RESOLUTION OF THE COUSHATTA INDIAN TRIBE

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 15, 1973

Mr. BREAUX. Mr. Speaker, I would like to offer for your consideration the following resolution pertaining to recent problems at the Bureau of Indian Affairs. This resolution has been formally adopted by constitutents of mine, the Coushatta Indian Tribe of Louisiana. The Coushatta Tribe has been working through peaceful channels for many years in an effort to improve their relationship with the Federal Government, and they have asked that I share the following statement with you:

RESOLUTION OF THE COUSHATTA INDIAN TRIBE

Whereas, the Coushatta Indian Tribe of Louisiana have always been a friendly and peaceful people who love God and their neighbors; and

Whereas, the Coushatta Tribe has never been at war with the United States and has always respected the sovereign right of the United States to govern the Coushatta people and Coushatta territory; and

Whereas, the American Indian Movement and their confederates have perpetrated malicious mischief and defamation against the American People and the Government of the United States of America; and

Whereas, the action by the American Indian Movement in Washington, D.C., resulting in the militant and unlawful seizure of the Bureau of Indian Affairs, does not represent the will or approval of the Coushatta people; and

Whereas, the American Indian Movement does not now, nor, ever in the past, hold sympathy of the Coushatta people; and

Be it resolved, that the Coushatta Indian Tribe of Louisiana, acting through the Assembly of the Coushatta People at a General Tribal Meeting, by Acclamation, whereby formally denounces the American Indian Movement, berates the American Indian Movement for the damage to the Federal Government and for the grave error in their philosophy which would motivate them to such scandalous action, and declares that the actions and methods of the American Indian Movement are not in the best interests of the Coushatta people.

The Coushatta Nation calls upon the American Indian Movement to amend their ways, return the stolen property to the Bureau of Indian Affairs, and recant their treasonable action against the United States. The WILL of the Coushatta People is for all men to live as brothers in PEACE.

Thus adopted in Elton, Louisiana in the 16th day of November, 1972.

_____,
Secretary.

INDIANA DELEGATION SALUTES CULVER MILITARY ACADEMY

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 15, 1973

Mr. LANDGREBE. Mr. Speaker, I take this opportunity to call a unique anniversary to the attention of the Members of the House. The Black Horse Troop of Culver Military Academy in Culver, Ind., will ride in its seventh Presidential Inaugural Parade in 60 years. Not only will they appear in the parade, but they will carry the massed American flags in the protocol section leading the parade.

It is a tribute to the internationally famous college preparatory school in the district I have the honor of representing, that the Inaugural Committee selected its colorful troop to lead the parade. Ninety teenage riders from the largest equestrian unit in the United States will carry 60 American flags surrounded by a saber guard. To further emphasize Culver's tradition of inaugural appearance, The Clock, the 28-year-old lead horse of the Culver unit, has been taken out of retirement to lead the Black Horse Troop in his fifth consecutive parade.

Horsemanship is just one aspect in the varied program offered at one of the finest college preparatory schools in the country. Culver shows its confidence in tomorrow's leaders by offering its students every possible opportunity for development. These young men and women of Culver Military Academy and the Culver Academy for Girls are a vital part of America's future, and I am proud of the gesture of patriotism which they are making.

All of Indiana's Congressmen and Senators join me in saluting Culver Military Academy and the seventh inaugural appearance of its Black Horse Troop. A list of Indiana's Congressmen and Senators follows:

Ray J. Madden, John Brademas, Lee H. Hamilton, Roger H. Zion, Elwood Hillis, Vance Hartke.

William G. Bray, J. Edward Roush, John T. Myers, David W. Dennis, William Hudnut, Birch Bayh.

SENATE—*Tuesday, January 16, 1973*

The Senate met at 12 o'clock meridian and was called to order by Hon. J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana.

PRAYER

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

O God of justice and judgment, before whom the nations rise and fall, lead us in paths of righteousness and truth. May the silenced guns of yesterday be harbingers of universal peace for all the tomorrows. Redeem the nations from the ways of war to the ways of mutual trust and good will which prevents differences from becoming overt violence and destruction. To this end, we beseech Thee, to be with Thy servants in this place in their quest for peace at home and abroad. And may our love of Thee surpass all earthly loves.

Through Him who is Lord of truth and light and love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., January 16, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. JOHNSTON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the joint resolution (H.J. Res. 1) extending the time within which the President may transmit the Budget Message and the Economic Report to the Congress and extending the time within which the Joint Economic Committee shall file its report, with an amendment, in which it requested the concurrence of the Senate.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, January 12, 1973, be dispensed with.

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

ORDER FOR ADJOURNMENT TO THURSDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 12 o'clock meridian on Thursday next.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

COMMITTEE MEETINGS 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.

JOE ALSOP'S REMARKABLE ARTICLES ON CHINA

Mr. MANSFIELD. Mr. President, in recent weeks, a series of remarkable articles has been appearing in the Washington Post and in countless other newspapers throughout the Nation and the world. The articles are a narration of a voyage of rediscovery of China, so to speak, for the veteran newsman, Joe Alsop. His long journey, together with his wife, took him to well-known Chinese cities such as Peking and Canton and also to some of the remote parts of the vast Chinese People's Republic.

Mr. Alsop writes with a perspective deepened by a personal exposure to China many years ago and against the background of his unique kind of understanding of the Chinese people and, of course, his scholarly researches into the antiquities of Chinese dynastic culture.

As the Senate undoubtedly knows, Mr. Alsop first went to China as a young military officer under Gen. Claire Chennault during World War II. Incidentally, it was in that capacity, at Kunming, in Yunnan Province, that I first made Joe Alsop's acquaintance. It was a different China he saw then, a backward, suffering, starving, exhausted China, a militarized Nationalist China heavily dependent for survival on U.S. aid and a handful of Americans such as Joe Alsop, Frank Valeo, our present Secretary of the Senate, Senator FRANK CHURCH and others in this body, and many other Americans who had come to help in the war against Japan.

The Joe Alsop reports of his recent visit constitute a growing account of progress on all fronts under the present government in Peking. He has discovered a new China which he describes as operating with great determination and enthusiasm its own Chinese Communist system, free not only of dependency on the United States but on the Soviet Union.

In my judgment, this distinguished journalist measures the new China with his unique reporter's eye which in the course of his recent visit he has adjusted, with great objectivity, to the new realities of China.

It would be my hope that consideration would be given by Mr. Alsop's publishers to bring out this series of brilliant articles in book form. I ask unanimous consent, now, that the Alsop articles on China be included at this point in the RECORD.

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

[From the Boston Globe, Dec. 16, 1972]

IN CHINA, EVERYTHING IS CHANGING

(B Joseph Alsop)

NANKING, CHINA.—In the year after Pearl Harbor, I spent a good deal of time in a Japanese internment camp in Hong Kong. This was basically because Gen. Claire Chennault's Flying Tigers would have been crippled without a tiny animating part of our airplanes' .50 caliber machineguns called a 1–B Solenoid.

I had desperately tried to have the defective parts made in China, in Burma and in Singapore, always unsuccessfully. Finally, Claire Chennault sent me to Manila to seek 1–B solenoids there. It was a journey that bore fruit, but only at the final instant. So I caught the last plane out of Manila, and I was thus trapped in Hong Kong when the Japanese broke through at Magazine Gap.

The point of this ancient story is simple enough. I have now seen at least four factories, all in Chinese rural counties, that you could not have reached by road in the old days. All four could easily have produced unlimited quantities of 1–B solenoids, precision-made as was required, considerably more easily than they currently and most ingeniously produce their own machine tools.

Everything in China has changed, in truth, except the endlessly resilient, hard-working and clever Chinese people. The quantity of life has changed, vastly for the worse for the ancient ruling class but for the better for everyone else. This is true not only in the cities but also in the formerly remotest countryside.

The countryside itself has changed, because there are now trees and roads, and there are no more graves wasting land that can be usefully cropped. The agriculture has changed in many fascinating ways, and it will change further, too.

As for industry, there were under 40 factories, mostly handicraft in character, in this great city in 1948. And there are now above 600 factories, with at least two giants employing about 10,000 men.

If China has any luck, in fact, I suspect the change in China may prove more important for the world future than the change in Russia that took place with Lenin's October revolution. In just under 40 years as a reporter, I am confident that the month I have now spent in the New China constituted the most significant reportorial work I have ever done.

Naturally, therefore, I have thought a lot about how the story ought to be handled. Maybe I should now begin writing about all sorts of other things that are more in the headlined news. Nonetheless, it seems best I give priority to the biggest story I have ever covered.

As a preface, I must point out that I have largely worked out of the capital cities of the provinces the government opened for the first time to Susan Mary and me. This was no limitation (or so I thought) since trips of up to 70 miles into the country were easy, if you were prepared for a less than luxurious overnight stay.

What we saw, of course, we largely had to see through the eyes of Yao Wei, the manager-interpreter and general guide, philosopher and friend provided for us by the foreign office.

So much for explanation. Fourteen hours of daily legwork, plus communications problems, forbade regular reporting from the scene. Belatedly, however, I shall now transform my voluminous notes into reports from the many scenes in question. For I think those who wish to read have a right to know the raw facts on which I have based my tentative conclusions, which will follow, although at an alarmingly remote time in the future.

[From the Baltimore Sun, Dec. 18, 1972]

SUCCESS IS A BICYCLE IN YU HSI

(By Joseph Alsop)

YU HSI, YUNNAN, CHINA.—This province's strange yet lovely landscape largely consists of high, almost unpopulated plateaus. Among the plateaus, however, rich valleys, mountain-girdled and singularly beautiful, appear at seemingly random intervals. Yu Hsi county mainly comprises one of these valleys.

I never saw Yu Hsi in World War II, since there was no access road. But it closely resembles several other Yunnan counties I knew well. I think my Yunnanese hosts chose to send me here for two reasons: because this county is now prosperous above the average and because Yu Hsi happens to have a particularly pleasant hostel for the local conferences about pigs, irrigation and suchlike that they endlessly hold in the new China.

For the general scene, think of my particularly attractive Chinese landscape painting, but one done in the richest and most various greens and earthy browns. For Yu Hsi town, think of any picture of the past; for the little place still has the old curving roofs of tile and the finely carved, red-painted wooden shop and house fronts.

My host here was Yang Feng-chum, a tough, intelligent North Chinese who is now vice chairman of Yu Hsi's revolutionary committee. (In the new China, they appear to follow the practice of old China when things were going well—which was to send in the higher county and provincial officials from other places.) Besides being pleasantly hospitable, he was a perfect font of vital statistics.

The county, then, has 220,000 people. All but 20,000 live in the rural communes, which have about 15,000 hectares of cultivated land. After people, the county's next most important inhabitants are pigs. In 10 years, the pig population has risen from 30,000 to 70,000—thereby more than doubling the main nonhuman fertilizer source.

"But next year, we are going to build our own artificial fertilizer plant!" Mr. Yang said.

Ten years ago, again, the county had relatively little irrigated land. Now, however, Yu Hsi has a main reservoir, built by unimaginable human toil, that impounds 60 million cubic meters of water, plus 20 smaller reservoirs in the hills that bring the total to 100 million cubic meters. This means 8,000 hectares of newly irrigated land, but this "is not enough."

"Today, we get two crops a year from 60 per cent of our cultivated land," Mr. Yang explained. "Within three years, with more reservoirs, we shall reach 80 per cent. Besides, we are going to add to our land 30,000 'mu' [meaning 2,000 hectares] by building terrace fields in the hills."

Improved seeds; plumper fowl; finer pigs such as the "Yok a sha" (which means Yorkshire!); the county hospital and commune clinics with their 20 graduate doctors; the millions of trees planted on the hills, both by air-seeding and by hand in the slack seasons of the farm year; the commune and county industries; the 31,000 children in school—these were some of Mr. Yang's other favorite topics.

He had one unfavorite topic. The birthrate in Yu Hsi is still 20 for each 1,000—"Much too high."

Despite a slowly growing population, however, the average per capita income in the county has risen to 600 pounds of grain and 110 Chinese dollars a year. It was hardly more than half that 10 years ago. And you can see what this means, from two simple facts. Chinese prices are primevally low, and "The big shortages in our shops are bicycles and sewing machines."

Life on such an income, with a bicycle or a sewing machine as the highest aspiration, may seem hideously bleak to Americans. But

it is a far better life than all but a tiny minority of Yu Hsi people have ever known before. Of that much, I am certain.

[From the Washington Post, Dec. 20, 1972]

BACKBREAKING TOIL BUILT A RICH CHINESE COMMUNE

(By Joseph Alsop)

FEI CHENG COMMUNE, YUNNAN PROVINCE.—My trip to China has had two suggestive peculiarities. I was never deluged with ideological garble-by-rote. And I was allowed to range widely, in order to see how things really work.

Here, therefore, is the best I can do with the workings of the commune system, as it has now shaken down after the new China's successive convulsions. I began learning about the system in a beautiful old landlord house now inhabited by the entire revolutionary committee of Pei Cheng Commune. My teacher was mainly the impressive commune chairman, Yin Ta-wei.

Although this commune has just under 21,000 people, mainly dependent on about 1,200 hectares of cultivated land, it is one of the rich ones. There are two reasons for its comparative wealth. First, local industry is easier in Yunnan than in most places, so this province has many small local coal seams. Second, this commune has singlehandedly built its own enormous reservoir. Hence, almost all its best land is irrigated, double-cropped and high-yielding.

You must imagine us, then, sitting in a sort of upstairs loggia, twined with bougainvillea in flower, talking about the commune's prosperous affairs with considerable pride on the part of Yin Ta-wei. In the new China's agriculture, communes are the managerial apparatus. The officials are therefore paid by the state, and they often come from elsewhere, too, like Yin Ta-wei himself.

In this commune, to begin with, the "problem of family planning has not been adequately solved." This is quite largely because commune members' children begin to earn "work points" as early as 12, and are often full-time earners at the first school-leaving age which is 16. As income depends on work points, many families therefore hope to gain financially by having children. Nonetheless, tripling the area of irrigated land, using better seeds, better animals and more fertilizer, plus the local industrial development, have combined to give the commune a relatively high per capita income for its members. In grain, the average commune member gets 616 pounds a year, plus 130 Chinese dollars in cash. (But prices are so astonishingly low in China, except for scarcity items like bicycles, that you should probably think of a real income of about $260 a head.) This would put Fei Chang in the top third of Chinese communes.

Besides its own industries, the commune has its own schools through 5th grade, and its own clinic, headed by Dr. Chiao Tse-man, a graduate of Kunming Medical College. I saw Dr. Chiao's clinic. Its simplicity would have given any American doctor the horrors. Yet it was clean and neat; sick people were obviously well cared for and it was a startling novelty by the standards of old China.

As the managerial apparatus in the countryside, the commune pays the taxes to its county—last year 762 tons of grain and 320,000 Chinese dollars. In addition, the commune sold the county government 420 tons of grain last year at the low state-fixed price; but this money became part of the cash earnings of the commune reserves.

Planning is from the bottom upward—in other words, from the production teams, meaning little individual villages, and the production brigades, which group several teams to the level of the commune itself. This year, for example, the commune officials "persuaded" the brigades they needed a few more hectares of cash crops like tobacco on the good land. This was to be "compensated" by the heavy additional toil of building more terraced fields on the knees of the tall, harsh hills that run along the commune's southern border.

Amid the bougainvillea vines in the lovely courtyard, it was all strangely similar to a businesslike discussion with the management of one of our own large American industrial farms. Yet there were hints of extreme strangeness, too, as when Yin Ta-wei matter-of-factly explained that the peasants spread *by hand* above 450 tons of fertilizer, almost all organic and locally produced, on each hectare of the commune's rice land every year.

But the climax was the later visit to the magnificent reservoir, impounding 2.9 million cubic meters of water in a cleft in the hills by means of a stone dam about 100 ft. high and 200 ft. wide at the top. Except for the sluice gates, that dam was also produced by the backbreaking toil of the commune members.

[From the Lost Angeles Times, Dec. 27, 1972]

MONKEY WRENCHES, CHILDREN AND THE CHINESE HUEI BRIGADE

(By Joseph Alsop)

YU HSI COUNTY, YUNNAN PROVINCE, CHINA.—One of the problems that has puzzled me most in this country is the appearance of vastly greater flexibility and efficiency than you find in the Western Communist countries.

A good symbol of this is the simple fact that the shops in this remote county, at the Chinese equivalent of the back-of-beyond, are nearly as well stocked as the shops in Peking. In Russia, in contrast, the availability of most goods decreases in direct proportion to the distance from Moscow or Leningrad.

I am now sure, however, that one reason is the Chinese encouragement of all kinds of local industry, even where Westerners might think that it did not make good economic sense.

In Yu Hsi town, for instance, you can buy an excellent monkey wrench for a few cents. And this is simply because large numbers of monkey wrenches, at least sufficient for the needs of this whole county and its neighbor counties, are produced by the Huei Brigade.

The Huei people are counted as a "national minority" because they are Moslems, although their blood and language are pure Chinese.

Being Moslems, they cannot eat pork or keep pigs—truly shocking disabilities in Chinese eyes. One consequence, as I was told by the brigade leader, Ma Yun-hai, is that this brigade of Pei Cheng Commune gets a substantial extra allowance of artificial fertilizer, to make up for the absence of precious pig manure.

Another consequence, common for semi-excluded groups in many Asian and African countries, is that the Huei people have always been blacksmiths. So they had their own specialty ready at hand, as it were, when the government long ago announced the "mass line" of local industrial production of all possible types.

For any Westerner, the results were pretty hard to credit. Here in the lovely but remote Yunnan countryside, to begin with, the Huei Brigade has its own factory, with 75 full-time employes, making reasonably complicated grain-milling machines.

I was bewildered by what brigade leader Ma Yun-hai, a young, pleasant and obviously intelligent man, called "our big factory"—with an apologetic laugh. The "big factory" has only one full-time employee, the accountant. For the rest, the labor force of about 350 only reports for duty "to earn extra work points," in the slack seasons of work on the land.

The main products are the monkey wrenches already mentioned, plus all sorts of fine pocket knives and a few other things of the same sort.

Essentially, the "big" factory is a handicraft plant, carried on family-style, with children playing among the sparks next to the forges.

It was an extraordinary sight to see the basic parts of the monkey wrenches being made. One man would pull a billet of red-hot iron from a forge with tongs. He would hold it extended on a kind of anvil. His partner would then chop the part into the desired shape with a large, ax-like tool. Every chop was applauded by the 4-year-old son of one of the partners, while the hot iron flashed and fell.

Yet I took half a dozen of one of the finished wrenches and lined them up, one on top of another. I could not find a pin's worth of difference between any of them. They all worked admirably. A machine tool had been used, to be sure, to make the needed screw that narrowed or widened the space between the claws. And the wrenches had also been neatly nickel-plated with quasimodern equipment.

The Huei Brigade, which has 4,600 people, is still primarily engaged in farming, but it started its factories in 1965. The first year's gross was 65,000 Chinese dollars. Last year's was 360,000 Chinese dollars, of which two-thirds was profit for the brigade. Like so much in China, it was all a bit surprising.

