MUNDT. It would be very easy for whoever drafted this bill to take care of that without opening up the whole Pandora's box the way it is here. Under this law you would not have to have the President in the picture at all.

Mr. SCHMIDT. That is true.

Senator MUNDT. You could show the Secretary of the Interior, or the Commissioner of Indian Affairs, or the Postmaster General, or almost anybody who is an official—any of the 3 million people presently working in the Government, who by some quirk had a picture taken of himself in some activity of which he might be proud or of which he might be ashamed. That is an awfully wide authority in order to make it available for the President and anybody who had been in the picture with him.

Mr. SCHMIDT. Senator, I dispute the fact that we would make this available to 3 million people if I heard you say that. I don't think the Presidential archival libraries operate on that broad a scale. This is not a general broad public showing.

Senator MUNDT. No; but the films would be made available. If they are chronicling the events of history during the Presidential administration you could well have a film entirely unrelated to the President, but taken by USIA for purposes that it deems wise to disseminate overseas, which gets into this General Services Administration and it becomes part of the depository.

Mr. SCHMIDT. But the point is that the present law prohibits the domestic showing of any film concerning the life, character, and public service of any individual who has served or is serving the Government of the United States in any official capacity. So if we are going to have anything concerning any governmental official in the film we must have this language allowing us to do it because we could not separate the President out from other Government officials.

The present language of the law does not limit it to the President.

LIMITING THE AUTHORITY TO PRESIDENTIAL FILMS ONLY

Senator MUNDT. We could separate the President out if we wanted to do it.

Mr. SCHMIDT. We could separate him out, but we probably——

Senator MUNDT. In the Kennedy film resolution we wrote a special law for a special President, for special conditions and designated the Kennedy Cultural Center, I believe it was, as the one that distributed the film and recompensated the Government. That has worked fairly well. There are one or two rather unhappy deviations from the intent of the law, not many, not serious enough to complain about that.

I read you the words, page 1, line 9, "relating to any President or former President of the United States." Up to that point I think you have a lot of persuasion. But then the bill adds: "or to officials and events of the administration of any President or former President." This could be any—and I don't know how you define "official"—it seems to me, Federal employees. I think each of them has a right to consider himself as an official. You are an official.

Mr. SCHMIDT. The present law bans the domestic showing of any Government film regarding any such official. For example, we do make a great number of films, as you know, when visiting heads of state come to this country. We have in each film almost invariably a picture of the President receiving the visiting head of state. Under our system of protocol invariably the Secretary of State and several other officials are also present. Unless we have the language contained in S. 3535, such a film could not be shown in a Presidential archival library because it shows not only the President, but also other officials who are specifically banned under section 4 of the Kennedy film legislation.

Senator MUNDT. Exactly, and it would be very simple to have language to cover the kind of event where the President is in a picture. Since we have had USIA under any Presidential administration I suppose we have had pictures made of a great many Government events for distribution which do not include the presence of the President whatsoever, and these are in the Archives.

Mr. SCHMIDT. I don't know we have a great many, but I am sure we have some.

Senator MUNDT. For example, you have done some on the American Indians of interest overseas. I am perfectly positive most of the motion pictures made of American Indians are not typical of what is true on a Sioux Reservation. People are living in hovels and huts and certainly such films would be antiproductive so far as the purposes of this country are concerned if they show how we have impoverished so long the American Indian. So very conceivably you have pictures of the Indian Commissioner opening a fine Indian school—we have splendid Indian schools—or one of the housing structures on the reservation, but that is certainly not a typical presentation of the status of the American Indian and it certainly does not include the more deplorable conditions showing the Indian homes in South Dakota which have neither windows nor doors nor floors. So I am sure we are not advertising America overseas by showing how we mistreat the original American citizen.

The point I am making is that I am not just sure about opening the bill to the point where the President not appear in the picture and is not part of the presentation of an event that does occurr in his administration. If we provide for every official the right to be pictured, researched, propagandized at the time his President happen to be out of office—there are pretty young public officials properly considering, I assume, taking on a career in public life—you could get into a sticky situation. I am sure you could tighten up that language to meet the purpose you have in mind, which is absolutely proper.

The picture of a President does not appear alone very often. He has his staff—the Secretary of State and people there—and there is no problem in that connection. The whole array of pictures which are taken of Americana for foreign consumption is probably the proper function of the USIA. And now it is opened up for the same kind of availability and I wonder why?

Mr. SCHMIDT. Well, I stand on the statement I made to you, sir. I don't think we are making a broad open gate change in the policy. I think we are putting this in for scholarly research. Certainly I would hope we could present to the scholars all of the material. I think it would be more dangerous if we were to say you can only have part of it. I am sure there are film excerpts that are laudatory and there are those that perhaps someone would view as being denigrating to their position. But this is part of the scholarly research process to be able to have all of this available, and we make no claims to complete objectivity, and I am certain every scholar who views it will be certain of its source.

AVAILABILITY OF COMMERCIAL MATERIALS

Senator MUNDT. Except for events that are staged and filmed especially for publicity purposes of the USIA to put its best foot forward overseas, would it not be possible for these Presidential libraries to obtain similar material from commercial sources, thereby avoiding setting another precedent for domestic use of USIA produced materials? All these events you have been talking about have been covered by CBS, NBC, and all the commercial media. It is just the staged things that are exclusively available to USIA.

Mr. SCHMIDT. No; I take issue with that. I wouldn't say we stage these things.

Senator MUNDT. You exclude the commercial people from covering these public events?

Mr. SCHMIDT. No, sir; but we certainly do a more comprehensive job in coverage of affairs of state than the commercial people do because we have more utility value from it. We certainly, during the visit of a head of state to this country, cover in greater depth the activities that would not be of as great interest to the people of the United States. The commercial movie and newsreel and television people operate primarily for the domestic audience. We are operating wholly for the overseas audience so, therefore, we will have more intensive coverage on activities of the visiting head of state, for example, than the commercial people would. Certainly the commercial material is available to the Presidential archival depositories.

Senator MUNDT. May I just conclude by suggesting, Mr. Schmidt, that you go back to the author of this bill, who is unknown to the members of the committee——

Mr. SCHMIDT. No, you are talking to the author, sir. I drafted it with Mr. Dunaway who is sitting behind me.

POSSIBLE REFINEMENT OF BILL

Senator MUNDT. In retrospect and upon careful reflection, can you see whether you can't find other language for line 9 of page 1 and lines 1 and 2 of page 2, which will accomplish the objectives which you have in mind without opening it as broadly as you do? I am a little bit afraid of establishing a precedent including as many officials as you include in motion pictures which don't even present the image of any President whatsoever, to have these tucked away in libraries, and the repercussions which eventually flow back as these people become increasingly prominent in public life, run for Senator, Governor, President, and Vice President. I am not so sure that we should subject ourselves to that kind of an attempt. Maybe we can't find other language. I hope you can; if not, perhaps someone on this committee can come up with some language which is tighter. But if you would study this longer I would like to have your recommendation.

Mr. SCHMIDT. I would be happy to review it again, Senator, but I want to say again what we are talking about is a very limited audience and I don't think it would be a big one.

Senator MUNDT. I think it is the biggest audience you can find, Mr. Schmidt—when

you open it up to writers, researchers, and those who are going to write articles in depth, and make studies to share with the populace. Generally, I think that is a larger audience than you can cram into the largest theater in Washington.

Mr. SCHMIDT. Senator, the press already has access to this.

Senator MUNDT. Why couldn't you accomplish it then—if that is all you are trying to do—without all this laborious language, by a simple amendment to the law which would add to section 501 which now says "for examination by representatives of the U.S. press associations, newspapers, magazines," and so forth, the words "and bona fide scholars"? That would do it.