[From the Washington (D.C.) Post, Dec. 27, 1972]

KUNMING: ONCE FOR EXILES, NOW FOR INDUSTRY

(By Joseph Alsop)

KUNMING, YUNNAN PROVINCE.—Off and on for four years of the big war, I lived in this city. Barring the airfield, the exquisite lake and the temples on the lake ("valuable cultural relics"), I should not have known the city now, unless I had been told it was indeed Kunming.

Under the Manchu dynasty, particularly, Kunming was a place of exile for misbehaving princes and high officials. So it was full of the huge and lovely courtyard houses that the rich exiles built for themselves. These were its main ornaments. Otherwise, it was a picturesque, though squalid province capital, unusually inward-looking because so long and so largely cut off from the rest of China.

Here is where the difference between Kunming-past and Kunming-present really begins. The city was a chosen place of exile precisely because it was so cut off. In Manchu times, it lacked any real way of ingress or egress except imperial "highways," which frequently turned into rock-cut staircases climbing and descending the Yunnan Mountains.

By 1945, when I last saw Kunming, much effort had been expended, first on the old Burma Road, then on the Stilwell Highway, now no longer used, and above all on the other main highway linking Yunnan Province to the rest of Nationalist China. There was also a ramshackle railroad that ended in the neighbor province of Kweichow.

Today, the rail connections are ample. You can take a sleeper to Peking, if you want so long a trip. Where there used to be only about 3,000 kilometers of highway, moreover, almost all on the single north-south line, there are now 30,000 kilometers, including highways linking Kunming to 128 county towns. (This does not count the endless farm-to-market roads in the countryside, either.) Only internal air transport is still severely limited.

Ways in and ways out are obviously the first requirement for any serious industrial center; and this is just what Kunming has become. To give only two statistics, Yunnan Province before the Communists won the civil war had a total output of 356 tons of steel a year, whereas the output is 240,000 tons a year today. In the same interval, the total value of the province's industrial output has risen from 180 million Chinese dollars to 3.5 billion Chinese dollars.

Much of the new provincial industry is

outside Kunming, but except for the mines, the larger plants are mainly here. Hence bleak but efficient blocks of workers' flats, huge factory complexes sometimes employing above 10,000 men and all the other by-products of industrialization have now engulfed the picturesqueness of the past.

A good deal of the squalor has gone, too. The city is criss-crossed, for example, with wide, well-paved, tree-shaded streets and there is adequate electricity and a proper sewage system (which nonetheless conserves the night soil for the farmers' fields).

Besides being a major industrial city and a province capital, it should be further noted that Kunming is now a university city in the true sense. In World War II, several of China's national universities sought refuge here, to be sure.

The refugee universities have now been replaced, however, by no less than eight provincial universities—of which we should class several as technical schools—plus five more establishments overtly labeled technical schools. One of Kunming's new tasks, in fact, is to provide Yunnan with just about all the doctors, engineers and such like that the province needs.

Lest I seem to paint too bright a picture, I should add that Yunnan Province has always been *potentially* rich, with good land and great mineral wealth. It was only the province's remoteness that prevented the mineral wealth from being better exploited in the old days. Because of the mineral wealth, rapid industrial growth would have taken really bad planning to prevent, once Kunming and Yunnan ceased to be relatively inaccessible.

In this respect, indeed, I am a bit worried about these reports of mine. I asked to see the provinces I had known in the past because I could get a comparison with the past. But these were all rich provinces, in actuality or in potential. I have not seen, and I cannot judge, the new condition of the really poor provinces of China's northwest, for instance.

Yet the fact must be faced, Kunming today makes you think of the time when the U.S. industrial base was being most rapidly built. Specifically, you think of a newly burgeoning Midwest industrial city about 1900, except that for good or ill Kunming no longer has any rich citizens in exile or other.

[From the Boston Globe, Dec. 27, 1972]

A Modern Version of Making Do

(By Joseph Alsop)

Yu Hsi, Yunnan Province, China.—In this country, you are bound to be totally bewildered unless you know the exceptional Chinese knack for learning and making do. It has always been there. But in the new China, the knack is being married to modern industrial technology.

This is happening at all levels, beginning with the many small industrial enterprises in the countryside. The next level upward, the county, is strikingly represented by the Yu Hsi farm machinery factory, a rambling complex of big shops that now employs 1300 workers, including more than a score of graduate engineers.

In Yu Hsi in the old days, of coures, there was nothing more complicated than blacksmithing. This was in fact the way the factory began in 1956, with 50 employees making hoes and sickles for the local farmers You still see many traces of the old handicraft habits, too, for example in the absence of anything resembling a production line.

One of the oldest-seeming traces of the preindustrial past, at least in American eyes, is the way such local factories—and all over China, too—briskly make their own machine tools whenever they can manage it. I first learned of this when I was being shown over the busy factory by the quiet-spoken, shrewd vice chairman of the factory's revolutionary committee, Chien Keneng. My eye was caught by a giant casting, fresh from its bed of sand, that must have weighed more than a ton. I asked what it was.

"Oh, that's one of the parts for the double column, three-and-a-half-meter vertical plane lathes that we're now making," said Chien Keneng with a hint of quiet pride. "We have a smaller lathe of this type from the big state factory at Tsitsihar (in far north China). It's our most advanced machine tool. But now we need this bigger size for the larger turbines we want to produce, since the communes are beginning to need them."

Bemused, I asked why they had not simply ordered another, larger tool from Tsitsihar. My host replied, in effect, that the Tsitsihar factory was terribly overtaxed already. Hence, if they wanted the big lathe, they had to make it themselves, including making the needed design modifications.

For the same reasons, among the Yu Hsi factory's other impressive-looking machine tools, numbering more than 400 in all categories, exactly half have been made by the factory itself. It made you think of what a successful "go-ahead" local industrial enterprise must have been like in America about 1880. Except, of course, that the technology the Yu Hsi factory has to cope with is infinitely more elaborate in 1972.

To fill out the vital statistics, the factory now represents a joint investment by the country and the province of above 5 million Chinese dollars. Its profit, last year, was 410,000 Chinese dollars; but all the "profit" is customarily plowed back into new capital investments. The work force is paid from 34 to 80 Chinese dollars a month. And almost all raw materials come from Yunnan Province or from Yu Hsi County.

"Ours is a service factory for agriculture," Chien Ke-neng explained. "Whatever the countryside needs, we try to make. We began with sickles and hoes. Now our main products are generators and turbines because the countryside's needs have become more complex. And we also sell machine tools of the types the communes use in their own factories.

"Only about 30% of our output is used by this county. Neighbor counties are also our customers; and we make our plan each year on the basis of the needs we know about."

Again, one thought of a brisk local industry in a farm state at home a century ago, before American local markets began to be so exclusively served by small numbers of giant producers. I asked Chien Ke-neng whether larger scale, less local output, based on standard models and organized production lines, would not be much more economical.

"You must talk to the planners in Kunming (the province capital) about the answer to your question," he replied. "All we know is that the needs are here, and our task is to meet them."

There was another reminiscence of a different sort, too, when I asked an idle question about an obviously effective gear-cutting machine which I was watching at work. "That's one of our better models," said the vice chairman, with a certain complacency. "We make it for one-tenth the price the Japanese are getting for the equivalent model. Or so they tell me in Kunming!"

So what major episodes in modern economic history does that quiet reply bring to your mind?

[From the Washington Post, Dec. 29, 1972]

A Tool Plant, China's Needs, and the Lesson of Japan

(By Joseph Alsop)

Kunming, Yunnan Province, China.—Although this is now a big industrial city, it is nowhere near the summit of the new China's remarkable industrial development. To see that, you would have to go to Shanghai, or the older industrial centers in North China and Manchuria. Yet even the mid-level gives ample food for sobering thought about the future.

Consider, for example, the Kunming Machine Tool Co. Here I spent an absorbing day talking and looking, with two members of the factory's revolutionary committee and its chief engineer as my hosts and guides. It is an old but much expanded plant, originally founded in 1939 after Chiang Kai-shek's government fled westward from the Japanese. It still uses some of the American machine tools inherited from that time—"although we have mostly modernized them," said Chen Shu-min, the chief engineer.

By the time the Communists won Yunnan, however, the plant had all but ground to a halt. Today, by contrast, its 4,500 workers are annually producing more than 40,000,000 Chinese dollars worth of machine tools. This may seem an immense number of workers to produce the official exchange-equivalent of 16,000,000 U.S. dollars worth of tools. But the average wage in the plant is 54 Chinese dollars a month—or the equivalent of about 650 Chinese dollars a year if you include the fringes. And each worker, on average, is responsible for 8,900 Chinese dollars worth of products.

Nor is the tool company what the economists would call a capital-intensive producer. Since the plant was taken over as a ramshackle ruin in 1949, the central government—the sole investor here—has put only 38,000,000 Chinese dollars into the company.

The rest of the story of development has been contrive-and-make-do, self-financing, yet making an ever-rising profit for over two decades. The central government is now getting a return of 6,000,000 Chinese dollars a year on its investment. And there is enough left over from the "profit" for the Kunming Company to pay for all its new investments for expansion, plus all its raw materials.

Nor is the sizeable return on its investment by any means all the central government is getting from the Kunming plant. The hundreds of machine tools produced every year go to all the provinces of China. They comprise above 30 types; and mostly they are special orders, "for we haven't got anywhere near the assembly line stage yet," said the chief engineer. But then he added, just a bit demurely, "all the same, we are now trying something quite advanced."

The "something quite advanced" turned out to be a double-column jig boring machine of the largest size, and of a type otherwise mainly produced in Switzerland. I had been told of the Chinese venture into jig boring machines by an American businessman in Hong Kong, who said: "Ours were never much good, although the Swiss ones are; but from what I saw at the Canton fair, the Chinese ones should be excellent."

I asked my hosts what the Swiss price for an equivalent machine now was, and what their price would be. "Oh," said one of them cheerily, "we can produce it for 300,000 Chinese dollars; and the Swiss charge three times that. But where we know the foreign prices, that is quite a common price differential, we find."

There were a good many other eyebrow-raising surprises during that day at the Kunming Machine Tool Co. One, which was also entertaining, was the remarkably patronizing way my hosts talked of the machine tools from the western Communist countries ("except for Czechoslovakia, and we have none from East Germany"). They even showed me a huge, grimly cumbersome Soviet tool and their own much more compact equivalent ("cheaper to make, and a lot more precise, too!").

But the one-to-three price differential was what mainly struck in my mind. I asked whether they had ever thought of financing

much more rapid expansion by an export drive, in the manner of the Japanese in the 1950s. "China's own needs have to come first," they replied in chorus.

This puzzled me, until one of them let drop that the venturesome jig boring machine was for use "in the aeronautical and other precision industries." An absolute priority for national defense, in sum, is what apparently prevents the new China from taking the Japanese road.

[From the Los Angeles Times, Jan. 4, 1973]

THE PLANNING BEHIND GROWTH OF INDUSTRY IN THE NEW CHINA

(By Joseph Alsop)

KUNMING, YUNNAN PROVINCE, CHINA.—Industry-viewing in the new China raises a hundred questions. Not just whether you are seeing and understanding the real thing, but why near-handicraft production and advanced technology are so often mingled. And whether the really unheard-of pattern of industrial growth makes sense. And so on and on.

Toward the close of my long stay in this province that I used to know so well, I therefore asked whether I could talk with leaders of the provincial planning commission. The commissions vice chairman, Ho Po, a 20-year veteran of work in Yunnan, was duly produced with members of his staff.

(I say "produced' because in Peking and in the provinces I was never allowed to see officials on this kind of level in their own lairs. They always came to my hotel. And I still wonder whether this was because their working offices were considered to be overly dingy or were regarded as secret or what.)

As to the success of this province, the figures speak for themselves. From less than 200 million Chinese dollars at the time of Communist victory, industrial output has now risen to 3.5 billion Chinese dollars a year. Yunnan is therefore on the verge of becoming one of the "rich provinces"—which really means the capital-exporting provinces.

The distribution of the total industrial output is also remarkable: over 10% comes from little rural factories in the farming communes and brigades, 20% from mines and factories started by the provinces' many counties, around 60% from mines and factories started by the province itself, and about 10% from major industrial enterprises directly responsible to the central government.

These classifications, as given by Ho Po, reflect the original investments in the enterprises, and thus a kind of ownership. The point to notice here is the enormous percentage of Yunnan's growth attributable to Yunnanese initiative.

There are three reasons why this is a sound pattern, again according to Ho Po: (1) Yunnan is a remote province "with transport problems still to be solved"; (2) the rule is that, for "maximum results, there must be maximum use of local resources"; (3) "if the county can live of its own, the province's burden is reduced, and if the province can live of its own, the burden of the central authorities is reduced."

To illustrate, Ho Po said Yunnan now produced 90% of the steel tonnage that it consumed, but only about one-half of the high-grade special steels that its industry required.

"So in Peking," he said, "the central planners only need to worry about two or three tens of thousands of tons of steel for Yunnan almost all special steels. And this eases their larger task."

I asked whether this was an economical way to do business for the long run. Ho Po replied that it was "the only way at this stage." Partly, he explained, it was still far more economical, "because of China's manpower, for a country to smelt its own pig iron if it has small seams of iron ore and coal.

"But mainly," he added with firm conviction, "this is because it is the way we have grown, and the way we must grow. The first task is to meet the needs. The second task is to meet the needs more economically and with better quality as soon as that becomes possible. Thus we go from indigenous production to modern production-line output.

"Indigenous production" means nothing more or less than handicraft production. There is some of that in every industry I saw in Yunnan. In the little countryside factories, handicraft production naturally predominates. But curious hangovers from handicraft production can also be seen in a highly sophisticated plant like the Kunming Machine Tool Co. Each level differs.

There are two things to be said about this. Capital-intensive, highly automated production is not the best way, even at the highest level, when you have a skillful, intensely hard-working labor force content with extremely modest wages.

All the industries I saw, even in the countryside, were also far ahead of where they had started. The movement, in short, is remorselessly forward.

[From the Los Angeles Times, Jan. 5, 1973]

THE CHINESE GENIUS FOR CAPITAL-CREATION CREATION

(By Joseph Alsop)

CHUNGKING.—On the rattletrap airplane to this other place I knew best in former China, I found myself chasing clues in my head like a squirrel in a cage chasing its tail. I had just seen once-familiar Yunnan Province quite radically and mysteriously transformed. It was natural to search for clues to the transformation.

The best clues, I think, were provided by a remote memory and a recent experience. The memory was of a funny picnic by the old Burma Road in the time before Pearl Harbor. We were on the height. Far, far below, in its deep gorge, ran the great Salween River. And from the height to the river's brink, hundreds of tiny rice terraces ran down the steep slope.

I have always remembered the scene for a simple reason. I was so profoundly struck by the untiring work of capital-creation, carried on generation after generation, that those rice terraces obviously represented. From nothing, land had finally been built to sustain five tiny, isolated villages in the infertile hills.

As to the recent experience, it was the only time, I think, that my kind hosts in Yunnan tried to pull the wool over my eyes. I had asked to see one of the poorer farming communes in the mountains, to get a contrast with what I had seen before. Instead, on my last day in the province they took me to a commune brigade on the knees of the mountains, where the land was rich.

Even so, the visit had been a marvelous experience, for the people were proud of what they had done, and what they had done was fairly staggering. The brigade—with the usual 4,000 people or so—had built itself a small canal more than seven kilometers long to bring water to its fields in all seasons.

The commune had more than the usual number of mountain reservoirs to boast about, plus increased yields, better pigs, new small industries and so on and on. And all this, mind you, the people had done themselves, with nothing to spur them on except some guidance (and an occasional hint of menace, no doubt) from higher authority.

In the airplane to Chungking, finally, it suddenly occurred to me that this recent experience and the remote memory of the past were quite directly and intimately linked. The link was the singular Chinese genius for capital-creation, which I had noted in the Salween gorge more than 30 years ago. This genius had simply been harnessed and directed in the new China, or so it seems to me.

Consider, for example, the Kunming Machine Tool Co., with its state investment of 38 million Chinese dollars (or no more than 16 million U.S. dollars); hundreds of excellent machine tools, half of its own making, and its output of several hundred quite advanced new tools a year.

Or there was the textile mill, producing great quantities of the things people wear in the Yunnan climate, all of them practical and wearable, and many of them quite pleasant to look at. Its starting investment from the Yunnan provincial government had been tiny.

Who on earth elsewhere would think of starting a machine-tool company with the wreck of one of the Nationalist government's wretched wartime tool plants, plus the equivalent of a couple of hundred thousand of our dollars? (For the 38 million Chinese dollars were fed in gradually, over a decade or more.) Or who would start a textile mill from nothing, with much, much less investment, but with the aim of becoming one of the main suppliers of a province of 20 million people?

Or for that matter, who would think of digging a 7½-kilometer canal, partly stone-riveted, and all by hand, to ensure double cropping on a couple of hundred hectares of land?

The Chinese would naturally think of all these things as a simple answer to the foregoing questions.

[From the Washington Post, Jan. 5, 1973]

A NEW FACE FOR CHINA'S COUNTRYSIDE

(By Joseph Alsop)

CHUNGKING, CHINA.—As Chiang Kai-shek's wartime capital, this was a drab, hideously squalid pre-industrial city. I found the new Chungking still drab, but highly industrialized and squalid no longer. Indeed, I could find nothing of the past to recognize—except the Generalissimo's huge town house, now occupied by the whole of the local revolutionary committee that runs the place. (I feel downright guilty to give so short a report on a place that almost no Westerners have been allowed to see; but the foregoing sums up what I saw quite adequately.)

But the surrounding countryside provides an equally new picture.

This was the place, long months before Pearl Harbor, where the peculiarities of Chinese farming first began to fascinate me. It was during an interval in the all but incessant Japanese bombing that, to get a little air after being in the crowded bomb shelter, I was taking a walk in the farmlands that penetrated the city's fringe. I saw a farmer with a heavy bucket over his shoulder going down the rows of plants in a steep hillside field, giving each plant a half a ladle-full of the fluid in the bucket. I asked my Chinese companion what the farmer was up to. Fertilizing with liquid night-soil, he replied briefly, and then added that the farmer was giving only a half a ladle-full to each plant in order not to waste the precious fluid on unplanted soil.

In the Chinese countryside, in short, no effort has ever been spared to get a maximum crop with the resources available. Even so, I was hardly prepared for the "terrace fields" that they took me to see in the farming communes around Chungking.

The countryside hereabouts, you must understand, is both rocky and largely composed of such steep hills that even Chinese would not think of trying to grow rice on them. The old way, ruinously eroding, was to grow as much rice as possible in the valleys; and then plant the hillsides, too, where soil remained. The new way is to make "terrace fields." The rocks are dynamited to get the needed building materials. Heavy dry-stone walls are then built to heights of six or even seven feet, following the contours of the land. And earth is finally brought to fill in the stone walls, thereby producing a terrace field.

The greatest successes in this incredibly laborous line of endeavor have been achieved by the "Gold Steel" Brigade. The brigade

chairman, Chung Ho-Pu, is a tough, intelligent 50-year-old, who must be a remarkable leader as well.

All the brigade's once-bare hill-tops are covered with trees. Barring only 20 hectares "and will finish those in another two years!") all the land that will stand it—and was not riceland in the first place—has been made into terrace fields. And with the trees and above 300 hectares of stone-built terrace fields, the whole landscape has been re-made.

So has the life of the "Gold Steel" Brigade. Its 4,000-plus people now have the rural equivalent of a shopping center, with a mini-department store; another store selling such things as candy and hardware; and a pleasant restaurant-teahouse. The brigade's chief village even has running water, and the 14 others have electricity.

Add a huge cow-house (for the Chinese, wonder of wonders, have begun to drink milk!) Add a cathedral of a collective pigstye and a slaughter house, both now going up. You can see, then, why the new farming of the "Gold Steel" Brigade bears only a limited resemblance to the farming of Old China, except in the skilled, untiring, limitless work that is still demanded.

Obviously, the "Gold Steel" Brigade was a pace-setter. Obviously, that was why my hosts chose it to be shown to a visitor. Yet the neighbors plainly knew that the methods of the "Gold Steel" Brigade were making its people enviably prosperous by Chinese farming standards. So you could see terrace fields going up in most places, wherever you drove through the hills around Chungking.

All this is worth reflection for one central reason. The pacesetters of Chinese farming, like this one, are today only a stage or two away from truly modern agriculture, and they will be in that stage before too long. The "Gold Steel" people, for instance, are already investing in machines to partly mechanize the spreading of the tons of manure the Chinese use on their fields.

And some day, China, with a modern agriculture and a modern industrial plant, will be a formidable entity.

[From the Baltimore Sun, Jan. 8, 1973]

CHINA HAS FASHIONED A "NEW MODEL ARMY"

(By Joseph Alsop)

NANKING, CHINA.—The reason I came to Nanking is probably worth recording. In Peking, when I had finished outlining my desired program in China—in itself already unprecedented—I was answered by a question: "But why have you not asked to see our Army?"

The honest answer, which I did not give, was that others had "seen our Army" by lunching with a tourist-frequented division near Peking, and hearing a great deal of ideological gabble. In the upshot, I spent a long, wholly un-ideological day with the 197th Infantry Division of the People's Liberation Army just outside this city. It made me think of the old phrase for Oliver Cromwell's men, "the New Model Army."

If space permitted, the temptation would be irresistible to describe the men and their setting in careful detail. But what is important is the newness of the military model.

Of the rest, of this absorbing experience, only two things need to be said. All the men appeared to be singularly tough, dedicated and able. And the setting was a sternly functional, splendidly clean but fairly grim divisional barracks area in wind-swept open country where the land was poor.

As to what matters more, let us begin at the beginning. The 197th Division was formed from three guerrilla bands in 1938, in the war against the Japanese. It has a considerable fighting history—including three years fighting the U.S. in Korea, which were tactfully unmentioned until I asked. It always has been kept together as a division; and for other reasons, too, its 10,000-plus men constitute a fighting "unit" in the most literal sense.

It also is a productive unit. The division has about 350 hectares of land which it has reclaimed from waste areas. It raises its own pigs; makes its own bean curd; does its own ordnance repairs; and has its own pharmaceutical factory, making things for sale like ampules of glucose for intravenous feeding. About 50 per cent of what the division consumes is produced by the division itself.

Since the leaders and men of the division do from 15 to 20 days of field training per month, in addition to "production work," you can see why they look pretty hard-bitten. In the countryside, however, it is a privilege to serve because of various fringe benefits. About 80 per cent of the men therefore are farm boys by origin. The rest are students, including a fair number, one suspects, who did not exactly volunteer.

The "leading cadres"—one must not call them "officers"—are mainly promoted from the ranks. As they wear no insignia, you cannot tell them from the men, except that their uniforms have two extra pockets. Up to the level of company commander, they also live with their men, all together in the bare but immaculate barracks with the same hard iron bunks for everyone.

As the 197th is a light infantry division, it has no divisional equipment heavier than 75-mm. recoilless rifles and 120-mm. mortars. Communications are by signal and walkie-talkie. Motorized equipment is insignificant. But the men are trained to carry 60 to 85 pounds of weapons, ammunition and rations on the march and in combat.

The divisional commander, Chien Yung-Ching (who looked like a smallish Chinese rock, weathered but durable) insisted that I see his men "in action." It was a freezing day. While my teeth chattered, target shooting, training exercises and maneuvering (always at the double) went on for two hours. As each new squad ran out to perform, the men chanted in unison, "Heighten Our Vigilance! Defend Our Motherland!" And I have to add that I have never seen more deadly accurate shooting at all ranges.

What struck me most, however, was the way the division was organized. There were almost no staffs—no more than 30 men at divisional level, and no more than eight at the regimental level. There was almost no school system, either, and there were virtually no cross-transfers from outside. Everyone, in fact, had grown up in the division; and since the re-enlistment rate (at the end of a three-year hitch) was 30 to 40 per cent, everyone knew everyone else. Hence the lack of need for insignia.

Command was frankly a partnership between the formal commanding officers and the political officers. But the political officers had also grown up in the division; and all higher officers had had both sorts of assignment. A new model army, indeed! And I should guess an extremely formidable one.

[From the Baltimore Sun, Jan. 10, 1973]

INCREDIBLE PROGRESS IS THE MOST EXCITING THING ABOUT THE NEW CHINA

(By Joseph Alsop)

HONG KONG.—In Canton, after a month's hard but endlessly fascinating work, the Chinese journey ended.

There was a final, magnificient feast, including "the delicious meat"—which means dogmeat. It is a great delicacy in Canton in winter weather. And honesty compels the report that although the meat is coarse, the dish, overall, is very good indeed.

On the train carrying us to Hong Kong, my wife and I argued the question that has puzzled us the most.

Both of us have spent a good deal of time in the Soviet Union and the other Western Communist societies. Both of us found these other journeys almost suffocatingly depressing.

In China, too, vast, terrifying upheavals, cruelly costly to millions of human beings, have occurred quite recently. The "great leap forward" brought the whole of China to the verge of famine, and "the three bad years" are an often-mentioned memory.

The Great Proletarian Cultural Revolution, only terminated two years ago, was another hideous episode by rational Western standards.

Much less was actually smashed up than we in the West have generally supposed. In Shantung province, for example, the ancient family temples of Confucius and Mencius were continuously protected by detachments of the Army.

All the same, the price in human suffering must have been ghastly, although many survivors of this suffering were outspokenly proud of being survivors.

Yet both my wife and I found this long, unprecedented Chinese journey neither suffocating nor depressing. Instead—the fact may as well be faced—we found the journey both fascinating and exhilarating.

Rather than thanking God to be crossing the border (which is the standard post-Russian response) we wished we could have had several months more. So why?

Part of the answer, beyond doubt, lies in the simple fact that travel in the new China is infinitely more agreeable than in the Soviet Union.

Our countless hosts were friendly, interesting and forthcoming. Our interpreter-manager, Yao Wei, was the most uniquely ideal traveling companion that either of us had ever encountered. On an infinitely lower level, the service and food everywhere were incomparably good.

Per contra, there was not the smallest hint of the other, more free life that goes on, under the surface, in the Soviet Union. A Chinese Solzhenitsyn is quite unimaginable. There is no underground art or literature. All march to the same drum, or they have their "thoughts reformed."

Furthermore, the official art, and as far as one can judge, the official literature, are awful beyond imaging.

You can get the idea from the cultivated old woman writer who told me, with a straight face, that with the cultural revolution completed, "literary production would soon be resumed on a big scale"—as though she had been speaking of steel production.

The Western Maoist intellectuals would die like flies if they were forcibly translated to Mao Tse-tung's China.

Neither my wife nor I, finally, have that unpleasantly masochistic liking for the brutality of "progressive societies" that marks so many Western left-wing liberals. So why then, I repeat, were we both fascinated and excited?

The Western Communist societies work horribly badly. You feel the malfunction everywhere, no matter where you go.

But if you knew the old China, you cannot have that awful suspicion that is always in your mind in Russia—that even tsarist society might have made much more progress, at a substantially lower cost in human life and human misery.

In the Chinese case, I freely confess, I cannot quite understand how so much progress has been made, despite the fearful recurrent upheavals.

But for anyone who knew old China, the progress is both undeniable and astonishing. The life of the people is hard, and above all, it is unremittingly hard-working. It is not free, in any sense.

The whole experiment can also go aground, in the end, either because of a Soviet preventive attack, or because the effort to solve the population problem meets with failure.

Yet everywhere you see the strong foundations for a better future being boldly, labo-

riously, intelligently laid. Whether in agriculture or industry, you find eye-popping achievements. So I suppose it is this sense of forward movement that answers the question we argued on the train to Hong Kong.

[From the Washington Post, Jan. 15, 1973]

DEFENSE: MAINSPRING OF CHINA'S ECONOMY

(By Joseph Alsop)

In Nanking, at the least impressive factory I saw in China, there was still something to see that was almost horribly impressive. The place was a railroad car plant. To get to it, we had to cross the vast new bridge over the Yangtze River.

Far, far below the bridge, some of the old ferries were still steaming back and forth over the wide, turbid waters, but they were almost entirely empty. An inquiry produced the fairly chilling response: "We keep them going because the bridge could be so easily broken by bombs in wartime."

The factory itself was built at the foot of a considerable hill. Here was the main exhibit. Steel doors opened inside of the hill, revealing a concrete tunnel, 14 feet wide and nearly 12 feet high. In the burrows of the hill, the tunnel and its satellite-tunnels extended for more than two miles—"enough to make an air-raid shelter for 20,000 people!"

It was hardly surprising, then, that the factory's output seemed remarkably low for the 4,000 workers it employed. This enormous fortification inside the hill had, in fact, been built with "volunteer" labor of those same workers. And the factory also sustained no less than 18 militia companies, well trained as they proved in the long display.

From such data, you can deduce the most immediately important lesson of my experience in China. Neither at that factory, nor crossing the bridge over the Yangtze, nor at any other stage on this journey, did anyone make any bones about the nature of the threat the Chinese now perceive. The threat is nothing more or less than a preventive war waged by the Soviet Union. To most Americans, this is a highly distasteful fact. Prof. John K. Fairbank, for instance, promulgated the pleasanter doctrine that the chief Chinese fear was nonexistent Japanese militarism—and this was gratefully believed until China clasped hands with Japan! It is no wonder, either, that the true fact should be distasteful, for you must take your choice: Either most American liberal intellectuals are now living in a totally unreal world—for the world, as they see it, certainly leaves no particle of room for anything like a Soviet preventive nuclear attack on China. Or else Mao Tse-tung, Prime Minister Chou En-lai and the entire Chinese government are mainly guided by considerations almost insanely unreal.

For it must be understood that the story only begins with the huge air-raid shelters all Chinese enterprises have been required to build; and the underground cities that extend beneath every major Chinese urban center, and the militia companies that have been formed by every kind of organization in China.

The real story is that the whole remarkable development of the Chinese economy is being deformed, for the present, by the absolute and urgent priority now accorded to national defense. The rule that "agriculture must come first" is not being broken, to be sure. Probably it cannot be safely broken because of China's population problem. But all that I saw—most of it previously unseen by any foreigner—suggested that Chinese industry would now be long past the takeoff stage, except for one thing. The first call on all industrial resources, from steel to machine tools, has been given to aircraft, production of missiles, ordnance and to everything else connected with China's armed strength.

The political evidence confirmed the industrial evidence. In a long series of frank and exhaustive talks in Peking—with officials of the foreign office, with leaders of the Chinese press and, finally with Prime Minister Chou En-lai himself—there was always the same central theme: The danger of a Soviet preventive attack on China, as betokened by the huge, unceasing Soviet military buildup on China's long northern frontier.

Prime minister Chou even spoke grimly of the Soviets as already "seeking to organize support" for such an attack among the other Western Communist countries. Here, in sum, is the hidden mainspring of China's policy.

[From the Boston Globe, Jan. 15, 1973]

CONCLUSIONS AFTER A VISIT TO CHINA

(By Joseph Alsop)

WASHINGTON.—It is time to try to sum up a long, almost, unparalled experience in the New China.

In the long perspective of world history, the Chinese revolution led by Mao Tse-tung can easily emerge as more significant than the October revolution in Russia in 1917. I believe this, although I gravely doubt whether the methods of Chinese communism will ever prove to be exportable to other countries. They are too Chinese.

The right way to see the New China, in truth, is to forget the Communist label, and to consider the revolution as a specifically Chinese event. China's majestic history even teaches that this was, in some sense, a characteristically Chinese event.

The fact is that over the millenia, China has previously experienced at least two—perhaps three—vast, painful, violent episodes of radical renovation.

Schematically, these episodes all had the same features. When they occurred, the long-established system of Chinese society had begun to work very badly indeed. A new, ruthlessly renovating government then acquired power. Mountains of the accumulated social debris of the past were cleared away, at heavy human cost. And a wholly novel structure of state-power was also erected.

In the crises of the past, Chinese self-confidence was never shaken by anything quite like the challenge of western industrial society, beginning in the 19th century. Add the new ingredient of having to meet that challenge, calling into question the very foundations of Chinese culture.

You can then see Chinese Communism as no more than an instrument—or maybe one should say a weapon—for putting China back where every Chinese firmly believes that China ought to be.

At present, I am also pretty sure, the New China is at the end of one phase and the beginning of another. In the great renovating episodes in China's past, the period of harshness, of dogmatism, of extreme heavy-handedness, was never long enduring.

Quite probably, that kind of mutation has already started. On the base of the successes already achieved, that kind of mutation is also likely to build even greater successes, economically, technologically and in many other ways.

This matter of China's success, may well be the key to the future. Prime Minister Chou En-lai insisted to me, not once but at least three times, "we do not want to be a superpower." But a truly successful China cannot help but be a super-power, even a supergiant power. The country is too large, the people are too numerous, to permit any other result.

It is this which makes me wonder whether the Chinese revolution may not end by seeming rather more significant than the Russian revolution. If China eventually attains the kind of economic and technological success that China seems to promise today, the Soviet Union will be far out-distanced.

REMOVAL OF SENATOR FANNIN FROM MEMBERSHIP ON SPECIAL COMMITTEE ON AGING

Mr. SCOTT of Pennsylvania. Mr. President, I ask unanimous consent that the Senator from Arizona, Mr. FANNIN, at his request, be removed from membership on the Special Committee on Aging.

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

MARTIN LUTHER KING, JR.

Mr. SCOTT of Pennsylvania. Mr. President, yesterday, January 15, marked the 44th anniversary of the birth of a great civil rights leader and proponent of peace, Dr. Martin Luther King, Jr. Dr. King was an individual of great vision. No single man's "dream" has had such a profound influence on modern times.

At the age of 39, Dr. King was struck down by an assassin's bullet and the standard bearer of the quest for civil rights for all minority groups was gone. Our country lost a great leader. One can only speculate, but I feel that if Martin Luther King, Jr., had lived, the blood and racial turmoil in our cities would have been averted and our Nation would have been that much farther along toward Dr. King's "dream."

I pray that the memory of Dr. Martin Luther King will serve as an impetus for the future advancement of peaceful change. The closing words of an editorial regarding the late Dr. King in yesterday's Baltimore Sun are particularly appropriate:

As long as his spirit and his example live, seekers after the justice he sought can expect someday to see all their dreams come true.

PRESIDENT NIXON'S DECISIONMAKING

Mr. SCOTT of Pennsylvania. Mr. President, in last night's Washington Star-News, two excellent articles written by Richard Wilson and David Lawrence appeared opposite the editorial page. They certainly are well worth reviewing to develop an insight on the style of President Nixon and the reasons for certain decisions he makes. The columns are entitled "Nixon Does What He Must Despite the Critics" and "Nosy Congress Handicap to Peace." I ask unanimous consent to have them printed in the RECORD.

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

[From the Washington Evening Star and Daily News, Jan. 15, 1973]

NIXON DOES WHAT HE MUST DESPITE THE CRITICS

(By Richard Wilson)

The measured pace of the Nixon administration never ceases to surprise and startle. So many of President Nixon's decisions run contrary to accepted wisdom, such as lifting mandatory wage-price controls at a time when inflation tends to resume its upward course.

Or, the predictably unpopular resumption of bombing in the Hanoi-Haiphong area which might again be resumed if the peace talks in Paris fail again.

Nixon goes by a measured pace and this is what is least understood about him. In the fall of 1971 when Phase 2 of economic controls had barely replaced Phase 1, Nixon's

economic planners began to chart Phase 3, the lifting of controls. The plan now has advanced by measured stages into Phase 3, voluntarism, which was intended in the first place, and is consistent with Nixon's long-term opposition to compulsory wage-price controls.

He will claim the same consistency in terminating the Vietnam war, which once again appears possible. Here again there is evidence of the measured pace.

Early in 1972 Nixon accepted with amazing equanimity the advance of Communist regular forces across the demilitarized zone to establish a foothold in the northern provinces of South Vietnam. To prevent that advance from going too far the President ordered the mining and bombing of Hanoi-Haiphong, and the South Vietnamese army was able to arrest the advance with the loss of only one major capital.

Still, the North Vietnamese regular forces did, in fact, establish themselves in the northern provinces of South Vietnam. This fact underlies the present shape of the peace negotiations.

Nixon's tacit acceptance of the presence of the North Vietnamese regular forces in South Vietnam was the irreducible price of peace for Hanoi—the recognition of two armies in South Vietnam as reflecting the realities of the battlefield.

From this single point flowed the events which made it conceivable for Hanoi to agree to a cease-fire in place. So there was a perceptible pattern, if not a preconceived design, all through 1972 based upon the creation of real military conditions which Hanoi could consider acceptable, at least for an interim period.

Phase 1 then moved on toward Phase 2, the heavy bombing to convince Hanoi that it must now move along toward the actual execution of a cease-fire which did not require an overt commitment to withdraw its regular troops.

Phase 3, the resumption of bombing when Communist delay and treachery sabotaged the peace negotiations, could not be considered a preconceived plan but Henry A. Kissinger evidently left the Communists in little doubt that further delay and captious changes would result in renewed bombing.

This resumption was a hitch in the proceedings and matters were not going at Nixon's measured pace. That pace has nevertheless resumed and, while at a slower rate than once appeared possible, still falls within a Nixonian game plan.

He may yet be able to say that a planned course of events, from the first withdrawal of troops onward, led, despite delays and mishaps, to conditions in which Hanoi would agree to a cease-fire while Saigon still controlled most of the country.

In other matters a measured pace can be perceived. Nixon must have known—certainly his associates did know—that there was virtually no prospect that Congress would embrace his massive governmental reorganization plan.

From the beginning, it was implicit that, at what was deemed the proper stage, the President would put this plan into effect by his own devices. He has done so, not perfectly, but he has, in effect, combined the functions of several departments under super-Cabinet members with White House status.

It is the same with his commitment to cut government spending. Congress will not help him in this, so he is doing it anyway by stages and phases, in effect impounding and refusing to spend money appropriated by Congress.

It is typical of the game plan approach that many of Nixon's actions are temporarily unpopular or misunderstood so he has to be endowed with foresight of a good outcome and immunity to criticism. He takes second place to no one in these endowments.

NOSY CONGRESS HANDICAP TO PEACE

(By David Lawrence)

The rumblings in Congress from members of the opposition party are evidently indications that President Nixon's second term will be subject to many challenges.