Mr. SCHMIDT. I would like to have from you sir, a definition of "scholar" and also what part the U.S. Information Agency would play. In other words, by putting that language in the present law you would make this available to anyone who came into our Agency and said, "I am a scholar and I want to see all of your material." I don't think this would work. What we are saying in effect is we are going to transfer this material into the Presidential archival depositories where they have a system for scholars and others to come in and review this material. It leaves the U.S. Information Agency out of any domestic distribution, whereas your method would put us right into it.

Senator MUNDT. It would be as easy to determine a scholar as we do a representative of a press association or a man who says: "I am writing an article for a magazine." Whatever criteria you employ, in section 501 of the act now, I think probably could be employed to determine who is a scholar.

Mr. SCHMIDT. Section 501 of the act at the present time states "for examination by representatives of U.S. press associations, newspapers, magazines, radio systems, and stations." That is fairly easy of identification. A person can come in with credentials showing that he represents one of those groups and, of course, Members of Congress are easily definable too, and we have had no trouble with that. But I would hesitate to sit in judgment on who ranks as a scholar.

Senator MUNDT. That is all, Mr. Chairman.

Senator GORE. Senator Lausche.

BASIC PURPOSES OF U.S.I.A.

Senator LAUSCHE. For purposes of the record I would like to ask some questions which might seem elementary but I think they ought to be asked.

This U.S. Information Agency was created when?

Mr. SCHMIDT. By the Smith-Mundt Act of 1948, and Reorganization Plan No. 8 of 1953.

Senator LAUSCHE. And what was its purpose as set forth in the purpose clause of the bill?

Mr. SCHMIDT. If I may quote this to you, sir.

Senator LAUSCHE. Yes, go ahead.

Mr. SCHMIDT. Section 2 of the act, which is known as Public Law 402, states: "The Congress hereby declares that the objectives of this Act are to enable the Government of the United States to promote a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries. Among the means to be used in achieving these objectives are (1) an information service to disseminate abroad information about the United States, its people, and policies promulgated by the Congress, the President, the Secretary of State and other responsible officials of Government having to do with matters affecting foreign affairs."

Senator LAUSCHE. All right, I think that is far enough.

Was it the purpose of the act to limit the operation of this office to the dissemination of information outside of the country and not domestically?

Mr. SCHMIDT. Yes, sir.

Senator LAUSCHE. And you have tried to adhere to that by keeping the office out of the business of a news media in the United States?

Mr. SCHMIDT. Yes, sir.

Senator LAUSCHE. And the provisions of films in the United States?

Mr. SCHMIDT. Yes, sir.

Senator LAUSCHE. Have you ever been asked to allow your office to be used in disseminating information in the United States?

Mr. SCHMIDT. Well, as to the question "allow our office to be used," I would say not that I know of, Senator. We do have repeated requests from individuals in the United States for copies of our material that we produce for overseas.

Senator LAUSCHE. Do you subscribe to the proposition that it would be wrong to allow a governmental office to become a news media in the United States and thus to be used domestically to distribute information sometimes twisted into political propaganda?

Mr. SCHMIDT. Senator, I follow the intent of Congress as set forth in the law, which is my job, and I have been strictly construing the law to prohibit us from engaging in domestic distribution.

Senator LAUSCHE. All right. Now then, who determines what films you shall take in the United States to be used abroad?

Mr. SCHMIDT. We have an Office of Policy and Planning which works with our Motion Picture and Television Service to determine what films we need in our program, which films would be of value in carrying out the purposes of the 1948 act.

Senator LAUSCHE. Do you take films yourself or do you hire agencies to take them?

Mr. SCHMIDT. We do both, sir. We have independent contractors that are retained for specific film purposes and we also do our own work.

PERIOD BEFORE MATERIAL IS RELEASED SUGGESTED

Senator LAUSCHE. On this matter of releasing information, you have a limitation that it shall not be done during the lifetime of a President or a Vice President and I suppose it would also mean during the lifetime of an official of the Government.

Mr. SCHMIDT. No; the present law, section 4 of the Kennedy film resolution, is the one that says that you shall not do this without a specific act of Congress. In the bill before you we allow this, and we have no limitation related to a President's lifetime. The limitation would apply only during the incumbency of the President.

Senator LAUSCHE. Yes. Would it be advisable to fix a time limitation after a man leaves the office or after his death, before any of this information can become available?

Mr. SCHMIDT. Well, I would think you would run into the problem of longevity of the person, and there can be a great gap of time if you are going to limit it to after his life. At the present time we have two former Presidents of the United States who have been out of office for some period of time. Now if we say we wait for the man to die before the scholars can see these films, this might be many, many years.

Senator LAUSCHE. It works two ways. You have one with a lengthy life, you have another whose life has been shortly cut off. Let's take a look at this language: "Motion picture and other films prepared by or for the United States Information Agency relating to any President or former President of the United States or to officials and events of the administration of any President." I construe that to mean that this law is applicable to Presidents, Vice Presidents, and officials of any administration.

Mr. SCHMIDT. That is correct.

Senator LAUSCHE. So that it would be applicable to the showing of a picture of Rusk even though the President is not in the picture?

Mr. SCHMIDT. That is true but only in the Presidential archival depository.

Senator LAUSCHE. You rely upon that proposition rather heavily—the limitation that it can only be used, viewed, or exhibited in the archives.

Mr. SCHMIDT. Yes, sir; on line——

Senator LAUSCHE. It cannot be taken out?

Mr. SCHMIDT. No, sir. On line 6, page 2, the language reads "solely within a Presidential archival depository."

Senator LAUSCHE. Let's get down to this exception, "but no such film relating to a particular President or his administration shall be exhibited or made available as long as he remains in office." Now "no such films relating to a particular President or his administration."

Mr. SCHMIDT. Yes, sir.

Senator LAUSCHE. That is applicable to the officials and the administration?

Mr. SCHMIDT. Yes, sir.

Senator LAUSCHE. "Shall be exhibited or made available as long as he remains in office." It is at this point I ask you the question would it be advisable to fix a time limitation after he leaves his office prohibiting its use?

Mr. SCHMIDT. I would see no wisdom in it; perhaps the committee would. I think to pick an arbitrary time figure would be difficult, and I would not see the value of it, Senator.

Senator LAUSCHE. You are suggesting under this bill that the office of the General Services Administration——

Mr. SCHMIDT. The Administrator of General Services because he operates and conducts the archival depositories.

Senator LAUSCHE. You want the films turned over to him so that your present purpose will be kept intact not to use your office domestically at all but solely in the foreign field?

Mr. SCHMIDT. Exactly.

Senator LAUSCHE. All right. OK, that is all I have.

Senator GORE. Senator Williams?

WHAT HAPPENS IF A FORMER PRESIDENT RUNS AGAIN?

Senator WILLIAMS. We have had instances where a President, the incumbent, would leave office, a period of time would elapse and he would be then a candidate and be elected for the Presidency. How would you cope with that?

Mr. SCHMIDT. Well, I think under this language if he went back into office it would stop the exhibition of all of the material, the previous administration as well as the existing one.

Senator WILLIAMS. How about during the period in which he was running for office prior to his election? This authority would stop after he was reelected, but during the important period when he was a candidate for a second term in office—when, after having been out of office, he is running again—this material would be available, would it not, under this bill?

Mr. SCHMIDT. I think it would, but again solely within the Presidential archival depository.

Senator WILLIAMS. What are the restrictions today regarding the showing of these films?

Mr. SCHMIDT. Well, they are absolutely—

Senator WILLIAMS. What restrictions are there on showing these films today?

Mr. SCHMIDT. The ones I read you out of section 501, which is limited to the press and Members of Congress. Otherwise they are prohibited from domestic distribution in the United States.

Senator MUNDT. Would the Senator yield?

Senator WILLIAMS. Yes.