A threat, for example, has been made to block the confirmation of some of the new cabinet appointees unless Mr. Nixon agrees to let them testify freely before congressional committees. Demands are constantly being heard for "more information" on international affairs. Sen. Barry Goldwater, Republican of Arizona, who supports the President, has pointed out that it is not practical to give congressional committees the details of diplomatic negotiations and that the conduct of foreign policy would be impaired if negotiations had to be reported to Congress.

The executive branch of the government has always taken the position in every administration that information about matters related to foreign policy will be conveyed to Congress, but only when a decisive point has been reached—not while an important negotiation is in progress and particularly when it is at a delicate stage. Senators seem to think that the President ought to keep committees continually advised about diplomatic transactions with other governments. This has never been the rule, and the reason is easy to understand—information could be "leaked" to the press which would cause nations endeavoring to help settle a controversy to refrain from participation at all.

Members of the Senate have been told in a broad sense what the difficulties are in getting peace with North Vietnam and the Viet Cong. The aid of neutral governments has been sought to persuade Hanoi to adopt a conciliatory attitude and make an agreement at Paris. But the insistence that the President's appointees must testify on whatever subject committees may seek information would be a considerable handicap in carrying on foreign relations by the executive branch of our government.

There also are controversies in Congress with the President about the expenditure of federal funds. The administration has been trying to limit spending. Judging by some of the comments on Capitol Hill, it might be thought that the biggest sums today are being spent on the Vietnam war. Actually, the cost of domestic programs has reached the highest point in our history, and the real problem of the federal government is how to stop deficits. The administration has not hesitated to give the committees any data sought on the subject of expenditures.

The President's determination to hold the budget to approximately $250 billion will be successful only if both houses are willing to reduce appropriations. Mr. Nixon has declared that he will try in every way to cut expenses on the executive side, but his influence on the national economy can help to increase tax revenues in a period of prosperity.

The chief executive, in lifting most of the restrictions in the economic stabilization program, hopes that wage and price factors will move naturally as business conditions permit and bring larger and larger receipts to the U.S. Treasury.

The United States during the year 1973 will be operating under less regulation of the economy than it has in the last two years. An opportunity is given management to raise prices but not to a point that cuts down sales. The advice to labor union leaders is to make their requests for wage increases conform to the profit trends but to omit excessive demands which would push up costs and bring more inflation.

The President knows that during Phase I and Phase II of wage and price controls management and unions have learned some lessons about the value of restraints. For certainly employment has steadily risen and inflation has been gradually cut down. The outlook for 1973 and 1974 is considered to be on the brighter side. What management and labor really need to accept is self-regulation as it relates to the whole economy and particularly to an increasing flow of revenues into the federal treasury.

PRESIDENT NIXON'S FEELINGS

Mr. SCOTT of Pennsylvania. Mr. President, an article written by the junior Senator from Arizona (Mr. GOLDWATER) was published in the January 9 New York Times. I believe that our distinguished colleague's comments are deserving of consideration by all Americans, and 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 New York Times, Jan. 9, 1973]

MR. NIXON'S FEELINGS

(By Barry Goldwater)

WASHINGTON.—There is only one way the Congress of the United States can end the war in Vietnam—by forcing a surrender of almost all American objectives in Southeast Asia.

This is a fact of international life which is very often misunderstood by sincere people who honestly want to see the bloodshed and the hostilities in Indochina brought to an end.

Indeed, the only way that a reasonable cease-fire and the return of American prisoners of war can be arranged is through the process of negotiation. The Congress is not empowered to nor is it capable of conducting these negotiations. The only action possible would be to render American military forces completely impotent by cutting off their funds and thus paving the way for a Communist victory of Hanoi's own making.

At this time, the Senate and House Democrats who are threatening to tie President Nixon's hands are threatening to prolong the war. They might just as well send a message to the Communist bosses in Hanoi telling them to "hang in there" until Congressional patience is exhausted.

We already know how delicate are negotiations in Paris. The Administration's critics, however, have ignored this and are embarking on a negative, counter-productive course born of an almost psychopathic desire to embarrass President Nixon and deny him the credit for ending a war which began under one Democrat President and was escalated enormously under another Democrat President.

When Democrat caucuses in Congress threaten to cut off funds if a settlement is not reached by a certain date, they are deliberately encouraging Hanoi's representatives at the peace negotiations to hold off agreement on any kind of a settlement until after that date. I can understand the frustration which is so rampant in Congressional circles because of Hanoi's backing and filling on provisions for arranging a cease-fire. I can also understand the unhappiness caused by the renewed bombing of North Vietnam on orders of President Nixon.

But it stands to reason that the frustration and unhappiness on Capitol Hill cannot begin to equal the frustration and unhappiness in the White House. And it does Mr. Nixon's critics no credit to run around suggesting that President Nixon is gleefully bombing North Vietnam out of a spirit of hatred or revenge.

Anyone who makes this kind of suggestion has to be a Nixon-hater of so rabid a breed that he has lost all sense of proportion and decency.

Those of us who have watched and consulted with the President during the entire

Vietnam mess which Lyndon Johnson left on his doorstep can attest to the President's deeply-held wish for a speedy end to the hostilities, the bloodshed and the imprisonment of American fighting men. It is the intensity of his feeling which has given Mr. Nixon the courage to go ahead with the course of action he knew (perhaps better than any other living American) would bring down on him a new torrent of criticism and abuse from many directions, both at home and abroad. And it was the intensity of his desire for an end to the bloodshed that gave him the courage to act in a way he realized would enrage the liberals and the doves and the demagogues on Capitol Hill.

In this whole situation a few basic facts need to be outlined and underscored:

President Nixon and his advisers have more information than anyone else, in or out of Congress, about the true status of the peace talks and what factors are involved in motivating the Communists to drop their impossible dream of complete control of Indochina.

That President Nixon and his advisers know better than anyone else, in or out of Congress, how best to bring about a speedy agreement for a cease-fire and the return of American prisoners.

It stands to reason that the President felt renewed bombing of North Vietnam was not only the best but the only way to get the peace talks back on the road to ultimate agreement.

I believe the President and Henry Kissinger recognized in the changing demands of the Hanoi representatives a belief that they could go on arming for the destruction of South Vietnam as long as this task required and without interference from American bombers. I believe the President and Mr. Kissinger recognized in the attitude and the actions of the Hanoi negotiators a belief that they could act militarily without interference in the belief that American public opinion and Congressional sentiment would never sanction a resumption of the bombing of military targets in the Hanoi and Haiphong areas.

Had our negotiators permitted this Hanoi attitude to go unchallenged the peace negotiations would have dragged on until either we gave in on every Communist demand or until the doves in Congress forced an American surrender on Communist terms.

EXECUTIVE PRIVILEGE

Mr. SCOTT of Pennsylvania. Mr. President, today, as frequently in the press, a columnist has again referred to invocation by the President of executive privilege, as if this were a constant resort of the Executive and frequently used, the implication being that perhaps it has been abused.

I think we should hit this particular kind of flapdoodle wherever a flapdoodle has a head.

Executive privilege was not invoked at all by this President in 1969. It has been invoked only three times altogether—once in 1970, once in 1971, and once in 1972. That is all. It has to be invoked by the President's direction in writing, with the reasons given.

I have documentation for these statements.

I am a little bit tired of the nonsense I read in the press by ill-informed and inaccurate columnists or by others who seem to want to make a great deal of the alleged invocation of executive privilege.

Every President has used executive privilege. In my judgment, Presidents have not abused it. This President has used it three times—three times—three times; and I hope that will now stick in the minds if not in the craws of the President's critics.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from South Dakota (Mr. ABOUREZK) is now recognized for not to exceed 15 minutes.

CONGRESSIONAL VERSUS PRESIDENTIAL POWER

Mr. ABOUREZK. Mr. President, I recognize that it is not common for a Member who has so recently joined this body to speak out at length on the floor.

But this Nation is facing a crisis of sufficient gravity that all of us—even the most junior of Senators—must make ourselves heard.

For it is by silence, by inaction, that we have allowed the present situation to come upon us. It is only by voicing our concern and our indignation, and by acting to reverse the disastrous course of recent years, that a very much worse fate can be avoided for our Nation.

Allow me to read a few lines which came in my mail after it was announced that the rural environmental assistance conservation program had been terminated by President Nixon.

A man in Philip, S. Dak., wrote:

To eliminate cost-sharing REAP funds would seem to be in direct violation of the Rural Development Act of 1972. This makes a mockery of congressional action.

Another man in Hettinger, N. Dak. wrote:

I can't help but feel our Congress has been derelict in their duties. It is simply not necessary for Congress to accept dictatorial rule in our Nation. If Congressmen have no authority over the actions of our President, why do we spend in the neighborhood of a half billion dollars each year in salaries and congressional expense?

A woman in Custer, S. Dak., wrote:

I feel that we are still living in a democracy and one man cannot dictate to Congress or the people.

This country faces a constitutional crisis. Our tripartite form of government, established with great wisdom by our forebears as the surest means of preserving our liberties, and of avoiding the descent into tyranny, is under grave attack.

In the past quarter of a century, believing that we were confronted by a great threat to our national survival, we systematically transferred to the President a vast array of powers which formerly resided in this body, under its war-making authority, and allowed the President to centralize decisionmaking more and more in his own office.

The Congress granted the President a wide range of "emergency" powers.

Having given these powers away in a period of dire threat, we now find the President using them in a very different way, and for very different purposes, than was originally envisioned.

He is using them to conduct foreign wars, both public and secret, of his own volition.

He is using them to instigate a growing system of surveillance of ourselves and our citizens. The Watergate bugging incident is only the most highly publicized of these activities, in which specialists trained in the CIA and FBI to spy upon foreign agents were turned to spy upon American citizens performing their highest and most sacred role, that of engaging in the established, legitimate process of supporting candidates in a presidential and congressional election.

Indeed, things have gotten so out of hand that a short while ago we learned that the U.S. Army was deeply involved in systematically spying on American citizens and was compiling secret dossiers on American citizens who were merely exercising their constitutional rights of free speech and free assembly.

Members of Congress, Justices of the Supreme Court, and Governors of States were spied upon in the name of national security.

In addition to this invasion of constitutional privacy, the President is using his newly seized powers to alter and to eliminate congressionally authorized and funded rural programs as he sees fit. He has far exceeded his legal authority in doing so.

But the most obvious place in which we see the President going beyond the legal authority we have given him is in Indochina—and I take note, Mr. President, of the recent rumors of peace, which I hope come true.

By repealing the Tonkin Gulf resolution, we left the President the authority to use American Armed Forces only to protect our remaining servicemen in that land, including our prisoners of war.

Instead we see the President, without any legal authority whatsoever, raising political demands in the negotiations which go far beyond these simple conditions and using all the might of our aerial armada to enforce those demands. He has gone to the point of imposing upon a foreign population the kind of indiscriminate bombing to which we reacted with horror when the same acts were performed against Guernica, Rotterdam, and London. He has, as one of my colleagues so eloquently stated, single-handedly made this Nation into the bully of the world.

And, I repeat, I can find no legal authority for such actions by the President. This body has not declared war on North Vietnam, and we have given the President no authority to use military force other than his inherent right to protect American troops.

The President came into office declaring that he would establish a regime of law and order, that respect for our historic institutions was declining, and that an attitude of permissiveness was replacing our cherished values.

Now, 4 years later, we find the President and those around him acting in contempt of their own espoused principles. They are ignoring those acts of Congress which they dislike and they are deliberately circumventing the established laws of our land. They are doing so in a spirit of "selective permissiveness," wherein they grant themselves the right to ignore those customs and legal norms which they find inconvenient or burdensome at the moment, but demand

strict adherence to the law from everyone else.

When President Truman seized the steel mills, invoking his emergency powers and his role as Commander in Chief of the Armed Forces, there was an immediate public outcry at this usurpation of authority by the President. The Supreme Court reversed his action.

Today the President's excesses no longer appear so dramatic, even though they are more widespread and pervasive. These excesses do not seem to generate the vocal public concern of an earlier age.

Have we become inured to living with what some have called an "elected dictatorship"? Are we willing to accept the arbitrary decisions of one man so long as they do not take away our own private property, so long as they do not diminish too dramatically and too suddenly the rights of this body and of ourselves as free men?

Now, what has the President done that shows his contempt for Congress and for the bonds of law which should restrain his conduct?

He has invaded two foreign countries—Cambodia and Laos—with no congressional authority whatsoever and on only the flimsiest of pretexts.

He has circumvented direct restrictions placed by this body on the use of American troops in Laos by clothing them in civilian garb.

He has provided military support to countries to which the Congress clearly indicated it did not want military support and commitments given.

He has declared he would ignore the Mansfield amendment, which expressed the desire of Congress that American troops be brought home, subject only to the condition that our prisoners be released.

Domestically, too, he has ignored the will of the Congress. He has at times exceeded the authority we have granted him, and he has directly assaulted the prerogatives of this body.

He has asked Congress voluntarily to give up its traditional power to control the allocation of Federal money.

When that failed, he went ahead on his own, preparing to cut money for programs which the Congress approved and funded, programs which the Members of this body have concluded are essential to the well-being of the people of this Nation.

In so doing he would viciously penalize the people of my State, a rural State. Those penalties strike at people who are involved in conservation, people who earn their living on the land, people in dire need of decent housing, people who are often voiceless because they are rural or poor or both, people who only a few weeks ago vested their trust in him.

It does not stop there.

He has transferred the real control of Government from the individual departments to the White House superbureaucracy that he alone has created, that he alone controls, and that he shields from congressional oversight with claims of "executive privilege."

He is cutting back domestic programs which traditionally have been subject to substantial control and influence by the Congress, leaving intact the military side which is more responsive to the President's direct wishes than any other portion of the Government.

He has refused to permit high officials of the executive branch to testify before constituted committees of this body, hiding them behind the shield of an overextended executive privilege.

He has refused to permit his appointees to testify on their personal positions on key issues falling within the domain of their prospective offices. He thus denies the Congress any effective means of judging the suitability of the appointee for service.

By increasingly taking into the White House the functions which were formerly performed by the executive departments, he has progressively removed from the reach of Congress, and from the eyes of the public, the decision-making process of the executive branch.

We are being reduced to the role of spectators who watch the results of the President's game plan but have no voice in the planning of strategy or the calling of the plays.

The President and his advisers have become an unanswering group of men.

They appear not to accept the constraints of our Nation's law, nor of international law, to care not at all for the good name of this land in the world community.

They have dropped the facade of courtesy, no longer even deigning to present their views openly to the committees of this body, nor to explain their behavior to the American public.

We, in turn, while remaining true to our obligations to the American public, and for the large part acting in the most open way possible, should no longer feel quite so concerned about maintaining polite courtesy, when the President and his staff show only contempt for our constitutional prerogatives.

Nor can the Congress rely on the courts to restore our lost authority. Surely we should press in the courts our position that the President must respect our lawful authority. But the legal process is slow, and the President has moved swiftly to consolidate his power.

Too often we have seen the courts take away the power of this body, especially in recent years.

Appointees of the President, favoring the authority of a strong state over the democratic processes we cherish, have gone against us.

Just this past year we have seen the courts take away authority we believe the Constitution gave us.

We have lost or are losing the right to discipline our own Members, the right of the Congress to acquire information so that we may legislate intelligently, the right to provide information to the American public without fear of prosecutors from the executive branch descending upon us to ferret out our sources.

It has been made altogether too convenient for us to avoid our responsibilities as a Congress.

It has been made too convenient for us to leave to the President all decisions about Vietnam, about the economy, about the need to raise taxes.

Meanwhile, the President has proved resourceful in picking up the authority we have dropped and in using it to his own ends.

We must reassert our willingness to take responsibility for the future of the Republic. We must present our case directly and forcefully before the people.

I am not saying that Congress is necessarily the source of all wisdom, nor that it necessarily can come to better decisions than the President. I am certainly not claiming that the Government will automatically function more efficiently if Congress does reassert its will. We all know that the Congress moves ponderously. But history has taught us that the preservation of a viable, active legislative branch is the most effective way to preserve the democratic rights we all cherish. Democracy is messy, and we often make mistakes, but liberties given away are not easily reclaimed.

The Congress should be prepared for a possible confrontation with the President.

We are a coequal branch of government, and we have a responsibility to the citizens of this land, and to future generations, to "preserve and protect" the liberties and rights guaranteed under the Constitution.

It is in this light that we must be ready to contend with the President for the right to perform our constitutional obligations.

It is often said that a very junior Senator such as myself should not speak out until I have, as the phrase goes, "Done my homework." All well and good.

But what is the point of "doing one's homework," of becoming an expert in the field of national policy, if the result can be discarded by any third-level bureaucrat, acting on his own to make some contrary regulation, or preparing some pronouncement to be issued by the White House, thus canceling my work and that of my colleagues in this body?

It is with this dilemma that we must wrestle. We must reassert our rights as representatives of the people and as the members of this Government closest to the people.

We should not be intimidated by the impressive array of computers, data banks, and titled experts of the executive branch. They operate within a bureaucratic system which imposes special blinders upon the whole information-gathering network. Time after time, from Vietnam to the C–5A, to housing subsidies, we have seen them make terrible blunders and wrong judgments.

We have sources of much wider scope and greater veracity than those available within the walls of the Federal bureaucracy.

We should be willing to use them, confident in our ability to confront the executive branch when we think they are wrong. Indeed, we have a responsibility to our constituents to do just that. Otherwise, we will be nothing but a rubberstamp for the President.

To allow present trends to continue would justify, I believe, the people of each State in sending a written proxy to the President, thus saving the cost of our salaries. But, of course, in so doing the people would take enormous chances on how the President would vote that proxy.

We have given away vast amounts of discretionary authority over the budget

and over Federal rulemaking, leaving it to the President and his minions to clarify the intent of the Congress.

In this process we are transferring to the President many of our legislative functions a little bit at a time.

While much of this is made necessary by the vast number and complexity of issues we must deal with every day, it seems time to reexamine the numerous blank checks we have given the President. We should ask, in every case, whether we are giving away too much of our authority. We should then ask whether the President is, indeed, carrying out the will of the Congress and is "faithfully executing" the laws.

Congress, of course, should make itself a more efficient body, to better meet the President on his own ground. I am suggesting today a Congressional Office of Management and Budget, which, like the GAO, could provide information to individual Members. But it should go beyond the mandate of the GAO and into each individual program and project which make up the Federal budget. It should provide information which this body needs so it can formulate its own alternatives to the President's budget.

The Constitution gives us two ultimate weapons, the power of the purse and the right to advise and consent on appointments.

We must now make full use of both.

We must refuse to appropriate money for activities and personnel which we believe the President is using for illegitimate purposes. This specifically includes his continued bombing on the mainland of Indochina in the face of the clear willingness of North Vietnam to return our prisoners, subject only to our withdrawing our troops from South Vietnam and halting the bombing.

If the President persists in carrying on this illegitimate war, or in defying the will of Congress by impounding billions of dollars in appropriated money, then this body should impound money for the White House staff, impound money for high executive branch officials, and refuse to approve any Presidential appointees.

Such actions would demonstrate sharply and directly how seriously we take the current crisis.

Some may call such action too drastic, too extreme. But I see no alternative other than standing by to watch the Constitution become nothing more than a relic of history.

The time is long since past when we could afford to be an ornament of Government, a passive observer of the decline of democracy.