POSSIBILITY OF SETTING A TIME LIMIT BEFORE FILMS CAN BE SHOWN

Senator MUNDT. Senator Williams brings up an interesting point. I remember a recent experience. Teddy Roosevelt after having been in and out, ran again, but he didn't make it the second time. Other Presidents have. Would you object to some kind of time limitation which we can write in which would avert a possible perversion, so to speak of the intent of Congress by setting not the date he leaves office but 10 years after he leaves office or some other time. Off the top of my head that would be a realistic figure to protect us against this kind of contingency.

Mr. SCHMIDT. My answer on the time limit, would have to be the same answer I gave to Senator Lausche. Perhaps if you wanted to cover that by saying in the event any President once again becomes a candidate for the Presidency then this provision shall not prevail that would stop the showing of it.

Senator MUNDT. That would alleviate the situation conceivably but is not very likely. But the course of history moves pretty fast some days, and it could develop that some research film popularized and publicized by a lot of writers might be the very thing that causes him to run. It seems to me if you do this you ought to have a specific time period. What is the urgency? Why, instead of 15 minutes after the President leaves office, couldn't it be set at 15 years?

Mr. SCHMIDT. I simply think, by putting in a 15-year limitation you are certainly blacking out one of the tools of research. They can turn to the written word, the entire commercial word, but they can't turn to the particular films we produced.

Senator WILLIAMS. USIA is a propaganda organization. To that extent you are pointing out the possibility of distorting history, are you not?

Mr. SCHMIDT. We like to say, sir, that truth is our best propaganda.

Senator WILLIAMS. We all like to say that, too, but you will admit that the purpose of your Agency is to point out events of our country in the best light from the standpoint of our country; is that not true?

Mr. SCHMIDT. Yes.

LIST OF FILMS AND COSTS INVOLVED

Senator WILLIAMS. How many films are there presently that have been turned over to the Archives?

Mr. SCHMIDT. I don't know, sir. I told Senator Morse I would get a list of these.

Senator WILLIAMS. Do you have a rough estimate?

Mr. SCHMIDT. No; I don't. I think there are relatively few, sir, that concern the type of thing that this bill will cover. Most of our films probably don't contain any reference to governmental officials per se. They are concerned with life in the United States outside of the framework of government.

Senator WILLIAMS. That is my understanding. In furnishing this list of film, will you also furnish us the cost of production?

Mr. SCHMIDT. We do that each year, sir, and the complete list of those appear in the appropriation hearings.

Senator WILLIAMS. Yes; but it would save a lot of time putting the two together if you, when you furnish the list of films in response to the request from the Senator from Oregon, could also put the cost of each film, could you not?

Mr. SCHMIDT. Yes; I will have to go back through the various hearings and bring those up to date.

PRESENT RESTRICTIONS ON SHOWING USIA FILMS

Senator WILLIAMS. What are the restrictions now on the use of a film which relates to a present or former occupant of the White House, if you have such a film? What are the restrictions for showing that in this country now?

Mr. SCHMIDT. They are not shown in this country except for the two exceptions, that is, availability to the press and Members of Congress.

Senator WILLIAMS. I am told one of the recent films of the present occupant, of life in Texas, and so forth, was shown on the Presidential yacht on the Potomac.

Mr. SCHMIDT. That was to a diplomatic audience located here.

Senator WILLIAMS. Was it?

Mr. SCHMIDT. As far as I know it was.

Senator WILLIAMS. Did you check that at the time?

Mr. SCHMIDT. No; I did not check it.

Senator WILLIAMS. You did not check it?

Mr. SCHMIDT. We do—for example, if we have an audience of foreign students, or a gathering of foreign diplomats at the Department of State, we do show our films to such groups. But not a week goes by that we do not turn down a request for showing to domestic groups.

Senator WILLIAMS. Much was said about a specific case involving historians reviewing the film that you prepared on the Teheran Conference. When did it take place?

Mr. SCHMIDT. It was prior to USIA.

Senator WILLIAMS. Prior to USIA; did you have a film on that?

Mr. SCHMIDT. I don't know if there was one on that. If there was it was probably the Office of War Information.

Senator WILLIAMS. I just wondered why you singled out as an example, when it was an event that took place before your organization was in existence and perhaps you didn't have such a film.

Mr. SCHMIDT. I didn't raise that. It was Senator Morse.

Senator MORSE. If the Senator will yield, I was using it as my hypothetical.

Mr. SCHMIDT. I was pointing out we would only have films made since the creation of the Agency.

Incidentally, the Office of War Information did have domestic distribution authority so their films would not be blocked from showing in this country.

Senator WILLIAMS. Would they be affected by either enactment or rejection of this bill?

Mr. SCHMIDT. No.

Senator WILLIAMS. Films of the War Information Office would not in any way be affected?

Mr. SCHMIDT. No.

WHO REQUESTED THE LEGISLATION?

Senator WILLIAMS. What prompted you primarily, you say you are the sponsor of this—

Mr. SCHMIDT. I am not the sponsor. I say we have repeated requests, an average of, I don't know, maybe 20, 30 a month, many of them referred to us by Members of Congress, and in discussion with various people at various times we have had this proposal of making our films available to scholars in our Agency. I think there are many reasons why this would not be practicable, as I pointed out before. But it did occur that perhaps this could be done at a Presidential archival level.

Senator WILLIAMS. Well, the idea had to originate with somebody that they put this in the form of legislation. Who conceived of this idea?

Mr. SCHMIDT. I can't say that any one person did. I think it was the fruition of many thoughts on it, sir. I worked with the Department of Justice and the GSA in drafting this.

Senator WILLIAMS. But the Department of Justice and GSA didn't draft it until somebody conceived the idea. Is this a Topsy bill; like Topsy it just growed? Aren't there some parents somewhere or somebody who——

Mr. SCHMIDT. I will take the responsibility here for parenthood, sir, but I think it has been inseminated from various directions.

Senator WILLIAMS. And you really don't know who conceived the idea originally for this bill before us?

Mr. SCHMIDT. As I say honestly, Senator, it came from the very day-to-day work problems that we have had on this of people requesting availability of the films.

Senator WILLIAMS. Then no one person is vitally interested and would be greatly disappointed if nothing happened?

Mr. SCHMIDT. I would be greatly disappointed if nothing happened.

Senator WILLIAMS. That is all.

Senator GORE. Mr. Schmidt, you have been frank and cooperative and, in my view, an able witness before this committee. I volunteer that to you, sir, and the committee thanks you.

Senator MORSE. I would like to ask a question.

I want to share Senator Gore's evaluation of your testimony. I think you have been an exceedingly able witness. Your testimony has opened up to me recognition on my part of things that I did not know about the dissemination of your films abroad. Therefore, if I seem to ask very elementary questions I hope you will know I am only seeking to get information.

FILMS CAN BE SHOWN TO FOREIGNERS BUT NOT AMERICANS

These films you are not free to show American people you are free to show abroad. Now let me talk about hypotheticals Let's take this one: Suppose we have a film—I used Teheran as a hypothetical some moments ago—but 'et's get within your time bracket, your time bracket.

Mr. SCHMIDT. That will be from the date of the Informational and Educational Exchange Act of 1948 when we were part of the Department of State and then since 1953 as a separate independent agency.

Senator MORSE. Most certainly the Punta del Este Conference would be within your time bracket or one in which President Kennedy participated, the Costa Rica Conference which led to an understanding on the part of the participants for the establishment of the beginning of a Caribbean Common Market. Let's assume you made a film of that Conference or some of the sessions of that Conference. You could show that to a student audience in Oxford, Heidelberg, any foreign university?

Mr. SCHMIDT. Yes, sir.

Senator MORSE. You couldn't show it at Columbia, Chicago, Stanford?

Mr. SCHMIDT. No, sir.

Senator MORSE. Any film that you have made you could, if it was decided that the auspices were appropriate, to show to a general audience anywhere in the world except in the United States?

Mr. SCHMIDT. Yes sir.

Senator MORSE. The Kennedy film, which required a special act of Congress to be able to have it shown to the American people, could be and was shown in many parts of the world before its first showing in this country?

Mr. SCHMIDT. Yes, sir; one of the most popular films ever made by the USIA.

Senator MORSE. It didn't have to go to the Archives or depositories in any of these countries to be seen?

Mr. SCHMIDT. No, sir.

Senator MORSE. It was not limited to their scholars?

Mr. SCHMIDT. Not at all. Literally millions of people around the world have seen that film.

Senator MORSE. You see that raises very serious questions in the mind of the Senator from Oregon. We are told that, we must be very careful that we don't propagandize the American people. I am more concerned that we don't conceal from them the facts that they ought to have. Yet we are told that some

of your films constitute propaganda abroad. It is a very misused term. I have never known of an adequate substitute for full public disclosure and let the public be the judge. I have never been moved by the political argument that "oh, you mustn't put yourself to the test of public opinion."

IS THE BILL BROAD ENOUGH?

Our discussion this morning makes me more and more doubtful as to whether or not this bill is broad enough. I don't know why—may I say as one who taught for 21 years in college classrooms—a professor at any American university shouldn't have access to any film you produce. If a professor at Oxford can have access to it, what are we afraid of? What is happening to us in this country? We feel we have to conceal information. I am greatly concerned about the development of police state tactics in this country. I happen to think there is a greater danger of police state tactics in this Republic at the present time than in most other nations of the world. I am not asking you to pass a value judgment; that happens to be my elected responsibility. I don't know why we have to have this kind of censorship. This is a form of censorship in supposedly a free society. We can hold your agency responsible for the quality and accuracy of its work.

I happen to think that the Kennedy film ought to have been shown in every high school in this country without a congressional enactment. You have a pretty rich historical depository of your films. I am not much moved by politicians who are afraid that some film might have political influence. That happens to be part of our system of self-government. I don't understand this censorship approach that I think is implicit in a lot of the discussion here this morning.

The safest thing for the American people is an open society. I sometimes used to put it this way: In a free society there is no substitute for full public disclosure of the public's business and let the people be the judge.

So if I have any criticism of your bill it is it doesn't go far enough. But I think you and I are well aware of the fact that it probably goes as far as you can go at the present time, as we see more and more restrictions wanting to be placed upon the American people. Unfortunately because of the fact that you can stir up hysteria in a hysterical time, you have a lot of people—if you have any doubt about that, come over and read my mail—who are perfectly willing to go along with waiving their constitutional rights. And so we pass a shockingly unconstitutional crime bill and wave the flag into tatters and lead the American people to believe it is the proper way to protect their constitutional guarantees. They will get through this national hysterical jag after a while.

A lot of these politicians who voted for it will hear from the people when they ask them, "What did you do that for."

I happen to think that the American people don't have the facts about this particular field. So I want to thank you for your statement this morning. I don't have to tell you, you have trouble ahead even to get this bill through. There isn't enough of a police state yet to satisfy a lot of scared politicians in this Congress. It isn't tough enough.

The sad thing is, what the American people need is a refresher course on the origin of the Constitution such as these precious safeguards which would be thrown away in this shockingly unconstitutional crime bill that sailed through the Congress because people are afraid they won't be reelected. Of course, it is not important that they be reelected, that any of us be reelected. What is important is that while we sit here we keep faith with the oath of office we took to uphold the Constitution. And man after man—I don't hesitate to say it here as I say on the floor of the Senate or out on the public platform—walked out on the oath when they voted for that bill.

As one who taught constitutional law for years I am shocked at the performances that are going on even within the body politic. I would have the American people do a little reviewing of how police states develop out of free societies in the history of nations abroad. If you think it can't happen here you couldn't be more wrong. This is the way you destroy constitutional self-government.

So I want you to know you have one supporter for that bill. I may offer some amendments to broaden it, because I happen to believe the American people should be told what the best minds on the subject matter believe the truth to be, for I was brought up under the old political philosophy that "ye shall know the truth and the truth shall make you free."

The sad thing is the American people today are not getting the truth on issue after issue. That is why we are in a crisis, the like of which we haven't experienced for over 100 years.

I made these comments today in regard to your bill because this is just one of the little issues which added together with a lot of other little issues is creating the problem that confronts this country today.

I am glad we had you as a witness. I hope you will supply the information that has been asked for by my colleagues on the committee. And I hope it is a bill that will not die in committee, because a lot of good legislation is going to die in committee this year because the politicians don't want to face up to carrying out their responsibilities before an election. Maybe after the election they will come back carrying out their duties.

Thank you very much.

Mr. SCHMIDT. Thank you, Senator.

Senator GORE. We will stand in recess.

(Whereupon at 11:55 a.m., the hearing was adjourned.)

Mr. SCHWEIKER. Mr. President, "Problems of Communism" is a well-known and widely respected journal, both in the American academic community and abroad. It has long enjoyed an enviable reputation for scholarly quality and editorial excellence, as well as a notable independence from "official influence" or point of view. Its academic significance ranges far beyond its circulation, and its long-term beneficial influence, especially in this time of intense, focus upon the Soviet Union and upon Communist affairs, ranges far beyond its academic significance.

At one time or another, practically every one of our important scholars of the Soviet Union and of Communist affairs have found a forum within its pages. Its editorial policy has frequently helped to focus the best minds in the field on specific and immediate issues important to U.S. relations with Communist States.

I cannot believe that any possible benefits can be derived from a ban upon continued distribution in the United States of this fine journal, but on the contrary, I am quite certain that substantial harm to American, and even Western study of Communist affairs would result.

I would, therefore, strongly urge that the amendment, 1191, to S. 3526, proposed by the distinguished Senator from Massachusetts (Mr. BROOKE), which would permit continued domestic sales of "Problems of Communism" through the Government Printing Office, be favorably considered by the Senate.

Mr. FULBRIGHT. Mr. President, if the Senator from Massachusetts is willing to yield back his time now, I am prepared to yield back my time.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

Mr. FULBRIGHT. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. TUNNEY). All time has now been yielded back.

The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. BROOKE).

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

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN) and the Senator from South Dakota (Mr. MCGOVERN) would each vote "yea".

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Maryland (Mr. MATHIAS) is absent on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 71, nays 7, as follows:

[No. 192 Leg.]

YEAS—71

Allen	Church	Jordan, Idaho
Allott	Cook	Long
Baker	Cotton	Magnuson
Bayh	Curtis	McGee
Beall	Dole	McIntyre
Bellmon	Dominick	Metcalf
Bennett	Eagleton	Miller
Bentsen	Ellender	Mondale
Bible	Fannin	Montoya
Boggs	Gambrell	Nelson
Brock	Griffin	Packwood
Brooke	Gurney	Pastore
Buckley	Hollings	Pearson
Burdick	Hruska	Percy
Byrd, Harry F., Jr.	Hughes	Proxmire
Byrd, Robert C.	Inouye	Randolph
Cannon	Jackson	Ribicoff
	Javits	Roth

Saxbe	Stennis	Thurmond
Schweiker	Stevens	Tower
Scott	Stevenson	Tunney
Smith	Symington	Weicker
Spong	Taft	Williams
Stafford	Talmadge	Young

NAYS—7

Aiken	Fulbright	Mansfield
Case	Hart	
Cooper	Kennedy	

NOT VOTING—22

Anderson	Hansen	McGovern
Chiles	Harris	Moss
Cranston	Hartke	Mundt
Eastland	Hatfield	Muskie
Ervin	Humphrey	Pell
Fong	Jordan, N.C.	Sparkman
Goldwater	Mathias	
Gravel	McClellan	

So Mr. BROOKE'S amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session, and I ask that the Senator from Rhode Island be recognized.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, there are three nominations on the desk. They were reported earlier today, and I ask for their immediate consideration.

The PRESIDING OFICER. The nominations will be stated.

FEDERAL COMMUNICATIONS COMMISSION

The legislative clerk read the nomination of Benjamin L. Hooks, of Tennessee, to be a member of the Federal Communications Commission.