We must instead become active participants in the reconstruction and rescue of democracy from the hands of a President who senses no limits.

Cutting off funds for the White House is not a matter to be taken lightly. It is an action that no one prefers to hear discussed, much less undertaken. But I believe that the recent actions of the President have made discussion of this and similar matters mandatory.

What I propose is not some radical change in our governing structure. Rather it is a return to the original principles upon which the Republic is based. I am presenting a profoundly conservative position, one which preserves the system of checks and balances wisely incorporated into our Constitution from the start.

It is the President who is moving us precipitously close to an authoritarian system of the very kind which the Founding Fathers knew first hand and sought to prevent.

The people of this Nation have been losing their belief in the efficacy of the democratic system.

What is the point of voting in a national election if the electorate is going to be defrauded by a President who promises them peace but then brings more war?

What is the point of their communicating their views to their Representatives in the Congress if those Representatives will be ignored by the President?

I urge this Congress to act in whatever manner necessary, no matter how unusual, to insure that its powers will be preserved, and to restore the confidence of our people in our democratic process.

Once that action is undertaken, but only if it is undertaken, can we then return to our proper job with some assurance that our job will have real effect on the problems facing the Nation.

I look forward to joining in the dramatic actions needed to reassert the authority of this body, and in the hard work needed to make responsible use of that authority once it is recaptured.

I look forward to re-creating a viable democracy so that we may proceed to create a better nation.

Mr. McGOVERN. Mr. President, I want to congratulate Senator ABOUREZK, first of all, for speaking out early in his career as a U.S. Senator. He established a brilliant and impressive record in the House of Representatives in the course of one term in that body because of the very thing he is doing here this afternoon, and that is to address himself to the major problems before the country and to do it early and to do it forcefully and to do it with wisdom. I congratulate him for not holding back but speaking out early on an important subject.

Second, I congratulate him for the subject he has chosen for his maiden speech. I think no problem confronts the Nation and Congress today that is of any more public concern or any more national importance than what the Senator has described as a constitutional crisis, and that is exactly what it is—the obvious imbalance in the relationship of power between the legislative branch of the Government and the executive branch.

As the junior Senator from South Dakota knows, some years ago a panel headed by the late Senator John Kennedy, former President Kennedy, selected the five greatest Senators of all time. They agreed unanimously on Webster, Calhoun, and Clay, and after some debate, LaFollette, and the late Robert Taft were included among the five; and the pictures of those Senators appear in the Senate reception room.

It is my view that if any one of those five Senators was to return to this body in 1973 and address himself to what he regarded as the most urgent challenge before Congress, it would be the very problem that Senator ABOUREZK is discussing this afternoon—the decline of congressional power, the failure of Congress to protect its own constitutional prerogatives, and the steady growth of arbitrary power on the part of the Executive.

This is not a partisan matter. This is a trend that has been underway in this country for at least 40 years, with a steady deterioration of the powers of Congress and more and more power, both on the domestic side and in the foreign policy field, concentrated at the White House level.

As the Senator from South Dakota has said, this is unnecessary. This is not something that Congress ought to take lightly. It is a situation about which we can do something by standing on the authority we have in the Constitution.

I think the one thing that the Founding Fathers feared more than anything else was the power of an unrestrained Chief Executive, and I think they thought they had written into the Constitution safeguards in the tripartite system of balance of powers that has served us so well through most of our history.

So I commend my colleague from South Dakota. I am very proud of the record he compiled as a Member of the House of Representatives. I am looking forward to an even more impressive and productive record on his part in the Senate. I have read the Senator's entire speech. It is a brilliant and thoughtful and provocative speech that everyone who treasures personal liberty and the Constitution ought to read, and I commend him for it.

Mr. ABOUREZK. I thank the senior Senator from South Dakota.

Mr. JACKSON. Mr. President, I was very pleased that the distinguished junior Senator from South Dakota made his maiden speech in the Senate today. I must say that Mr. ABOUREZK is already serving with distinction on the Committee on Interior and Insular Affairs, of which I have the privilege to be chairman. He will be the new chairman of the Subcommittee on Indian Affairs. This is a most difficult and urgent task, and I think the Senate is fortunate in having his kind of knowledge and experience that stems from his experience on the House Interior Committee and his long involvement with the Indians of his State.

I wish to take this opportunity to congratulate him on the occasion of his maiden speech in the Senate.

SENATE OFFICE BUILDING COMMISSION—APPOINTMENTS ON BEHALF OF THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON). The Chair on behalf of the Vice President, pursuant to Public Law 84–944, appoints the Senator from Tennessee (Mr. BAKER) and the Senator from New Mexico (Mr. DOMENICI) to the Senate Office Building Commission.

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 30 minutes with statements limited therein to 3 minutes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF SUBVERSIVE ACTIVITIES CONTROL BOARD

A letter from the Attorney General, transmitting, pursuant to law, a report of the Subversive Activities Control Board, for the period January 1, 1972, through December 31, 1972 (with an accompanying report); to the Committee on the Judiciary.

PROPOSED AMENDMENT OF CHAPTER 83, TITLE 5, UNITED STATES CODE

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend subchapter III of chapter 83 of title 5, United States Code, to provide for mandatory retirement of employees upon attainment of seventy years of age and completion of five years of service, and for other purposes (with an accompanying paper); to the Committee on Post Office and Civil Service.

REPORT ON SCIENTIFIC AND PROFESSIONAL POSITIONS

A letter from the Deputy Assistant Secretary-Management and Budget, Office of the Secretary, Department of the Interior, reporting, pursuant to law, on scientific and professional positions; to the Committee on Post Office and Civil Service.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A resolution adopted by the city of Struthers, Ohio, relating to the allocation of Federal funds; ordered to lie on the table.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. COTTON, from the Committee on Commerce:

Frederick B. Dent, of South Carolina, to be Secretary of Commerce;

Claude S. Brinegar, of California, to be Secretary of Transportation; and

Egil Krogh, Jr., of Washington, to be Under Secretary of Transportation.

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. GOLDWATER (for himself, Mr. CHILES, Mr. DOLE, and Mr. FANNIN):

S. 367. A bill to provide for the reimbursement to taxpayers of all costs, including legal and accounting fees, incurred by them in contesting unwarranted second audits of their income tax liability. Referred to the Committee on Finance.

By Mr. STAFFORD (for himself, Mr. BENTSEN, Mr. CRANSTON, Mr. SCHWEIKER, and Mr. TOWER):

S. 368. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes. Referred to the Committee on Armed Services.

By Mr. TALMADGE:

S. 369. A bill for the relief of Miss Marilyn Ann Mucha. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 370. A bill authorizing the Secretary of Agriculture to carry out a program for flood prevention in the Lower Rio Grande Basin, Tex., to enhance and stabilize the agricultural economy of the area, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. TOWER (for himself, Mr. BELLMON, Mr. FANNIN, Mr. HANSEN, Mr. STEVENS, Mr. DOMENICI, and Mr. BARTLETT):

S. 371. A bill to provide that certain provisions of the Natural Gas Act relating to rates and charges shall not apply to persons engaged in the production or gathering and sale but not in the transmission of natural gas. Referred to the Committee on Commerce.

By Mr. PASTORE:

S. 372. A bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and Vice-Presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office. Referred to the Committee on Commerce.

By Mr. ERVIN (for himself, Mr. MANSFIELD, Mr. ROBERT C. BYRD, Mr. EASTLAND, Mr. CHURCH, Mr. JACKSON, Mr. FULBRIGHT, Mr. MONDALE, Mr. RANDOLPH, Mr. McGOVERN, Mr. BIBLE, Mr. WILLIAMS, Mr. SPARKMAN, Mr. EAGLETON, Mr. TALMADGE, Mr. MAGNUSON, Mr. HARTKE, Mr. METCALF, Mr. HUGHES, Mr. HUMPHREY, Mr. CRANSTON, Mr. HOLLINGS, Mr. PELL, Mr. CANNON, Mr. BURDICK, Mr. McINTYRE, Mr. INOUYE, Mr. HATHAWAY, Mr. HART, Mr. McGEE, Mr. CHILES, Mr. HASKELL, Mr. HATFIELD, Mr. DOMENICI, Mr. MUSKIE, Mr. BROOKE, Mr. MATHIAS, Mr. BAYH, Mr. SYMINGTON, Mr. JAVITS, Mr. RIBICOFF, Mr. GRAVEL, Mr. MOSS, Mr. WEICKER, Mr. CLARK, and Mr. NELSON):

S. 373. A bill to insure the separation of Federal powers and to protect the legislative function by requiring the President to notify the Congress whenever he impounds or authorizes the impounding of funds, and to provide a procedure under which the Senate and House of Representatives may approve the President's action or require the President to cease such action. Referred to the Committee on the Judiciary; and, by unanimous consent, if and when reported by that committee, to the Committee on Government Operations.

By Mr. CURTIS (for himself, Mr. BENNETT, Mr. DOMINICK, Mr. FANNIN, and Mr. HANSEN):

S. 374. A bill to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, by allowing deductions to individuals for personal savings for retirement, and by increasing contribution limitations for self-employed individuals and shareholder-employees of electing small business corporations. Referred to the Committee on Finance.

By Mr. SCOTT of Virginia:

S. 375. A bill to transfer to the Attorney General jurisdiction over the District of Columbia penal facilities at Lorton, and for other purposes. Referred to the Committee on the District of Columbia.

S. 376. A bill to provide for the establishment of a national cemetery adjacent to the Manassas Battlefield Park, Virginia; and

S. 377. A bill to provide for the establishment of a national cemetery within the Manassas National Battlefield Park, Va. Referred to the Committee on Veterans' Affairs.

By Mr. HARRY F. BYRD, JR. (for himself and Mr. SCOTT of Virginia):

S. 378. A bill to provide for the establishment and operation of a research center at Blacksburg, Va. Referred to the Committee on Interior and Insular Affairs.

By Mr. SYMINGTON:

S. 379. A bill for the relief of Manuel Yaroschevsky, Paulina Yaroschevsky (also known as Paulina Strolliar), Daniel Yaroschevsky, and Claudia Yaroschevsky. Referred to the Committee on the Judiciary.

By Mr. HATHAWAY:

S. 380. A bill to establish a contiguous fishery zone (to the outer limits of the Continental Shelf) beyond the territorial sea of the United States. Referred to the Committee on Commerce.

By Mr. ALLEN:

S. 381. A bill for the relief of Ingrid Fernandez O'Campo; and

S. 382. A bill for the relief of Giuseppe Vella. Referred to the Committee on the Judiciary.

S. 383. A bill to encourage persons to join and remain in the Reserves and National Guard by providing full-time coverage under Servicemen's Group Life Insurance for such members and certain members of the Retired Reserve up to age 60. Referred to the Committee on Veterans' Affairs.

By Mr. COOK:

S. 384. A bill to assist the States in raising revenues by making more uniform the incidence and rate of taxes imposed by States on the severance of coal. Referred to the Committee on Finance.

By Mr. COOK (for himself and Mr. HUDDLESTON):

S. 385. A bill to amend the Uniform Time Act of 1966 to provide that daylight saving time be used from Memorial Day to September 30. Referred to the Committee on Commerce.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. STEVENSON, Mr. CRANSTON, Mr. CASE, Mr. PERCY, and Mr. JAVITS):

S. 386. A bill to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. WILLIAMS:

S. 387. A bill to provide for the duty-free importation of bitters containing spirits but not fit for use as beverages. Referred to the Committee on Finance.

By Mr. COOK (for himself and Mr. GURNEY):

S. 388. A bill to amend the Soil Conservation and Domestic Allotment Act in order to prohibit the impoundment of funds appropriated to carry out the Rural Environmental Assistance Program. Referred to the Committee on Agriculture and Forestry.

By Mr. RANDOLPH:

S. 389. A bill for the relief of the Southeastern University of the Young Men's Christian Association of the District of Columbia. Referred to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 390. A bill to amend the National Flood Insurance Act of 1968. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PACKWOOD:

S. 391. A bill for the relief of Paul W. Williams. Referred to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 392. A bill for the relief of Josefina and Antonio Macias Garcia. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 393. A bill to provide for project grants for the development and demonstration of programs for rehabilitative and habilitative care of the aged, blind, and disabled patients of long-term health care facilities. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY (for himself, Mr. ALLEN, Mr. AIKEN, Mr. ABOUREZK, Mr. NELSON, Mr. MONDALE, Mr. BURDICK, Mr. DOLE, Mr. EAGLETON, Mr. MCGOVERN, Mr. MCGEE, Mr. BELLMON, Mr. CLARK, Mr. HUDDLESTON, Mr. MCINTYRE, Mr. CHILES, Mr. HUGHES, Mr. SPARKMAN, Mr. YOUNG, Mr. HATHAWAY, Mr. MUSKIE, Mr. GRAVEL, Mr. PEARSON, Mr. FULBRIGHT, and Mr. METCALF):

S. 394. A bill to amend the Rural Electrification Act of 1936, as amended, to reaffirm that such funds made available for each fiscal year to carry out the programs provided for in such act be fully obligated in said year, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. DOMINICK (for himself, Mr. CURTIS, Mr. GOLDWATER, Mr. MANSFIELD, and Mr. STEVENS):

S. 395. A bill to permit citizens of the United States to buy, hold, and sell gold. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. DOMINICK (for himself, Mr. HRUSKA, and Mr. ABOUREZK):

S. 396. A bill for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Company. Referred to the Committee on the Judiciary.

By Mr. MATHIAS (for himself and Mr. STEVENSON):

S. 397. A bill to require financial disclosure. Referred to the Committee on Government Operations.

By Mr. SPARKMAN (for himself and Mr. TOWER):

S. 398. A bill to extend and amend the Economic Stabilization Act of 1970. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. WEICKER (for himself, Mr. GRIFFIN, and Mr. BUCKLEY):

S. 399. A bill to amend the Federal law relating to the care and treatment of animals to broaden the categories of persons regulated under such law, to assure that birds in pet stores and zoos are protected, and to increase protection for animals in transit. Referred to the Committee on Commerce.

By Mr. HANSEN (for himself, Mr. PERCY, and Mr. MCGEE):

S. 400. A bill to amend the Federal Property and Administrative Services Act of 1949 so as to permit donations of surplus property to public museums. Referred to the Committee on Government Operations.

By Mr. SPARKMAN:

S. 401. A bill to amend the Federal Credit Union Act in order that Federal credit unions may operate more efficiently and better serve the financial needs of their members and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

S. 402. A bill for the relief of Miss Remedios Reyes Trinidad. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN (for himself and Mr. ALLEN):

S. 403. A bill for the relief of John Bestor Robertson, Jr. Referred to the Committee on Post Office and Civil Service.

By Mr. BURDICK:

S. 404. A bill for the relief of Arthur Rike. Referred to the Committee on the Judiciary.

By Mr. CASE (for himself and Mr. HART):

S. 405. A bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States. Referred to the Committee on Rules and Administration.

By Mr. NELSON:

S. 406. A bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives. Referred to the Committee on Labor and Public Welfare.

By Mr. BENNETT:

S. 407. A bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of certain distributions and sales pursuant to the Bank Holding Company Act Amendments of 1970. Referred to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. GOLDWATER, Mr. CURTIS, Mr. ERVIN, Mr. HELMS, Mr. MCCLURE, and Mr. SCOTT of Virginia):

S. 408. A bill to amend the Food Stamp Act of 1964 in order to prohibit the distribution of food stamps to any household where the head of the household is engaged in a labor strike. Referred to the Committee on Agriculture and Forestry.

By Mr. THURMOND:

S. 409. A bill to amend the Internal Revenue Code of 1954 to encourage the use of recycled oils. Referred to the Committee on Finance.

By Mr. HUMPHREY:

S. 410. A bill for the relief of Mr. Deepak Nettar. Referred to the Committee on the Judiciary.

By Mr. MCGEE:

S. 411. A bill to amend title 39, United States Code, relating to the Postal Service, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. SPARKMAN:

S. 412. A bill to create the National Credit Union Bank to encourage the flow of credit to urban and rural areas in order to provide greater access to consumer credit at reasonable interest rates, to amend the Federal Credit Union Act, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HATFIELD (for himself, Mr. DOMINICK, Mr. MANSFIELD, Mr. MOSS, Mr. BIBLE, Mr. CURTIS, and Mr. CRANSTON):

S. 413. A bill to permit American citizens to hold gold in the event of the removal of the requirement that gold reserves be held against currency in circulation. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PERCY (for himself, Mr. COOK, Mr. CRANSTON, Mr. DOLE, Mr. HART, Mr. KENNEDY, Mr. MCGOVERN, and Mr. SCHWEIKER):

S.J. Res. 19. A joint resolution to authorize the President to designate the period from March 4, 1973, through March 10, 1973, as "National Nutrition Week." Referred to the Committee on the Judiciary.

By Mr. BROOKE (for himself, Mr. BENNETT, Mr. CASE, Mr. CRANSTON, Mr. GRAVEL, Mr. HANSEN, Mr. HARTKE, Mr. HATFIELD, Mr. HUMPHREY, Mr. KENNEDY, Mr. MAGNUSON, Mr. MONDALE, Mr. MONTOYA, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. SCOTT of Pennsylvania, Mr. STEVENS, Mr. STEVENSON, Mr. SYMINGTON, Mr. TUNNEY, and Mr. WILLIAMS):

S.J. Res. 20. A joint resolution designating January 15, of each year, as "Martin Luther King Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER (for himself, Mr. CHILES, Mr. DOLE, and Mr. FANNIN):

S. 367. A bill to provide for the reimbursement to taxpayers of all costs, including legal and accounting fees, incurred by them in contesting unwarranted second audits of their income tax liability. Referred to the Committee on Finance.

REIMBURSING TAXPAYERS FOR THE COSTS OF UNWARRANTED SECOND AUDITS

Mr. GOLDWATER. Mr. President, I am today introducing a bill on behalf of myself, the Senator from Kansas (Mr. DOLE), the Senator from Florida (Mr. CHILES), and the senior Senator from Arizona (Mr. FANNIN), which would provide for the reimbursement of professional fees incurred by a taxpayer in defending against a second audit of his income tax liability in situations where the Government's claim of a second tax deficiency is not sustained. To give a little background about the purposes of this measure, I might say that it is called for out of actual experience as described to me by some individual taxpayers. It is not in any way a kind of relief bill, however, because it is not retroactive. It does not apply to any audits which have already been started or completed. I am introducing it for myself and other Senators simply out of a sense of fairness toward taxpayers so that they will not be subject in the future to the injustice which the present law now imposes on them.

Mr. President, our proposal stems from the practice of the Internal Revenue Service to conduct a field audit at which a taxpayer's income tax liability is thoroughly examined and resolved, but after which the Internal Revenue Service follows up with a second audit even though the taxpayer has been told by the Internal Revenue Service in writing that no additional tax is due as a result of the first audit.

It is true most taxpayers understand or should know that the Government is entitled under the law to assert a further tax deficiency at a later time even though the first one is satisfactorily concluded. But what is so disturbing to a taxpayer and is so extremely unfair to him is the fact that when the second audit is again concluded without any change in the taxpayer's liability, he—the taxpayer—is nevertheless forced to bear 100 percent of all the costs of contesting the Government's claim of an additional liability.