The nomination was confirmed.

The legislative clerk read the nomination of Richard E. Wiley, of Illinois, to be a member of the Federal Communications Commission.

The nomination was confirmed.

NATIONAL TRANSPORTATION SAFETY BOARD

The legislative clerk read the nomination of William R. Haley, of the District of Columbia, to be a member of the National Transportation Safety Board.

The nomination was confirmed.

Mr. PASTORE. Mr. President, I ask that the President be notified.

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

LEGISLATIVE SESSION

Mr. PASTORE. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. tomorrow.

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

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate resumed the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair withhold laying down the next amendment temporarily.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CHROME ORE IMPORTS FROM SOVIET UNION

Mr. McGEE. Mr. President, as we address ourselves to the Rhodesian chrome issue, I think it is imperative that the misconceptions regarding our increasing reliance on Soviet Russian chrome be cleared up.

According to the latest U.S. Bureau of Mines data, imports from the Soviet Union in 1971 were about 36 percent of our total chrome imports. This compares with 58 percent in 1970. In fact our largest chrome imports during 1971 came from Turkey, which provided us with 39 percent of our imports.

Proponents of our violation of United Nations sanctions imposed on imports from Rhodesia would have us believe that we are increasingly relying on a Communist nation for the supply of a strategic material necessary for our national defense security. The U.S. Bureau of Mines report exposes the phoniness and nonsense of that argument.

I ask unanimous consent that the U.S. Bureau of Mines report be printed in the RECORD.

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

CHROMITE—IMPORTS IN 1971

Imports of metallurgical grade chromite from the Soviet Union in 1971 were 307,000 short tons, about 100,000 tons less than in 1970, according to Bureau of Mines data. Some of this decrease was as a result of dock strikes in the U.S. which delayed shipments. Also, the ferroalloy industry in the United States encountered weak markets due to depressed conditions in U.S. specialty steel industry. Imports from the Soviet Union were about 36% of total imports, compared with 58% in 1970.

Total imports in 1971 were 858,000 tons, as compared to 703,000 in 1970. Imports from Turkey increased dramatically to 338,000 tons from 135,000 in 1970 and reached the highest level from that source in recent years. This was probably a result of a redirection of Turkish exports from Japan to the United States and to the reopening of marginal mines due to higher prices. A Japanese company had discussed financing a ferrochrome plant in Turkey, payment for which would have been made in chromite at a rate of 100,000 tons per year for eleven years. This proposed arrangement was not finalized, resulting in additional availability of chromite for export to the U.S. (It is possible that Turkish chromite had been stockpiled for use in the ferrochrome plant and for export to Japan.) It appears unlikely that shipments at the high level of 1971 from Turkey can be maintained.

The following is a comparison of imports of metallurgical grade chromite in 1970 and 1971 by country of orgin, compiled from unpublished Bureau of Mines data:

	1970		1971	
	Short tons (thousands)	Percent	Short tons (thousands)	Percent
Southern Rhodesia			26	[1] 3
South Africa	97	14	140	16
U.S.S.R.	409	58	307	36
Turkey	135	19	338	39
Others	62	9	47	6
Total	703	100	858	100

[1] This importation was licensed by the Treasury Department under the hardship provision of Executive Order 11322 since it had been paid for prior to the Executive order implementing the U.N. sanctions program.

Consumption of metallurgical grade chromite in the U.S. has been about 900,000 tons per year in recent years. Imports from the U.S.S.R. as a percentage of consumption have risen since imposition of UN Sanctions against S. Rhodesia in 1966, but only in 1970 did they exceed 40%. Sales of stockpile material and increasing use of inferior grades of chromite for metallurgical purposes have filled the gap between imports and consumption.

RHODESIA CHROME

Mr. McGEE. Mr. President, tomorrow, Wednesday, May 31, the Rhodesian chrome issue will once again come before the Senate for a vote.

Senators may recall that in October of last year the Senate adopted an amendment allowing the importation of chrome ore and other strategic materials from Rhodesia in violation of sanctions imposed by the United Nations. In effect, the United States became an overt international lawbreaker.

In light of this action, the Foreign Relations Committee has approved my amendment, which is aimed at reversing the congressional action taken last fall. My amendment, which appears as section 503 of the State Department-USIA authorization bill (S. 3526), would put us back in accord with our international legal obligations. However, amendment No. 1196 is being offered in an attempt to delete section 503 from the authorization bill.

In light of the seriousness of the issue, I should capsulize briefly the ramifications involved in tomorrow's vote.

The proponents of our violation of U.N. sanctions have chosen to overlook

a very critical point in presenting their case. One of the complications associated with the action of the U.S. Senate last fall, and we warned of that danger during the debate at that time, was that we were taking action at a time when the British and Rhodesian Governments were in the midst of negotiations to arrive at an equitable compromise. All direct reports from the Rhodesian capital the morning after the Senate took its action stated that the Smith government's attitude had hardened completely. The spirit of give and take which had marked the negotiations up until our action had been completely destroyed.

These reports were substantiated when I consulted with the leadership of both the British Labor and Conservative Parties during my trip to the Isle of Jersey earlier this month to participate in the Anglo-American Conference on Africa. The leaders of both parties were adamant in reporting to me that the action of the Senate, coming when it did, hardened the Rhodesian government position and resulted in a proposed settlement far less equitable than what everyone had hoped for. This resulted in the predictable negative response the Pearce Commission received in determining the sentiment for or against the proposed settlement. Therefore, just last week the Pearce Commission report was issued rejecting the proposal because a vast majority of the blacks, which comprise 95 percent of the Rhodesian population, opposed the settlement.

Again, I emphasize, this was a direct consequence of the action taken by this body last October. Last fall we urged the Senate to hold off on consideration of the Rhodesian chrome ore issue until the negotiations were completed. But the U.S. Senate chose to ignore this plea, and, as a result, we literally sabotaged any chance for a livable compromise to be worked out between the two governments. The British have announced they will continue to abide by the sanctions until a workable settlement can be ironed out and they are hopeful that we will do the same. It therefore becomes even more imperative that the U.S. Senate reverse the action it took last fall and vote to reimpose our observance of the sanctions.

Another point which is essential to a realistic assessment of the issues involved in the Senate vote tomorrow center around our role in 1966; at that time the British and Rhodesian Governments were on the brink of armed conflict. We goaded the British into going to the U.N. as an alternative to armed conflict—at least give the U.N. a chance to come up with an alternative to violence. We interceded as an honest broker. Now we have become the only country to formally break the sanctions. As a result, this issue becomes more than just honoring our commitment to the U.N. It has become a matter of honoring our own commitment in acting as an honest broker. Our integrity as an honest broker is at stake.

Another point for consideration is the phony issue raised last year by the proponents of the chrome amendment. The proponents argued that chrome is a strategic material and it was not plausible to rely on the Soviet Union, as a Communist nation, for 60 percent of our chrome imports. Events since that vote last October have served only to bear out the misleading innuendo and phoniness of this issue raised by proponents. None of the chrome which is being imported from Rhodesia is going into our strategic stockpile. Our national defense was never imperiled by our observance of the United Nations boycott. To further compound the phoniness of this issue, the Senate, on the recommendation of the Armed Services Committee, recently passed S. 773, releasing from the national stockpile 1,313,600 short dry tons of metallurgical grade chromite. In addition, the 6-month waiting period was waived. This was done on the recommendations submitted by the administration over a year ago, at which time no fear of any shortages existed and does not now exist.

The vital point to keep in mind is that Rhodesian chrome is not going into the strategic stockpile. Government authorities have assured us that there are 2.2 million tons of excess chrome in our national stockpile. The 1.3 million tons proposed to be drawn out under S. 773 will meet our total defense and industry needs for 2 years, and our defense needs alone for almost 20 years. Private industry reportedly has ample supplies on hand as well. In addition, there are other countries which can supply us with chrome besides Rhodesia or Russia, including Turkey, from which we exported a higher percentage of our chrome in 1971 than we exported from Russia.