We believe that once the Internal Revenue Service conducts a full field audit of a taxpayer's questioned tax liability, there should be a greater degree of finality in the law than now exists to the agreement which is then reached between the taxpayer and the Internal Revenue Service as a result of this original tax investigation. We believe that by enacting a law under which the Government must reimburse a taxpayer for all the costs of contesting a second tax audit in those cases when the Government's second audit is unsuccessful will deter the Internal Revenue Service from asserting insignificant second deficiencies.

In other words, our legislation, if passed, might help in preventing the unwarranted harassment of taxpayers by overeager tax agents in dubious situations where there is an obvious and serious question about the validity of the second deficiency which the agent might

assert. At the same time, it should be clearly noted that the legislation does not in any way limit or prevent the Internal Revenue Service from actually asserting a second tax deficiency after the conclusion of the first field audit.

Rather, by letting the Internal Revenue Service know that if it is unsuccessful on a second audit, the taxpayer shall be reimbursed for all his costs in defending himself, including lawyers' fees and accounting fees, it is our expectation that the Internal Revenue Service will take greater care in asserting these deficiencies so that the end result will be both one of greater efficiency by the Government and one of greater fairness toward the taxpayer.

Mr. President, I should note that our proposal is almost identical, word for word, to an amendment which the Senator from Kansas (Mr. DOLE) succeeded in adopting to the tax reform bill approved by the Senate in December of 1969. It is my understanding that the amendment was subsequently dropped from the conference report on the tax law of that year, because the Department of the Treasury had not yet submitted a report discussing the amendment. To my knowledge, there was no objection on the merits that was raised in the conference other than this procedural point. Therefore, in reintroducing the proposal today, we ask that the Treasury Department shall furnish the Senate Committee on Finance promptly with a full report of its position on the amendment so that the lack of this technical formality can no longer be raised as a reason for deferring action on the measure.

We are hopeful that the officials at the Treasury Department will see the equity and fairness in this needed legislation and will endorse it in due course.

Mr. President, I ask unanimous consent that a copy of our proposal be printed in the RECORD.

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

S. 367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter A of chapter 65 of the Internal Revenue Code of 1954 (relating to procedure in case of abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6408. COSTS AND EXPENSES INCURRED BY TAXPAYERS.

"(a) GENERAL RULE.—Costs and expenses incurred by a taxpayer in connection with the determination, collection, or refund of any internal revenue tax shall be borne by such taxpayer, except that, if—

"(1) the Secretary or his delegate subjects the return of a taxpayer to a field audit and after such audit (A) proposes a deficiency or overpayment of income tax imposed by chapter 1, which the taxpayer accepts in writing, on a form specified by the Secretary or his delegate, or (B) notifies the taxpayer that there is no change in his tax liability;

"(2) subsequent to the taxpayer's written acceptance of such proposed deficiency or overpayment, or the taxpayer's receipt of a notification that there is no change in his tax liability, the Secretary or his delegate proposes another deficiency or reduction in the overpayment of such tax for the same year with respect to which such acceptance has been made, or such notification has been received; and

"(3) the deficiency in such tax for such year finally obtained, or the overpayment finally allowed, is not more favorable to the Secretary or his delegate than the deficiency or overpayment which the taxpayer had accepted, or the tax liability reflected on the return for which notification had been received by the taxpayer, then the Secretary or his delegate shall reimburse the taxpayer for all costs incurred by the taxpayer (including legal and accounting fees) in connection with the deficiency or reduction in overpayment proposed subsequent to such acceptance or notification.

"(b) REIMBURSEMENT OF COSTS AND EXPENSES.—Costs and expenses incurred by the taxpayer which shall be borne by the Secretary or his delegate pursuant to subsection (a) shall be deemed, for the purposes of section 6511 (a), a tax paid by the taxpayer on the date his tax liability for such year is finally determined (whether determined administratively or judicially). For purposes of this title and section 1346(a)(1) of title 28, United States Code, the amount of tax so deemed paid by the taxpayer shall constitute an overpayment."

(b) The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 6408. Reimbursement of taxpayer's costs in certain cases."

(c) The amendments made by this section shall apply only with respect to proposals of deficiencies or reductions in overpayments described in section 6408(a)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)) notification of which is made on or after the date of the enactment of this Act.

By Mr. STAFFORD (for himself, Mr. BENTSEN, Mr. CRANSTON, Mr. SCHWEIKER, and Mr. TOWER):

S. 368. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to members of the uniformed services, and for other purposes. Referred to the Committee on Armed Services.

UNIFORMED SERVICES SPECIAL PAY ACT OF 1973

Mr. STAFFORD. Mr. President, on behalf of Senators BENTSEN, CRANSTON, SCHWEIKER, and TOWER, I introduce for appropriate reference the Uniformed Services Special Pay Act of 1973.

Mr. President, the Senate has had an obligation to enact this legislation since March 23, 1972. That obligation—owed to the American people, to our men in uniform, to those in the Department of Defense charged with managing our military manpower and to ourselves—is long overdue.

Since the extension of the draft in 1971, the policy of the Congress and the administration has been to move toward a volunteer force as expeditiously as possible. Having recently studied the progress made toward achieving this goal, I am quite certain the Congress will see fit this June to retain the induction authority in its own hands. I intend to address the Senate at a later date for the purpose of demonstrating that there is, in my mind, no justifiable reason for extension of the draft beyond June 30, 1973.

Yet, there remains some difficult problem areas to which the Congress must address itself. While the essential numbers of men are being attracted to the services, there are certain specific categories where shortfalls are expected. It is to these men that the Uniformed Services Special Pay Act is addressed.

As the House committee report said last year in supporting similar legislation:

The recent military pay raise made military pay reasonably competitive with pay in the civilian economy. This suggests that in normal times the Department of Defense should staisfy the majority of its manpower needs without additional monetary incentives. There are, however, at all times, certain skills and professions which may command a premium because they are in short supply both in the military and civilian sectors. This presents a dynamic problem because skills requiring a premium will change as will the level necessary for a specific skill . . .

Therefore, this bill provides the authority to the Secretary of Defense to offer bonuses to specific volunteers in return for a service commitment for a stipulated number of years Bonuses offered can be readily started, stopped or modified to reflect quality, experience level of members in specific skills. Bonuses are a traditional military compensation tool . . . The recent experience of the Department of Defense with a variable bonus applied in the flexible manner envisioned for the future has proved most successful.

SUMMARY OF LEGISLATION

The legislation contains seven separate sections providing a special pay incentive for various categories of men: An enlistment incentive, a selective reenlistment program, an incentive for officers, an incentive for enlistment or reenlistment in the Selected Reserve of the Ready Reserve, a medical special pay, a lawyers special pay, and sea pay. I have summarized below each of these special pays based on information prepared by the Department of Defense or described in last year's House report.

1. ENLISTMENT INCENTIVE

The enlistment incentive involves amending the relevant provisions of the 1971 Draft Act to expand special pay to those additional volunteers who enlist for at least 3 years in skills other than infantry, artillery, and armor. The $3,000 limitation would remain.

Existing pay rates will attract most of the volunteers required to man most military skills. However, certain selected skills—such as an Air Force precision photo systems repairman—may require an additional incentive to attract the necessary volunteers. The skills requiring special pay, the amount of pay required, will vary over time. Since it is not possible to predict the attraction incentive required, a cost effective program will involve varying the amounts of special pay and the skill categories to which it attaches.

2. SELECTIVE REENLISTMENT PROGRAM

Certain trained military personnel can command a wage well above the average on the civilian market. One example is nuclear-trained personnel where the Government has spent well in excess of $20,000 in training costs; and upon completion of their enlistment, personnel trained in this afea can command salaries with the civilian nuclear industry in ranges of $17,000 to $20,000 per year. This type of personnel is now leaving the services after receiving this expensive training.

The armed services are then confronted with the necessity of not only training additional personnel, but also with an increased shortage of experienced personnel to maintain our nuclear fleet. Currently, we have a variety of laws to cope with these problems: The regular reenlishment bonus, the variable reenlistment bonus, and shortage specialty pay—proficiency pay. However, even in combination, these incentives have not proved to be completely effective in solving our enlisted retention problems, because they do not result in spending money where the problem is. And in one major area, that of first-term reenlistments, they require payment in many instances where there is no manning problem.

This bill combines the most desirable features of the regular reenlistment and variable reenlistment bonuses into the selective reenlistment bonus. The cost-effectiveness of these incentive dollars is improved. Amounts would range from a low of approximately $1,000 to a high of $15,000 while the average bonus paid to an individual serving in a shortage skill would be about $6,000. The Department of Defense plans to phase out its payment of the shortage specialty pay—proficiency pay—as the selective reenlistment bonus proves its effectiveness. A member who reenlists in a skill where no shortage exists, except those in the forces now, would not receive a bonus. This actually should result, by fiscal year 1978, in a cost saving to the Government of approximately $83.4 million. It should be noted that for fiscal year 1974 the net additional cost will be approximately $2 million.

3. INCENTIVES FOR OFFICERS

The problem of retention of certain officers being critical specialities has presented difficulties in the past. Authority has been given to the Navy to give additional incentive pay for officers qualified in the nuclear submarine service, and the House of Representatives has repeatedly passed a bill to provide incentive pay to retain lawyers. This bill would authorize the Secretary of Defense to offer a variable bonus of up to $4,000 per year to officers who execute a written agreement to extend their tours beyond the first obligated tour. It would be offered only at times and at amounts needed to solve officer retention problems in a specific skill.

4. SELECTED RESERVE

When the draft was a major source of military manpower, many young men were motivated to join the Guard and Reserve as a means of avoiding the draft and active military service. Through October 1972, the combined National Guard and Reserve force drill strength was 51,400 below the congressional mandated minimum of 976,559. This does not include overages in some of the Reserves. It is estimated that the shortage will increase this spring unless early and positive action is taken to stimulate enlistments and reenlistments in the Guard and Reserve.

The bill would authorize an enlistment bonus of up to $1,100 for a 6-year enlistment of a nonprior service individual. It would also authorize a reenlistment bonus of up to $2,200 for a critical skill; or $1,100 for a noncritical skill for a 6-year reenlistment. For a lesser reenlistment, the amounts would be reduced. The House Armed Services Committee included language directing the Secretary to insure that there would be no discrimination in the payments based on geographic location. For example, if there is a shortage of airplane mechanics, each person enlisting, reenlisting, or extending his enlistment, who has that skill, will be paid the same amount regardless of whether he lives in Mississippi or Michigan. The bill limits the authority for payment of those whose period of military services does not exceed 12 years, and further puts a ceiling limitation that no one individual can collect this incentive pay in an amount greater than $3,300.

5. MEDICAL SPECIAL PAY

Traditionally, the most difficult officer groups to retain on active duty beyond their first obligated tour is that of the health care professionals. One of the most important disincentives for military service for these professionals is caused by the relatively high earnings available to young medical and dental specialists in the civilian sector. While it is almost impossible to measure the pay of physicians and dentists in the civilian sector, it is clearly established that civilian specialists in the medical profession can expect to achieve a pretax annual net earnings of approximately $40,000 shortly after they enter private practice. Civilian dentists can expect to earn approximately $30,000 annually at a similar career stage. Comparable salaries are already available for certain other health professionals such as optometrists.

The problem that the military now faces in obtaining and retaining sufficient doctors will, in all likelihood, be alleviated within the next 7 to 10 years. This is probable as the number of medical graduates increase from the expanding medical schools of this country, coupled with the scholarship provisions contained in Public Law 92–426 and the military medical university, which, in 10 years, will also begin producing doctors and dentists who will have an obligation to serve in the military. However, during this interim period, relief must be granted unless we go to a policy of utilizing civilian health facilities, particularly for military dependents and military retirees and their dependents.

The objective of this bill is to eliminate the gap between the incomes of the civilian and military health career professionals. It does this by improving the rates in the special pay for physicians and dentists and by substituting an improved variable retention bonus in place of the former continuation pay. The proposed special pay for physicians and dentists amends existing authority by increasing the rates of special pay for officers with at least 2 years of acitve duty from $150 to $350 per month until he has completed at least 10 years of active duty. In addition, it makes the special pay permanent. The law today links the duration of this special pay to the induction authority.

The bonus for officers of the Armed Forces in the health professions enables the Secretary of Defense to offer a variable bonus of up to $12,000 yearly, dependent on the severity of the manning problem to officers who execute a written agreement to remain on active duty for a specified number of years. The combined effect of the special pay and the bonus is expected to solve the health professions retention problem. This will permit a significant reduction in the number of professionals required—a corresponding reduction in training investment in improved care for the Armed Forces. The House Armed Services Committee included the health professionals of the Public Health Services based on testimony from the Department of Health, Education, and Welfare that the Office of Management and Budget desired that 5,800 commissioned officers of the Public Health Service should continue to be entitled to the same rate of pay including special pays that are available to members of the armed services.

6. LAWYER'S SPECIAL PAY

One of the most critical shortages in Defense is in the ranks of the military lawyer. Unacceptable losses continue to occur in the career force which is already 43 percent short.

The principle cause of this shortage is the pay disparity between civilian lawyers and military lawyers. I fully expect the JAG Corps of each of the services to undertake major reviews of their policies and programs in order to make itself so attractive that recent graduates will seek out the corps for the purpose of interning. There is no reason that I can see now, since the JAG Corps performs such a variety of legal duties, that its reputation cannot equal that of clerking for judges or serving in U.S. Attorney's offices. Increased use of scholarships similar to medical scholarships now in effect should also alleviate shortages.

Nevertheless, the program envisioned here is needed for the purposes of attracting in the short-run and in retaining over the years the requisite number of lawyers. The bill should enable the Department of Defense to build a stable military lawyer career force of high quality and substantially reduce the annual cost of procuring and training a large number of new officers.

7. SPECIAL PAY FOR SEA DUTY

Sea pay, historically, has been a means of recognizing and compensating those men who are willing to serve under the unique conditions of service associated with duty at sea. Although the method of determining the eligibility for sea pay has changed numerous times, the basic concept of special recognition for the men who serve under rigorous conditions aboard ship has persevered. Conditions calling for sea pay are, first, the myriad of personal and family deprivations concomitant with long and repetitive deployments at sea; second, cramped living and working conditions aboard ships; third, unpredictability of operating schedules; fourth, limited recreational facilities aboard ships; fifth, in-port duties to meet readiness requirements; sixth, long hours of work at sea; and seventh, living under hazardous conditions. These conditions combine to make

long and repeated tours of duty at sea the most frequently cited reason for officer and enlisted personnel not choosing to pursue a naval career.

Current authority to pay members for sea duty is limited to enlisted personnel only. The rates range from $8 per month for pay grade E–1 to $22.50 per month for pay grades E–7 through E–9. No change has been made in these rates for 23 years.

The proposed legislation provides for increased rates of special pay for enlisted men performing sea duty on board ships, based on consecutive years of assignment to sea, and extends this special pay to officer in pay grades 0–3 and below. The proposed rates of special pay are at two levels: First, less than 2 years continuous sea duty—$25 per month; and second, 2 or more years continuous sea duty—$75 per month. Once continuous sea duty is broken payments would resume at the lower rate if the member is again reassigned or redeployed to sea duty.

The two-level approach, rather than a pay grade approach, is a vast improvement over existing law, because it is designed to provide greater recognition to those who are required to spend a greater proportion of their Navy careers at sea. Further, because the emphasis is on continuous sea duty, it should encourage more members to extend their periods of continuous sea duty.

Equity dictates that junior officers share in the receipt of sea pay in that they share equally in the rigors of sea duty. The equity issue is particularly strong in the case of warrant and limited duty officers. These officers experience the same sea tours as our deprived ratings and suffer the same deprivations from repeated sea duty assignments.

ADVANTAGES

The broad range of advantages of this program are listed below:

First. The legislation meets the goal of providing a tool to the Department of Defense to attract individuals in certain highly skilled occupations where the supply is short both in the civilian and military sectors.

Second. The legislation is designed to focus on the decision process of the individual where it can have its greatest effect, or as the economists would call it, its highest elasticity. The special pay is offered and agreed upon at the time of the decision.

Third. The legislation meets the goal of being the most cost-effective tool because the lump sum or installment payments can be turned on and shut off so that it will apply only for that length of time or to those skills where it is needed. This is preferable to an across-the-board pay raise which is on the books forever.

Fourth. The legislation develops for the first time in a comprehensive way a recognition of a job differential compensation—that system which is most effective in competing with the civilian sector and which is most cost-effective in terms of the national budget.

Fifth. The legislation entails no run-out costs, as do some current programs, and thus enhances its cost-effectiveness. Proficiency pay in today's service, for instance, provides for a reduction by 25 percent per year over the 4 years after a certain skill has been removed from the proficiency pay list. This is a costly system, but the only one which is fair to a serviceman who has been receiving propay for several years in order to prevent a sudden drop in his standard of living. This is not the case with the special pay system in this legislation. Upon making the decision, the recruit knows how long he will have to serve in exchange for his special pay.

Sixth. Most important, the legislation is probably the final new piece of compensation legislation that will be needed, other than regular cost-of-living increases. Combined with the major across-the-board pay raises of 1971, this legislation will provide the Department of Defense with every tool in order to attract and sustain a volunteer force.

COSTS

Since last March, the cost estimates of the Uniformed Services Special Pay Act have varied. This is a result of the changing needs of the services since last year and represents the advantages of a flexible tool in applying funds. The Defense Department has provided me with the following cost estimates:

ADDITIONAL BUDGET COSTS

(In millions of dollars)

Program	Fiscal year— 1974	1975	1976	1977	1978
Enlistment bonus	42.6	89.1	135.6	139.5	139.5
Selective reenlistment bonus	2.3	1.5	−9.2	−32.6	−83.4
Officer active duty agreements	20.0	25.0	25.0	25.0	25.0
Special pay, lawyers	5.6	6.2	6.8	6.8	6.8
Sea pay	76.1	75.0	74.0	72.9	72.9
Selected Reserve enlistment/reenlistment bonus	85.4	107.1	139.7	97.3	108.9
Health professions	75.0	95.0	105.0	112.0	112.0
Total, Department of Defense	307.0	398.6	476.9	420.9	381.7

SENATE ACTION

This bill, then, serves the purposes of our military manpower planning and fulfills our obligation to the Nation by meeting military manpower requirements by the most cost-effective means, while ending reliance on the draft.

At the outset of my remarks, I noted that in addition to our obligation to our national defense, the Senate had a particular obligation to itself. We must consider and pass this bill at an early date; action is already long overdue.

When a similar bill was filed last year on March 23, the Senate was well aware of the administration's attempts to move to an all-volunteer force. At that time, I indicated that in 15 months and 8 days the President's draft authority would expire and we will have an all-volunteer armed force. I am concerned that now, with only 165 days left until the draft expires, this body has not taken the final steps necessary to assure the Nation the best possible volunteer force.

This legislation is the result of intensive study of military compensation under the Quadrennial Review required by Congress in section 1008(b) of title 37 of the U.S. Code, enacted in 1965. It was not by any means a hastily prepared concept; it received intensive scrutiny at all levels of Defense and the Office of Management and Budget.

Last year, the bill contained all the sections of the current bill except for special pay for lawyers and sea pay. The lawyer's special pay had passed the House of Representatives on more than one occasion, but subsequently died in the Senate. In the case of sea pay, the Defense Department approved of this measure in response to House Armed Services Committee interest because of the pecular hardships of long tours at sea away from families and in recognition of the need to redirect military compensation toward paying for the job, not just for rank and tenure.

When last year's bill was filed, Secretary Laird in a letter to Senator Allott said:

> I consider the bill to be a sound approach for addressing the personnel supply needs of the Department of Defense as we move to an All-Volunteer Armed Force.

I have attached a copy of his letter to my remarks, along with a copy of a letter endorsing the bill from George Shultz, then Director of the Office of Management and Budget.

By August, neither the House nor the Senate had considered the legislation, and in his address to the Nation on August 28th discussing an end to the draft this coming June, the President said:

> Some problems, however, remain to be overcome and doing so will require the full support of the Department of Defense, the Congress and the public. The problems include . . .
>
> The Congress must assist through timely passage of pending legislation—particularly the Uniformed Services Special Pay Act of 1972, which will provide needed bonus authority . . .

In response to his requests, the House Armed Services Committee held 3 days of hearings and heard some 33 witnesses. The House passed the legislation by an overwhelming vote of 337 to 35.

In October, I wrote the chairman of the Senate Armed Services Committee the following:

> In my opinion this legislation is must legislation for this session of Congress. The Senate has clearly indicated its intention not to extend the draft next spring. In order to assure that our Armed Forces obtain professional and other high quality individuals, the Special Pay Act must be enacted at the earliest possible date.

In response, Chairman STENNIS wrote me thanking me for my letter concerning "the Uniformed Services Special Pay Act which will certainly have our attention when it comes over from the House."

When in the last week of session, the committee had not considered the legislation, I notified Members that I intended to offer the House-passed version of the legislation as an amendment to a bill containing similar special pay

authority for nuclear officers and enlisted men. As the CONGRESSIONAL RECORD shows, on October 17, Senator STENNIS indicated his willingness to undertake hearings on this measure early in the coming session, now here. Upon that agreement, I withheld my amendment so that the nuclear authority would be enacted.

It is my clear understanding that early hearings and consideration of this important legislation will be made by the Armed Services Committee. There is no justifiable reason why this body must wait for the House of Representatives to act on this legislation first.

When Senator Allott addressed this body last March he said:

I have said repeatedly that I do not know if we can achieve an all-volunteer armed force now. But I also have said repeatedly that we owe it to our young people—and to ourselves—to try.

Too often we find ourselves responding to events. This is our chance to master events. If we pass this now, we shall all have a more pleasant time in the spring and summer of 1973.

Actually, at this point, more is at stake. In two specific areas, this legislation is necessary: to obtain the maximum quality mix of our forces and to sustain adequate levels of reserves. Both of these areas as discussed above promise to be the subject of intensive debate this spring.

The passage of this bill is most important to provide the commitment which the Senate owes to itself and the Nation. Unless this effort is made we will not have done all that can be done, short of extension, to assure adequate military manpower. We must take all the steps necessary to avoid the continuation of the draft and this is the most important.

Mr. President, I ask unanimous consent to have the attached letters and text of the proposed legislation printed at this point in the RECORD.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., March 22, 1972.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: I have received your proposed bill, the "Uniformed Services Special Pay Act of 1972," which was drafted in close consultation with the Department of Defense.

I consider the bill to be a sound approach for addressing the personnel supply needs of the Department of Defense as we move to an all-volunteer Armed Force. It would provide the authority and flexibility needed to meet our principal manning problems, both in the active forces and in the Reserve components.

With the passage of P.L. 92-129 which amended the Military Selective Service Act of 1967, the Congress provided military pay rates reasonably competitive with pay in the civilian economy. By its action the Congress eliminated the serious inequities previously identified with Service Pay, particularly for the first-term personnel.

Your bill would enable us to deal more effectively with the critical personnel shortages in the National Guard and Reserve Forces, which are 50,000 below the strength levels mandated by the Congress. There is no indication that these shortages can be overcome, or further supply shortages in the Reserve Forces avoided, without the special pay authority provided in your bill.

In addition, your bill reflects recognition of the fact that certain skills and professions may command a premium at any time because they are in short supply. The skills requiring such a premium will change over time, as will the level of the premium necessary to attract a sufficient supply of qualified candidates.

The incentive most suitable for Department of Defense needs is a flexible special pay authority paid to specific volunteers in return for a service commitment for a stipulated number of years. In this light the special pay may be viewed as a prepaid wage differential based on the qualifications of the individual and the needs of the Armed Forces.

As you know, there is under consideration a bill to provide a significant sytem of Sea Pay. Such a program is needed to compensate enlisted and officer members for long deployments at sea. Legislation in support of this program will be considered separately.

We appreciate the opportunity to comment on your proposed bill, and we wholeheartedly endorse it.

Sincerely,

MELVIN R. LAIRD.

EXECUTIVE OFFICE OF
THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 23, 1972.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: The Office of Management and Budget has reviewed the proposed Uniformed Services Special Pay Act of 1972 which you have prepared with the assistance of the Department of Defense.

We consider it to be a desirable approach to providing the legislative authorities required to fill the gaps we anticipate will occur in the manning of the Armed Forces as we move away from the draft toward an All-Volunteer Armed Force.

We believe that in the consideration of this bill by the Congress, special attention should be given to the officer retention bonus for the health professions. Although the all volunteer principle requires that compensation recognize the higher income enjoyed by health professionals in the private sector, it is nonetheless important in determining the amount and incidence of the bonus to consider its impact on the supply of health professionals to the rest of the Federal Government and on the health services component of the President's economic stabilization program.

Enactment of your bill would be in accord with the program of the President. The costs of this measure are well within the amounts planned in the FY 1973 budget for volunteer force legislative proposals.

Sincerely yours,

GEORGE P. SHULTZ,
Director.

S. 368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Uniformed Services Special Pay Act of 1973".

SEC. 2. Chapter 5 of title 37, United States Code, is amended as follows:

(1) Section 302 is amended to read as follows:

"§ 302. Special pay: physicians and dentists

"An officer of the Army or Navy in the Medical or Dental Corps, an officer of the Air Force who is designated as a medical officer or dental officer, or a medical or dental officer of the Public Health Service, who is on active duty for a period of more than 30 days is entitled, in addition to any other pay or allowances, to special pay at the following rates—

"(1) $100 a month for each month of active duty if he has not completed two years of active duty in a category named in this section; or

"(2) $350 a month for each month of active duty if he has completed at least two years of active duty in a category named in this section. The amounts set forth in this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay."

(2) (A) The introductory language of section 305(a) preceding the table is amended to read as follows:

"(a) Except as provided by subsection (b) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay may be paid while on duty at a designated place outside the forty-eight contiguous States and the District of Columbia special pay at the following monthly rates:".

(B) The catchline of section 305 and the corresponding item in the chapter analysis for that section are each amended by striking out "sea duty or".

(3) The following new section is added after section 305 and a corresponding item is inserted in the chapter analysis:

"§ 305a. Special pay: while on sea duty

"Under regulations prescribed by the President, enlisted members, and officers in pay grades O-3 and below, of a uniformed service who are entitled to basic pay, are also entitled, while on sea duty, to special pay at the following rates—

"(1) for less than two years continuous sea duty—$25 a month; or

"(2) for two or more years continuous sea duty—$75 a month."

(4) Section 38 is amended to read as follows:

§ 308. Special pay: reenlistment bonus

"(a) A member of a uniformed service who—

"(1) has completed at least 21 months of continuous active duty (other than for training) but not more than 10 years of active duty;

"(2) is designated as having a critical military skill;

"(3) is not receiving special pay under section 312a of this title; and

"(4) reenlists or voluntarily extends his enlistment in a regular component of the service concerned for a period of at least three years;

may be paid a bonus, not to exceed six months of the basic pay to which he was entitled at the time of his discharge or release, multiplied by the number of years or the monthly fractions thereof, of additional obligated service, not to exceed six years, or $15,000, whichever is the lesser amount. Obligated service in excess of 12 years will not be used for bonus computation.

"(b) Bonus payments authorized under this section may be paid in either a lump sum or in installments.

"(c) For the purpose of computing the reenlistment bonus in the case of an officer with prior enlisted service who may be entitled to a bonus under subsection (a) of this section, the monthly basic pay of the grade in which he is enlisted, computed in accordance with his years of service computed under section 205 of this title, shall be used instead of the monthly basic pay to which he was entitled at the time of his release from active duty as an officer.

"(d) A member who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section shall refund that percentage of the bonus that the unexpired part of his enlistment is of the to-

tal enlistment period for which the bonus was paid.

"(e) This section shall be administered under regulations prescribed by the Secre-

"§ 308a. Special pay: enlistment bonus

his jurisdiction, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy."

(5) Section 308a is amended to read as follows:

"§ 308a. Special pay: enlistment bonus

"(a) Notwithstanding section 514(a) of title 10 or any other law, under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who enlists in an armed force for a period of at least three years in a skill designated as critical, or who extends his initial period of active duty in that armed force to a total of at least three years in a skill designated as critical, may be paid a bonus in an amount prescribed by the appropriate Secretary, but not more than $3,000. The bonus may be paid in a lump sum or in equal periodic installments, as determined by the appropriate Secretary.

"(b) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a person who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid."

(6) Section 311 is amended to read as follows and the item in the chapter analysis for that section is amended to correspond with the revised catchline:

"§311. Special pay: officers of uniformed services in health professions who execute active-duty agreements

"(a) Under regulations prescribed by the Secretary of Defense, or the Secretary of Health, Education, and Welfare with respect to the Public Health Service, as appropriate, an officer of a uniformed service who—

"(1) is qualified in a critical health profession;

(2) is determined by a board, composed of officers in his profession, under criteria prescribed by the Secretary of Defense or the Secretary of Health, Education, and Welfare, as appropriate, to be qualified to enter into an active-duty agreement for a specified number of years; and

"(3) executes a written active-duty agreement under which he will receive incentive pay in return for completing a specified number of years of continuous active duty subsequent to executing such an agreement;

may, upon acceptance of the written agreement by the Secretary concerned, or his designee, and in addition to any other pay or allowances to which he is entitled, be paid an amount not to exceed $15,000 for each year of the active duty agreement. Upon acceptance of the agreement by the Secretary concerned, or his designee, and subject to subsections (b) and (c) of this section, the total amount payable becomes fixed and may be paid in annual, semiannual, or monthly installments, or in a lump sum after completion of the period of active duty specified in the agreement, as prescribed by the Secretary concerned.

"(b) Under regulations prescribed by the Secretary of Defense, or the Secretary of Health, Education, and Welfare with respect to the Public Health Service, as appropriate, the Secretary concerned, or his designee, may terminate, at any time, an officer's entitlement to the special pay authorized by this section. In that event, the officer is entitled to be paid only for the fractional part of the period of active duty that he served, and he may be required to refund any amount he received in excess of that entitlement.

"(c) Under regulations prescribed by the Secretary of Defense, or the Secretary of Health, Education, and Welfare with respect to the Public Health Service, as appropriate, an officer who has received payment under this section and who fails to complete the total number of years of active duty specified in the written agreement may be required to refund the amount received that exceeds his entitlement under those regulations. If an officer has received less incentive pay than he is entitled to under those regulations at the time of his separation from active duty, he shall be entitled to receive the additional amount due him.

"(d) This section does not alter or modify any other service obligation of an officer. Completion of the agreed period of active duty, or other termination of an agreement, under this section does not entitle an officer to be separated from the service, if he has any other service obligation.

"(e) The Secretary of Defense, and the Secretary of Health, Education, and Welfare with respect to the Public Health Service, shall submit a written report each year to the Committees on Armed Services of the Senate and House of Representatives regarding the operation of the special pay program authorized by this section. The reports shall be on a fiscal year basis and shall contain—

"(1) a review of the program for the fiscal year in which the report is submitted; and

"(2) the plan for the program for the succeeding fiscal year.

These reports shall be submitted not later than April 30 of each year, beginning in 1974."

(7) The following new sections are added after section 312 and corresponding items are inserted in the chapter analysis:

"§ 313. Special pay: officers of armed forces who execute active-duty agreements

"(a) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an officer of an armed force who—

"(1) is entitled to basic pay;

"(2) has completed at least two, but not more than 11, years of active duty;

"(3) is designated by the Secretary concerned as an officer possessing skills in a critical shortage specialty and whose retention on, or voluntary recall to, active duty would be of benefit to the United States;

"(4) is not receiving special pay under section 302, 302a, 303, 311, or 312 of this article; and

"(5) executes a written agreement to serve on continuous active duty as an officer in that specialty for a period of not less than one year, but not more than six years, in addition to any other period of active duty for which he is obligated;

may be paid, in addition to any other pay and allowances to which he is entitled, an amount not to exceed $4,000 for each year of the active-duty agreement. Obligated service in excess of 12 years will not be used to compute this special pay.

"(b) The total amount payable under subsection (a) of this section may be paid in either a lump sum or in installments over the life of the agreement. However, if an agreement is made before the expiration of the officer's initial period of obligated service, he may be paid at the beginning of—

"(1) the last year of that period; or

"(2) the fourth year of that period, if he has an obligated period of four or more years.

(c) An officer who voluntarily, or because of his misconduct, does not serve on active duty for the entire period for which he was paid under this section shall refund that percentage of the payment that the unserved part is of the total active-duty period for which the payment was made.

"(d) This section does not alter or modify any other service obligation of an officer. Completion of the agreed period of active duty, or other termination of an agreement, under this section does not entitle an officer to be separated from the service, if he has any other service obligation.

"§ 314. Special pay: judge advocates and law specialists

"(a) In addition to any other pay or allowances to which he is entitled, each—

"(1) judge advocate of the Army, Navy, Air Force, or Marine Corps;

"(2) law specialist of the Coast Guard, as defined in section 801 of title 10; and

"(3) officer who is detailed to the Judge Advocate General's Corps and who has the professional qualifications to act as detailed counsel for general courts-martial under section 827(b) of title 10;

other than one ordered to active duty for less than one year, is entitled to special pay at the rates set forth in subsection (b) of this section.

"(b) A member entitled to special pay under subsection (a) of this section is entitled to special pay at the rates set forth below while he is performing judge advocate duties—

"(1) $100 a month for each month of active duty, if he is in a pay grade above 0–5;

"(2) $150 a month for each month of active duty, if he is in pay grade 0–4 or 0–5; or

"(3) $200 a month for each month of active duty, if he is in a pay grade above 0–5.

"(c) The amounts set forth in subsection (b) of this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.

"§ 315. Special pay: participation in the Selected Reserve of the Ready Reserve of an armed force

(a) "A person is entitled to special pay computed under subsection (b) of this section if—

"(1) he—

"(A) has not previously been a member of an armed force or a reserve component thereof; or

"(B) has served in the armed forces—

"(i) on active duty (other than for training) for at least two years unless sooner released because of a reduction in force; or

"(ii) on active duty (for training or for other than training) for a period which, when added to his period of satisfactory participation in the Selected Reserve of an armed force, would qualify him for discharge or transfer from the Selected Reserve of that armed force; and

"(2) he is accepted for enlistment, reenlistment, or extension of enlistment in a unit of the Selected Reserve of an armed force, and if a former member of an armed force or a reserve component thereof is in a pay grade above E–2; and

"(3) he agrees to remain a member of the Selected Reserve of an armed force for a period of not less than—

"(A) three years, if he has not previously been a member of an armed force or a reserve component thereof; or

"(B) one year, if he has previously served in the armed forces under any of the conditions specified in clause (1)(B) of this subsection.

"(b) The amount of special pay to which a person covered by subsection (a) is entitled is—

"(1) for those possessing critical military skills, as determined by the Secretary of Defense, or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy—

"(A) up to $2,200 for a six-year enlistment, reenlistment, or extension of enlistment period; or

"(B) for a lesser enlistment, reenlistment, or extension of enlistment period, 10 percent of the total for one year, 22 percent of the total for two years, 37 percent of the total for three years, 54 percent of the total for four years, or 75 percent of the total for five years; or

"(2) for those not covered by clause (1) of this subsection—

"(A) Up to $1,100 for a six-year enlistment, reenlistment, or extension of enlistment period; or

"(B) for a lesser enlistment, reenlistment, or extension of enlistment period, the same formula as that prescribed in clause (1)(B) of this subsection.

"(c) A person may not enlist or reenlist in the Selected Reserve of an armed force for the purpose of receiving special pay under this section for a period of more than six years at any one time.

"(d) Special pay authorized under this section—

"(1) may be paid in a lump sum or installments;

"(2) is in addition to any other pay or allowance to which the person is entitled.

"(3) is payable for any period of enlistment, reenlistment, or extension of enlistment in a unit of the Selected Reserve of an armed force which, when added to the person's initial period of military service as described in subsection (a)(1)(B)(i) and (ii) of this section, does not exceed a total period of 12 years of service computed under section 1332 of a title 10; and

"(4) may not exceed a total of $3,300.

"(e) Notwithstanding any other law, and regardless of the amount of any previous active duty served by him, a member who voluntarily, or because of his misconduct, does not complete the period of service for which he received special pay under subsection (b) of this section, or does not perform or progress satisfactorily during any part of that period, shall be required to refund that percentage of special pay that the unexpired part of his reserve enlistment or reenlistment is of the total period of service for which the special pay was paid.

"(f) This section shall be administered under regulations prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy. These regulations will insure that there will be no discrimination in the amount of payments authorized based on geographic location."

SEC. 3. In determining the rate of special pay for members entitled to receive special pay for sea duty under the amendments made by section 2(3) of this Act, the length of time the member has been on continuous sea duty on the effective date of this Act shall be counted in determining his rate of special pay.

SEC. 4. Notwithstanding any other provision of law, if a member is entitled to special pay for sea duty under section 305(a)(1) of title 37, United States Code, on the day before the effective date of the amendments made by section 2(3) of this Act, but is not entitled to that pay under those amendments when they become effective, he shall continue to be entitled to the amount prescribed by that section for the remainder of the period of that assignment if otherwise entitled to such pay. In addition, if a member is entitled to special pay under section 305(a)(1) of title 37, United States Code, on the day before the effective date of the amendments made by section 2(3) of this Act, and is also entitled to special pay under those amendments when they become effective, he may at his option choose to receive payment under either section 305(a)(1) of title 37, United States Code, as it existed before the effective date of the amendments or under the provisions of this Act for the period of the assignment which authorized the entitlement. Once a choice is made it may not be revoked.

SEC. 5. Notwithstanding section 308 of title 37, United States Code, as amended by this Act, a member of a uniformed service on active duty on the effective date of this Act, who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 308 (a) or (d) of that title, as it existed on the day before the effective date of this Act, shall continue to be eligible for the reenlistment bonus under that section as it existed on the day before the effective date of this Act. If a member is also eligible for the reenlistment bonus prescribed in that section as amended by this Act, he may elect to receive either one of those reenlistment bonuses. However, a member's eligibility under section 308 (a) or (d) of that title, as it existed on the day before the effective date of this Act, terminates when he has received a total of $2,000 in reenlistment bonus payments.