Proponents of allowing us to import Rhodesian chrome also leave out a very important economic factor relating to other U.S. business interests in those African nations which are not dominated by white governments. Independent black Africa, which views our position on southern African issues as a test of our commitment to self-determination and equality, have been seriously disturbed by our violation of the sanctions. This has endangered our economic and political interests in those nations which account for over three-fifths of our trade and nearly two-thirds of our investment in Africa. Our violation of the sanctions has damaged our relations with key nations such as Kenya and Nigeria.

Let me repeat: three-fifths of our trade and nearly two-thirds of our investment in Africa is in independent black African nations. We certainly are not offering American business interests any protection in those countries, which might retaliate as a result of our violation of the sanctions.

All of these facts were known last year, but not widely understood. In light of these facts, I believe that Senators were deluded into believing other than what was actually the case.

The one thing that was not clearly brought out last year, however, was the fact that the so-called chrome amendment did not involve only chrome; but some 18 other minerals, as well, of which some nickel and asbestos will soon be shipped. Not even the flimsiest strategic justification can be offered for such imports from Rhodesia.

The argument that because other nations may be surreptitiously evading the U.N. sanctions—we are allowed to do so publicly by a formal declaration of the U.S. Congress—holds very little water, in my estimation. This is no excuse for a nation that has prided itself on high moral standards and a regard for law—internationally and domestically.

The final point concerns Africa. The effect of our action last year on the nations of that vast continent has been detrimental to our national interests. The longer we keep on that course, the worse our relations are likely to become. The State Department dwells on that point in detail in a letter to me from Acting Secretary of State John N. Irwin II. I ask unanimous consent that this letter, which I have also sent to each Senator for his information, be printed in the RECORD.

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

DEPARTMENT OF STATE,
Washington, May 20, 1972.

Hon. GALE W. MCGEE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGEE: In response to your request, I am writing to confirm the Administration's support for Section 503 of the State Department Authorization Bill, S. 3526, which would repeal existing legislation permitting the importation of chrome and other strategic materials from Southern Rhodesia.

The Administration opposed that legislation last year and considers that there are several compelling reasons for its repeal now. As we pointed out prior to passage, the measure adopted last year has put the United States in violation of its international legal obligations: a most serious step which the Administration then maintained and still believes was not warranted by circumstances. The legislation now under consideration by the Senate would allow the United States once again to comply fully with its international treaty obligations.

Repeal now would serve to make us less vulnerable to unfavorable international reaction. As a result of the legislation now in force, our international interests have suffered in other respects. In Africa, where our position on Rhodesia has heretofore been seen as a test of our commitment to self-determination and racial equality, our credibility has suffered. The depth of African concern has been particularly strong in some nations where our interests far outweigh those in Rhodesia. In the United Nations, we will face, with each shipment of chrome or other commodity, an increasing erosion of our position. While we have sought and continue to seek means of making the existing sanctions against Rhodesia more effective, and less liable to circumvention by others, our ability to do so is seriously limited by the legislation now in effect.

Finally, the Administration continues to hold the view that neither economic nor national considerations affecting chrome are sufficiently compelling to compensate for the adverse foreign policy consequences of the legislation now in effect. There are 2.2 million tons of excess chrome ore in the stockpile; legislation authorizing release of 1.3 million tons has already been approved this year by the Senate. This amount alone would meet our total chrome needs for about 18 months, and defense requirements amount to only about 10% of total needs. Industry stocks are high, and we continue to have access to chrome ore from a variety of other

foreign sources. In short, there was no chrome shortage last year and there is none now. Moreover, the legislation now in effect permits the importation from Rhodesia of other strategic list items in addition to chrome, and under it we may expect a variety of materials including asbestos, nickel, and other minerals to be imported. The adverse international reactions to such transactions in our judgment would outweigh any possible economic advantage, and there is on strategic ground no need to import any of these materials from Rhodesia.

As will be clear from the foregoing, we have been increasingly concerned about the serious effects of the existing legislation upon United States foreign policy interests. For all of the reasons mentioned, the Administration believes that the passage of Section 503 would further those interests.

With kindest regards,

Sincerely,

JOHN N. IRWIN II,
Acting Secretary.

Mr. McGEE. Mr. President, as I have said, the Senate will be voting tomorrow on the question of whether this country will adhere to our international obligations as they relate to the Rhodesian chrome issue.

In a recent letter to me, John J. Sheehan, legislative director of the United Steelworkers of America, expressed that the position of his union has been that of upholding the United Nations embargo against Rhodesian chrome ore.

Proponents of violating the U.N. sanctions have raised allegations that to restrict the importation of Rhodesian chrome ore into the United States threatens the jobs of American steelworkers.

Yet, as Mr. Sheehan, points out, this is just not true. According to Mr. Sheehan the U.N. embargo "does not affect jobs of American Steelworkers."

I also think it is important to note a further observation by Mr. Sheehan on behalf of the Steelworkers:

Surely we do have some commitment to prevent political exploitation of minorities and we should express that commitment through economic sanctions rather than ultimately being involved, directly or indirectly, in bloodshed.

I ask unanimous consent that the letter expressing the United Steelworkers of America support of section 503 of the State Department Authorization Act be printed in the RECORD.

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

UNITED STEELWORKERS OF AMERICA,
Washington, D.C., May 4, 1972.

HON. GALE W. MCGEE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCGEE: The United Steelworkers of America has maintained that upholding the United Nations embargo against Rhodesian chrome ore does not affect jobs of American Steelworkers. The recent release of excess chrome from the strategic stockpile further indicates that it is not necessary for the United States to continue to violate the embargo.

A February 22, 1972 article in the *American Metal Market* stated that, "Uncertainties continue to surround the Rhodesian chrome ore picture with respect to prices and supplies moving to the United States . . . The Rhodesian government has controlled the production and sale for all mines in Rhodesia since the sanctions were imposed by the United Nations. At the present time, the Rhodesian government has not indicated to Union Carbide how much ore will be available in 1972 [except for] an immediate shipment of about 20,000 tons of ore." Such uncertain circumstances would seem to place in question any assertion that the opening of Rhodesian imports would provide insurance against a real or potential crisis.

Surely we do have some commitment to prevent political exploitation of minorities and we should express that commitment through economic sanctions rather than ultimately being involved, directly or indirectly, in bloodshed.

We, therefore, support and urge your support of Section 503 of the Foreign Relations Authorization Act of 1972 (S. 3526), which would rescind the previous action of Congress which resulted in a breaking of the embargo.

Sincerely,

JOHN J. SHEEHAN,
Legislative Director.

PULLING THE TEETH OF CASE-CHURCH

Mr. CHURCH. Mr. President, adding the precondition of an internationally supervised ceasefire to the modified Case-Church amendment in effect pulled the teeth out of the end-the-war proposal put forth by the distinguished Senator from New Jersey (Mr. CASE) and myself.

The lead editorial in the Lewiston, Idaho, Morning Tribune explains why. I ask unanimous consent that it and a wrap-up by Congressional Quarterly of the May 16 Senate vote on the Robert C. Byrd amendment be printed in the RECORD.

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

[From the Lewiston (Idaho) Morning Tribune, May 14, 1972]

PULLING THE TEETH OF CHURCH-CASE

Sens. Frank Church of Idaho and Clifford Case of New Jersey have ample reason for objecting to the proposed revision of their amendment calling for an end to American participation in the war. The change would render it meaningless.

The Church-Case amendment to the State Department authorization bill calls for an end to the funding of the American war effort four months after an agreement is reached on the release of prisoners and an accounting of those missing in action. The proposed change would add one condition: agreement on an internationally supervised cease-fire. As Church and Case have pointed out, that would give the Thieu government in Saigon a veto power over American withdrawal since Saigon would have to approve any cease-fire agreement.

They could have added that Hanoi might be equally opposed to a cease-fire. The momentum of a successful offensive is too important an advantage to bargain away lightly. It may not be realistic to expect North Vietnam to stop while it is winning in return for nothing more than a promise that the *funding* of the American effort will cease. As Sen. J. William Fulbright pointed out last Tuesday, even if the funds for the war were cut off tomorrow, there would be enough money and weapons in the pipeline to keep the U.S. in Indochina for a long time.

Even in its present form the Church-Case amendment is a relatively feeble effort to force the President out of the war, since there are all kinds of ways to thwart a funding deadline. If the deadline is made conditional on an unrealistic cease-fire, the amendment will have no teeth at all.

[From the Congressional Quarterly, May 20, 1972]

SENATE ADDS CEASE-FIRE PROVISO TO VIETNAM WITHDRAWAL

The Senate May 16, by a 47-43 roll-call vote, approved an amendment making an internationally supervised cease-fire a condition for U.S. withdrawal from Indochina.

(Roll call: Vote 162, p. 1160)

Adoption of the amendment, introduced by Majority Whip Robert C. Byrd (D. W.Va.), in effect killed the intent of an end-the-war proposal put forth by Clifford P. Case (R N.J.) and Frank Church (D Idaho).

It also put the Senate on record in general agreement with President Nixon's May 8 peace offer: withdrawal of all American forces from Vietnam four months after the return of American prisoners of war and implementation of an internationally supervised cease-fire throughout Indochina (*Background, Weekly Report p. 1051*)

Although the administration supported Byrd's amendment, it continued to oppose any legislation that would cut off funds for U.S. military operations in Southeast Asia.

Adoption of the Byrd modification produced a consensus in the Senate to dispense with further consideration of the Case-Church proposal, which was similar to an amendment added by the Foreign Relations Committee to the fiscal 1973 State Department-U.S. Information Agency authorization bill (S 3526). (*Weekly Report p. 1114*)

Even with this agreement, however, a vote on passage could take place only after the Senate dealt with a compromise end-the-war amendment drafted by Majority Leader Mike Mansfield (D Mont.) after approval of the Byrd amendment.

A vote on Mansfield's amendment was not expected until after the President returned from his scheduled visit to the Soviet Union May 22-31.

Mansfield's amendment would require a two-phase disengagement from Indochina. His proposal would:

Cut off all funds for maintaining U.S. ground combat and support troops in South Vietnam after Aug. 31, 1972.

Require termination of all U.S. military operations in or over Indochina after (1) agreement on a verified cease-fire between U.S. forces and the National Liberation Front (Viet Cong) and its allies, and (2) the release of all American prisoners of war held by North Vietnam and its allies and accounting for men missing in action.

Before taking up the Mansfield amendment, the Senate was expected to clear away a tangled parliamentary situation created by the introduction of the following amendments:

A perfecting amendment to the Case-Church amendment by Minority Whip Robert P. Griffin (R Mich.) which would make the fund cutoff effective four months after actual release of prisoners (as in the President's offer), rather than on an agreement for their release.

A motion to agree to the Case-Church amendment modifying the original end-the war provision reported by the Foreign Relations Committee.

An amendment by John C. Stennis (D Miss.) to delete the committee's end-the-war provision.

Debate on Byrd's amendment and subsequent legislative maneuvering on other proposals put senators in a testy mood. Anti-war senators were frustrated by the Senate's reluctance to formulate an Indochina policy independent of the President's. Administration backers questioned the wisdom of and political motives behind such action. (*Related debate, box p. 1173*)

Supporters of Byrd's amendment contended that a congressional statement of peace terms that differed from the President's would hinder his efforts to negotiate

a settlement of the war, either at the Paris peace talks or in his discussions with Soviet leaders.

They also posed a moral question: how could the United States justify removing its own forces from danger while the war continued to threaten Vietnamese lives?

Supporters of the Case-Church terms urged the Senate to take an independent position on a peace settlement. The cease-fire requirement would restrict the President's ability to negotiate, they said, by tying U.S. withdrawal to an impossible condition: North Vietnam never would accept a cease-fire that would perpetuate the existing South Vietnamese government, and the Saigon government would obstruct implementation of a cease-fire that would end U.S. military support.

Case and Church said they would vote against their own amendment if it included Byrd's cease-fire proposal.

Before the Byrd amendment was introduced, anti-war senators thought they had the votes to win approval of the Case-Church language which had been approved by the Senate Democratic Caucus May 9 by a 35–8 vote. (*Weekly Report p. 1051*)

Byrd's amendment was supported by Clinton P. Anderson (D N.M.), William V. Spong Jr. (D Va.) and John Sherman Cooper (R Ky), three key defectors from the anti-war ranks.

"We would have won yesterday with Anderson and Cooper," a Church aide said, noting that a 45–45 tie vote would have defeated the amendment.

Spong and Cooper were members of the Senate Foreign Relations Committee. Five other committee members, out of a total membership of 16, voted with Byrd: George D. Aiken (R Vt.), Gale W. McGee (D Wyo.), James B. Pearson (R. Kan.), Minority Leader Hugh Scott (R Pa.) and John Sparkman (D Ala.).

BYRD AMENDMENT DEBATE

Leading off debate on Byrd's amendment on May 15, Church argued that the requirement of a cease-fire "only makes the return of our men now held captive . . . that much more difficult."

Casting the debate in terms of legislative-executive responsibilities, Church said that by ordering the mining of North Vietnamese ports without prior consultation with Congress the President "continues a conscious policy of disregard for Capitol Hill which has been in effect throughout this senseless war, a presidential war."

Church took issue with the President's view that a Communist takeover of South Vietnam would diminish international respect for the presidency. ". . . if we left Indochina, respect for the . . . presidency, as well as . . . for the United States, would be enhanced greatly," he said.

He added that there was nothing in the Case-Church amendment that conflicted with the President's pledge made May 8. Although the amendment contained no cease-fire requirement, "it reaches through to the one consideration that is uppermost in the hearts of the American people, namely the release of our prisoners of war," he said.

Stennis said he would vote against Case-Church even if Byrd's amendment were adopted.

"There is a principle involved," Stennis said, "and say what you will, it will decrease any chance . . . for this chief negotiator, the President . . . to get terms that are possibly within his grasp. . . . Congress cannot substitute itself for the President in making negotiations."

"We do not want the President to go to Moscow with his hat in his hand. . . . In a mission of this kind, we want the chief executive to have the firm assurance that the nation is behind him."

Lowell P. Weicker Jr. (R. Conn.) said the Case-Church provision "fulfills exactly what is in the minds of the majority of my fellow Americans. . . . They support all necessary measures taken to protect our troops, but they want no further commitments to South Vietnam. . . ."

Byrd said there was an issue of morality involved in a decision to withdraw while fighting continued in Indochina. "The adoption of the Case-Church language in itself would not stop the killing in Vietnam," he said. "It cannot be accomplished merely by withdrawing the few remaining U.S. forces. . . ."

Byrd added: "It will not end until the guns, all the guns—not just U.S. guns and not just South Vietnamese guns—including those of the North Vietnamese are stilled. . . ."

When the Senate resumed debate on Byrd's amendment May 16, Alan Cranston (D. Calif.) said insistence on a cease-fire before withdrawal "is totally unrealistic because it will make our withdrawal harder to achieve, not easier.

"There could be endless wrangles over the composition of the international commission to supervise the cease-fire. There could be disagreement over whether to give North Vietnam and the Viet Cong two separate places in the negotiations. We might even once again quarrel over the shape of the table. . . .

"The North Vietnamese have never liked the idea of a cease-fire requirement. The Saigon government would have to be a party to the cease-fire arrangement. With that kind of leverage, Thieu and his generals could keep us in the fighting indefinitely."

Pointing to past North Vietnamese rejections of cease-fire proposals, Stuart Symington (D. Mo.) said the Byrd amendment would negate the Case-Church provision "by adding a provision already known to be unacceptable to the North Vietnamese."

"It is clear," he said, that "the North Vietnamese will not accept a military settlement—cease-fire—before a political settlement."

Cooper, while expressing regret at both the North Vietnamese offensive in the South and the mining of the harbors, said he supported the Byrd amendment because of the importance of the President's Moscow negotiations.

"Only the President of the United States can negotiate," Cooper said. "We cannot."

Edward M. Kennedy (D Mass.) termed a cease-fire requirement "a completely unnecessary condition that might well condemn us to many more months or even years of violence in Vietnam." If the Byrd amendment were enacted, he added, "all the Senate will have accomplished is to give the President carte blanche to carry on the war."

Church: "The question before us . . . is whether the Senate is willing to play its constitutional role in formulating a policy that will permit the United States to disengage from Indochina. Our Presidents insist not only upon the authority to make war at their pleasure, without so much as consultation with the Congress, but they also insist that Congress play no part whatever in bringing an end to this, the longest war in our history."

George McGovern (D S.D.), candidate for the Democratic nomination for President, endorsed the Case-Church amendment but called for stronger congressional action. The United States should set a withdrawal date without any conditions, he said.

But Spong asserted that the United States "would be irresponsible . . . to leave without trying to bring about a cease-fire, without attempting to end the hostilities. . . . It is . . . conceivable that the time may come when we will have to abandon our hope for a cease-fire, but I do not believe that time is upon us now."

RELATED DEVELOPMENT

The North Vietnamese Foreign Ministry May 17 officially rejected the President's proposal for an internationally supervised cease-fire in Indochina.

UNANIMOUS-CONSENT AGREEMENTS ON AMENDMENTS

Mr. ROBERT C. BYRD. I ask unanimous consent that there be a time limitation on amendment No. 1202, proposed by the Senator from Delaware (Mr. ROTH), of 30 minutes, to be equally divided between the distinguished author of the amendment and the distinguished manager of the bill.

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

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Chamber, and may we have the well cleared?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, at the direction of the majority leader—after having discussed the matter with various Senators, including the manager of the bill and the assistant Republican leader—I ask unanimous consent that the Senate proceed shortly to the consideration of amendment No. 1202, with no time charged against the amendment today, that the Senate resume the consideration of that amendment tomorrow morning immediately after morning business is closed, and that routine morning business tomorrow be limited to not exceed 15 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of amendment No. 1202 by the Senator from Delaware, Mr. ROTH, tomorrow, the Senate proceed to the consideration of the amendment No. 1196 proposed by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, Jr.).

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment of the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, Jr.) occur tomorrow not later than 12:15 p.m.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the disposition of the amendment of the senior Senator from Virginia tomorrow, the Senate proceed to the consideration of the amendment proposed by the Senator from Illinois (Mr. PERCY)—and on which there is already a time limitation—if he wishes to call up his amendment.

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

AMENDMENT NO. 1202

Mr. GRIFFIN. Mr. President, at the request of the Senator from Delaware (Mr. ROTH) and on his behalf, I ask unanimous consent that the Senate proceed to the consideration of amendment No. 1202, so that it may become the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

Mr. ROTH's amendment—No. 1202—is as follows:

On page 27, after line 24, insert the following:

REPORT TO CONGRESS

SEC. 303. (a) The Arms Control and Disarmament Agency, with the cooperation and assistance of other relevant Government agencies including the Department of State and the Department of Defense, shall prepare and submit to the Congress a comprehensive report on the international transfer of coventional arms based upon existing and new work in this area. The report shall include (but not be limited to) the following subjects:

(1) the quantity and nature of the international transfer of conventional arms, including the identification of the major supplying and recipient countries;

(2) the policies of the major exporters of conventional arms toward transfer, including the terms on which conventional arms are made available for transfer, whether by credit, grant, or cash-and-carry basis;

(3) the effects of conventional arms transfer on international stability and regional balances of power;

(4) the impact of conventional arms transfer on the economies of supplying and recipient countries;

(5) the history of any negotiations on conventional arms transfer, including past policies adopted by the United States and other suppliers of conventional arms;

(6) the major obstacles to negotiations on conventional arms transfer;

(7) the possibilities for limiting conventional arms transfer, including potentialities for international agreements, step-by-step approaches on particular weapons systems, and regional arms limitations; and

(8) recommendations for future United States policy on conventional arms transfer.

(b) The report required by subsection (a) shall be submitted to the Congress not later than one year after the date of the enactment of this Act, and an interim report shall be submitted to the Congress not later than six months after such date.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENTS ON AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on any amendment to amendment No. 1202, amendment No. 1196, or amendment No. 1209 be limited to 10 minutes; that the time on any debatable motion or appeal in connection with either of those amendments be limited to 10 minutes, and that the time be equally divided between the mover of such in each case and the manager of the bill.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all such amendments be germane.

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

FEDERAL RESERVE SYSTEM—ORDER FOR THE TIME LIMITATION ON CONSIDERATION OF NOMINATION OF JEFFREY M. BUCHER

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that at such time as the Senate proceeds to the consideration of the nomination of Jeffrey M. Bucher, the time on that nomination be limited to 1 hour, to be equally divided between and controlled by the distinguished Senator from Wisconsin (Mr. PROXMIRE) and the distinguished Senator from Utah (Mr. BENNETT).

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I assume this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AUTHORIZATION FOR THE COMMITTEE ON COMMERCE TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE ITS REPORT ON H.R. 13188

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. MAGNUSON) I ask unanimous consent that the Commerce Committee be permitted until midnight tonight to file its report on H.R. 13188, a bill to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 9:30 a.m.

After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business.

The pending question before the Senate at that time will be on the adoption of amendment No. 1202 by Mr. ROTH, on which there is a time limitation of 30 minutes.

On disposition of amendment No. 1202 by the Senator from Delaware (Mr. ROTH), the Senate will proceed to the consideration of amendment No. 1196 by the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, Jr.) on which there is a time limitation, with a rollcall vote to occur thereon no later than 12:15 p.m. tomorrow.

Upon disposition of the amendment by the Senator from Virginia (Mr. HARRY F. BYRD, Jr.), the Senate, under the order, will proceed to the consideration of amendment No. 1209 by the distinguished Senator from Illinois (Mr. PERCY), in the event he wishes to call up that amendment. If that amendment is called up, there will be a time limitation thereon of 1 hour.

There will be several rollcall votes tomorrow, I would say by "several," that there would be three, four, or five and possibly more rollcall votes.

Following disposition of the various amendments to the bill, S. 3526, the Senate will then proceed to final passage of that measure, after which the Senate will go into executive session and proceed to take up the nomination of Mr. Richard G. Kleindienst for the office of Attorney General of the United States.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, for the RECORD, what is the pending question before the Senate?

The PRESIDING OFFICER (Mr. TUNNEY). The Roth amendment, No. 1202, to S. 3526.

Mr. ROBERT C. BYRD. That amendment is now before the Senate, is it not?

The PRESIDING OFFICER. It is before the Senate.

Mr. ROBERT C. BYRD. I thank the distinguished Presiding Officer.

ADJOURNMENT TO 9:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 a.m. tomorrow.

The motion was agreed to; and at 6:01 p.m., the Senate adjourned until tomorrow, Wednesday, May 31, 1972, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 30, 1972:

U.S. TAX COURT

The following-named persons to be judges of the U.S. Tax Court for terms expiring 15 years after they take office:

William H. Quealy, of Virginia.
Arnold Raum, of Massachusetts.
Irene Feagin Scott, of Alabama.

FEDERAL COMMUNICATIONS COMMISSION

Richard E. Wiley, of Illinois, to be a Member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1970.

Benjamin L. Hooks, of Tennessee, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1972.

NATIONAL TRANSPORTATION SAFETY BOARD

William R. Haley, of the District of Columbia, to be a member of the National Transportation Safety Board for the term expiring December 31, 1976.