SEC. 6. This Act becomes effective on July 1, 1973. Except for the provisions of section 302 of title 37, United States Code, as amended by section 2(1) of this Act, the authority for the special pays and bonuses provided by this Act shall, unless otherwise extended by Congress, expire on June 30, 1977.

By Mr. TOWER:

S. 370. A bill authorizing the Secretary of Agriculture to carry out a program for flood prevention in the Lower Rio Grande Basin, Tex., to enhance and stabilize the agricultural economy of the area, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. TOWER. Mr. President, today I am introducing legislation which would authorize the Secretary of Agriculture to carry out a program of flood prevention in the Lower Rio Grande Basin of Texas.

The Comprehensive Study and Plan of Development, Lower Rio Grande Basin, Tex., proposes that the water and related land resource problems of this area be resolved in three phases:

Phase I would provide for the construction of 164 miles of new floodway channels to remove floodwaters from Willacy and Hidalgo Counties. The estimated cost of this phase is about $31.1 million, of which Federal costs would be $21.0 million and non-Federal costs would be $10.1 million.

Phase II would provide for the development of subwatershed work plans which would cover most of the basin. The estimated cost of phase II would be about $51 million, of which $20.7 million would be Federal and $30.3 million would be non-Federal.

Phase III would consist of an accelerated land treatment program for the basin. The estimated cost of this phase is $96.8 million, of which Federal costs would not exceed $47.3 million and non-Federal costs would be at least $49.5 million.

The legislation which I introduce today would modify the comprehensive study and plan of development to include authorization of phase I only and would result in the following:

The essential channel system for removing floodwater from Willacy and Hidalgo Counties would be provided. This system is necessary before the local people can take any action on their own to correct their water control and water management problems. These channels will provide the necessary outlets for runoff water, both urban and agricultural.

Since no natural drainage system exists, these channels will provide the necessary outlets for subsurface drainage systems. These channel will eliminate the need for future contruction of emergency drainage channels to remove impounded water from thousands of acres of the agricultural lands in the basin.

The systematic removal of floodwaters from this area will eliminate prolonged flooding, improve health conditions through vector control, reduce flooding around farmsteads, and remove floodwaters more rapidly from urban areas.

Economic benefits will accrue as a function of the entire system. Therefore, the benefits can be expected to accrue to phase I in proportion to the cost of phase I to the entire structural system. The benefits allotted to phase I would be approximately one-third of the total benefits, or $4.25 million.

The average annual cost of phase I is $21 million, using a 5½-percent discount rate and a 100-year amortization period. The benefit/cost ratio is 2 to 1.

Many millions of dollars have been spent in the lower portion of Texas in just the past 5 years on assistance for people who have suffered a loss from flooding conditions. This assistance is good and appreciated; however, I feel a major portion of this money could have been spent elsewhere if there had been an adequate flood control project to divert the water from the home areas into the streams and rivers. There is no way to precisely predict what would have happened if there had been floodways, but it is obvious that damage would have been much less extensive and Federal flood relief costs much less significant.

Disaster assistance can never replace all that is lost in a flood—particularly when loss of life is involved. Adequate flood protection may prevent this loss and will be useful for many years in the prevention of flood damage and its inherent costs.

I urge the Congress to take favorable action on this important measure which will provide an effective and positive remedy to the present situation at a minimal cost.

By Mr. TOWER (for himself, Mr. BELLMON, Mr. FANNIN, Mr. HANSEN, Mr. STEVENS, Mr. DOMENICI, and Mr. BARTLETT):

S. 371. A bill to provide that certain provisions of the Natural Gas Act relating to rates and charges shall not apply to persons engaged in the production or gathering and sale but not in the transmission of natural gas. Referred to the Committee on Commerce.

Mr. TOWER. Mr. President, consumers in diverse regions of the United States are experiencing natural gas shortages this winter. Even consumers in the gas producing States are being affected by these shortages. In Texas, for example, there are communities where

supply has not been able to keep pace with demand. For instance, the University of Texas at Austin was recently forced to close for a number of days due to a lack of natural gas supply used for heating campus buildings and for power generation.

I have been trying to call the attention of this body and the attention of the Nation to the need for increased supplies of natural gas for some time; but the important thing now is not to lament our past inaction but to act now before things get worse.

Natural gas shortages are going to increase in both severity and breadth, even if we acted today. This is because we cannot expect to reverse overnight a trend which has been underway for many years. It takes several years to find, develop and market new gas supplies. But the sooner action is taken, the sooner the shortage will begin to lessen and the sooner the supply can be brought up to meet demand.

Natural gas shortage means that consumers are being denied the cleanest burning fuel at a time when we are realizing the major importance of improving and protecting our environment. Without natural gas, consumers, and these sometimes include electric powerplants, are forced to burn fuels which tend to pollute our air to a much greater extent than gas.

Natural gas shortage also means the denial of a convenient fuel for consumer use. Gas is one of the easiest fuels to transport and utilize since it literally goes from well to consumer in a series of pipelines.

Finally, these natural gas shortages could have been avoided. It has been reliably estimated that the United States possesses underground and offshore undiscovered reservoirs of natural gas large enough to supply our needs for many decades.

The basic problem has been that economic incentives have not been sufficient to attract the risk capital necessary for new gas exploration on the scale which would provide the increased supplies now being demanded.

The Federal Power Commission, since the Supreme Court's 1954 Phillips decision directed it to regulate the price of gas sold in interstate commerce, has held the price at an unrealistically low level. This may have seemed beneficial for consumers over the short run, but now we are paying the penalty and that penalty is a shortage of supply.

FPC regulation has resulted in 18 years of confusion, uncertainty, and unrealistically low gas prices. This has discouraged exploration while the demand for clean-burning natural gas has increased. As a result, over the past few years, we have consumed more gas than we have found.

Now, all of the demand cannot be met; and even though we are working to develop new energy sources, it is reliably estimated that unmet demand by 1985 could amount to 17 to 19 trillion cubic feet per year—a figure only slightly less than the amount of gas we now consume.

In recognition of this worsening situation, I introduced in the last Congress legislation to relieve the FPC from the job of regulating interstate gas prices and to return that function to a free market mechanism.

It has been argued that legislation to deregulate natural gas prices was not politically feasible, that such action was not in line with efforts toward consumer protection and that "windfall" profits would result for the gas industry.

Mr. President, a free market price for natural gas will not result in "windfall" profits for the gas industry but it might allow industry to obtain a price which will encourage, rather than discourage, exploratory activity. I am concerned about consumers just as the rest of my colleagues are. I am concerned that consumers be assured in the future of the supplies of gas they demand.

That, Mr. President, is in the consumer interest and as soon as that becomes clear, legislation to deregulate the price of gas will become not only politically feasible but the action that our constituents demand and deserve. Continuation of present policies will result in a situation in which many consumers will not have any gas to buy at any price. But free market pricing of natural gas is not going to result in drastic increase in the average consumer price. Gas is contracted for sale under long-term contracts—usually 20 years. Thus, for the most part, prices would rise only for newly discovered gas or in cases where old contracts are expiring. Furthermore, in the free market, gas prices would rise only to the point where they compete with other fuels.

The FPC has approved, as a just and reasonable rate, a price of around $1 per 1,000 cubic feet for imported liquid natural gas. The FPC price for domestic natural gas is about 26 cents per thousand cubic feet. If we do not move to obtain increased domestic supplies, our consumers will be buying the higher priced imported LNG and they will probably be glad to get it. So I think it is in the consumer interest to increase the supply of domestic natural gas, even if the price of that gas does rise somewhat.

It is also claimed that since no economist has yet produced a study which statistically proves with certainty that increased exploration will result from increased economic incentive for the gas producers, we should not deregulate FPC pricing. It is true that no such study has been made and in fact it probably cannot be made. But I think the history of industry in this country proves that capital is available even for high-risk ventures when a sufficient potential for economic reward is present. What we cannot afford, is another 18 years of FPC price regulations which stifle gas exploration.

There is in this country a presumption, and I think a valid one, in favor of the free market system. For the sake of all gas consumers and for the sake of better quality in the air we breathe, let us give the free market system an opportunity to provide for us the quantity of natural gas we need.

I am not pursuaded that the FPC possesses any new ability to correct a situation which has been brought on by 18 years of its own regulations.

Mr. President, I introduce into the new 93d Congress the legislation which is intended to remove the Federal Power Commission from the job of regulating, either directly or indirectly, the prices of natural gas sold in interstate commerce. I implore the Members of this body to give prompt and favorable consideration to this legislation so that the increasingly critical shortage of natural gas can be averted.

I ask that the complete text of this measure be printed at this point in the RECORD.

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

S. 371

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

SECTION 1. The Congress hereby finds the following—

(1) Natural gas presently supplies approximately one-third of the Nation's energy requirements.

(2) Natural gas will continue to supply a significant portion of the Nation's energy requirement for the next several decades.

(3) Maintaining abundant supplies of this vital energy resource is in the national interest for national security and environmental reasons.

(4) Natural gas is the ideal energy resource because it pollutes the environment least.

(5) Declining domestic exploration activity for new reserves of natural gas has resulted in insufficient producing supplies to meet current and future demand for natural gas.

(6) This decline in domestic exploration activity for new reserves of natural gas can be directly attributed to insufficient incentive to invest capital in this high-risk business.

(7) Adequate price is the best incentive.

(8) The free market mechanism is the best method for setting the price of natural gas.

(9) The Federal Power Commission presently regulates the price of natural gas paid to producers who sell gas in interstate commerce.

(10) Because of the inherent slowness and uncertainty which are intentionally a part of normal regulatory procedures, the Federal Power Commission is unable to establish prices which simulate the free market.

(11) In the long run the consumer is not benefited by Federal Power Commission price regulation since this regulation has caused the consumer to be deprived of abundant supplies of this ideal fuel.

(12) It is in the best interest of the consumer and the Nation that the Federal Power Commission cease this regulation of the price of natural gas.

SEC. 2. (a) That section 2(6) of the Natural Gas Act is amended by inserting before the period at the end thereof a comma and the following: "execpt that such term does not include a person engaged in the production or gathering and sale of natural gas if such person is not engaged in (or affiliated with any person engaged in) the transmission of natural gas to consumer markets or the distribution of natural gas to the ultimate consumers".

(b) That sections 4(a) and 5(a) are amended by inserting before the period at the end thereof a comma and the following: "*Provided, however,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural gas company for or in connection with the

purchase of natural gas from a person exempt under section 2(6)".

Mr. HANSEN. Mr. President, I am happy to again join my distinguished colleague, the senior Senator from Texas (Mr. TOWER) in the introduction of this urgently needed legislation.

The entire history of producer wellhead regulation of the price of gas proves beyond any doubt that the system has failed. As any economist knows, the surest way to create a shortage of any commodity is to put a price ceiling on it.

The able Senator from Texas and I have warned time and again during the past few years that the Nation is facing an energy crisis. We have repeatedly called attention to the warning of experts in the field of energy, both in and out of government, that this Nation's self-sufficiency in energy has disappeared.

Last winter there was a very real threat of actual fuel shortages in parts of the country. A concerted and coordinated effort by government and industry prevented any actual suffering.

But now the gas shortage is not simply threatening, it is here along with shortages of other fuels.

Headlines of school, factory and business closures, transportation disruptions, and home heating oil shortages became commonplace during the protracted cold weather of recent weeks. The wolf that many of us have warned of was not only at the door but had the whole pack with him.

Mr. President, the Senate Interior Committee is now completing its study of national fuels and energy policy as authorized by Senate Resolution 45 adopted in May 1971. The recommendations of that study will include, I hope, an endorsement of the legislation my Texas colleague has introduced today to decontrol the wellhead price of natural gas.

During hearings 11 months ago on natural gas policy issues as part of that study, I again recommended such a course. At that time I said that few hearings by this committee have been more timely, or have dealt with a more urgent matter. If this inquiry succeeds in focusing attention on the critical and worsening shortage of the premium fuel, natural gas, and serves to create an awareness of the consequences facing 50 million gas consumers, then an invaluable public service will indeed have been performed.

We are the greatest energy producing and consuming Nation on earth. It was here that the first large-scale practical use of natural gas was made. It was here that the technology for finding, transporting and use of this clean-burning fuel to meet a wide spectrum of consumer needs, was developed and nurtured. This American know-how has been exported worldwide.

Unfortunately, it was also here that a system of unneeded, unwarranted, and unworkable Federal price controls has been applied to the production of this fuel, with the result that artificially depressed prices have precipitated skyrocketing demand for gas, while seriously depressing the search for and development of gas. Many have predicted the resulting gas shortage we are now experiencing.

To those who have given thoughtful consideration to the problem, the misapplied priorities and economic distortions of this system of Federal price control for one fuel, and only one, have been all too clear.

In the Economic Report of the President, the annual report of the Council of Economic Advisers noted the belated but constructive actions of the Federal Power Commission in adjusting ceiling prices for natural gas at the wellhead, and added this observation:

> Despite these steps toward prices that more nearly reflect the market situation, important policy issues remain. The large interstate pipeline companies, being unable to meet their customers' demands with domestic natural gas and pipeline imports from Canada, are turning toward imports of natural gas in liquefied form from overseas and to synthetic gas produced from imported crude oil and naphtha. Although these imports would tend to increase the supply, they cost far more than supplies from conventional domestic sources. Prices at the refinery or vaporization plant would frequently be $1 or more per thousand cubic feet. Delivered to the same markets, domestic natural gas at new ceiling prices would cost about half that amount. *Thus, we could afford to pay significantly more for domestic gas, thereby appreciably increasing its supply, and still have lower prices than would have to be paid for gas from the alternative sources now being considered.*

Demand for clean-burning gas in these environment-conscious times continues to soar. The potential for meeting these demands from unexplored sedimentary basins of the United States is very large, estimated by the Potential Gas Supply Committee at 1,178 trillion cubic feet, more than four times our present proved reserves. Yet projections by the National Petroleum Council indicate that, unless economic conditions change, the United States will be importing some 16 percent of its gas requirements but will still be short by 45 percent of meeting its 1985 demand for natural gas.

It is inconceivable that Congress, Mr. President, would continue the existing repressive policies that would make certain that these disastrous shortages develop. Stated another way, I cannot conceive that Congress can fail in its responsibility to take corrective actions to provide an economic climate that will encourage and assure maximum exploration for and development of domestic natural gas supplies.

Endless examples have long been evidence that something is wrong with the system of Federal regulation of local gas production. The longer that we default in taking corrective actions, the more unbelievable the situation becomes. The economic distortion is now clear in a situation that finds our Government through the Federal Power Commission, on the one hand, holding an artificial lid on domestic natural gas prices, and on the other hand considering approval of imported gas substitutes—to fill the existing gap in supply—at prices two to three times the city-gate price of natural gas.

When the final chapter of this unbelievable experience is written by some historian, Mr. President, I am sure it will be put down as one of the most regrettable, counterproductive episodes in the whole history of industry-government relationships. It is a system that dries up supplies of a product by killing investment incentives of the industry producing that product, while encouraging development of foreign supplies that will cost up to three times as much and can be denied to us at any time.

One of the most graphic illustrations of the economic distortion built into our policies on gas, Mr. President, was revealed by then Secretary of Commerce Stans after his trip to the Soviet Union. He disclosed that the Soviets were interested in American capital developing gas resources in the U.S.S.R., constructing liquefaction plants, port facilities, and transporting that gas in liquid form to the United States. It subsequently has been made known that three American companies are actively pursuing this possibility, and, as Secretary Stans noted, should a commitment be made the investment of American dollars in the Soviet Union could run into the billions.

It is no less than incredible, in my opinion that we have so misalined our priorities that we pursue policies which make it economic for billions of American dollars to be spent to develop Soviet resources, for which we control neither the supply nor the price, and that these investments are attractive only because these same policies have made it uneconomic to search for and develop our own natural gas resources.

When the result obtained from our policies, Mr. President, are so contrary to our own national interest, I submit that we had better get our real priorities back into perspective and make some changes which will remove the economic penalties that one would suffer should he choose to drill for gas in Nebraska or Oklahoma, rather than Canada, North Africa, or even the Soviet Union.

One of the best assessments of the dilemma we face as to domestic gas supplies appeared in Petroleum Press Services, published in London. In this very interesting analogy, there appears the following observation:

> To an outside observer, it seems extraordinary that in 1969, just when the decline in oil and gas reserves was beginning to pinch and there was a serious need to increase the level of exploration, the Government should decide to add $700 million a year to the industry's tax bill by cutting from 27½ to 22 percent the very depletion allowance that had been designed to encourage such exploration.

I single out this very interesting observation, Mr. President, because I could not agree more with this English writer that our action in significantly changing the tax treatment of the petroleum industry was in direct collision with our need and our professed desire to stimulate our own domestic fuel resources. I think we should keep in mind that there are multiple ways of revitalizing domestic exploration for petroleum fuels. One way is to restore our faith in the free economic system by removing existing price controls. Another way would be to improve existing tax incentives for domestic oil and gas exploration and development.

Mr. President, decontrol of the wellhead price of natural gas will, in my opinion, do more than any one other measure the Congress could adopt to re-

verse the declining trend in domestic exploration for oil and gas and assure 50 million consumers of that precious fuel of a continued dependable supply at reasonable prices.

By Mr. PASTORE:

S. 372. A bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office. Referred to the Committee on Commerce.

FEDERAL ELECTION CAMPAIGN ACT OF 1973

Mr. PASTORE. Mr. President, I send to the desk for appropriate reference a bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirements of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office.

Mr. President, the Federal Election Campaign Act of 1971 was the first major revision of our laws on campaign financing in almost 50 years. It replaced a law limiting campaign contributions and requiring reporting and disclosure of contributions and expenditures—a law which was not only archaic but more honored in the breach than in the observance.

When the Campaign Act of 1971 was being considered, I said the cost of campaigning for public office had become a national scandal. How, I wondered, could anyone justify expenditures that could and have mounted to millions of dollars for an office which pays an annual salary of $42,500. If nothing more, such circumstances cast a suspicion on the integrity of the offices being sought, even though nothing in fact may be amiss. And this suspicion in and of itself undermines the democratic process because the voter becomes cynical.

Mr. President, we all realize that many factors have contributed to the spiraling cost of campaigning for elective office and that no one—least of all the candidate—really wishes campaigning to be so expensive.

However, as the cost of goods and services has steadily risen, so has the cost of campaigning. And since 1952 a new dimension—television—has been added to the campaign process. This is the most expensive media form of all and is the most significant contributor to escalating costs.

Added to these factors is, of course, the very human and understandable reaction—if my opponent puts up another billboard sign, makes an additional mailing, or buys more television time, I feel compelled to do likewise.

In an attempt to halt these spiraling costs, and correct other abuses that threatened the integrity of the electoral process, the 92d Congress enacted the Federal Election Campaign Act of 1971.

This legislation put a reasonable limitation on the amount of money candidates for Federal elective office and their supporters could spend on radio, television, certain forms of the printed media, and certain uses of telephones.

In recognition of the significant contribution the electronic media has made to these soaring costs and the public interest obligations of broadcast licensees, the legislation also required these licensees to afford candidates for all elective offices the same rates they afford their most favored commercial time buyers. This is for a period 45 days before a primary election and 60 days before a general election.

The Federal Election Campaign Act also repealed the Fedearl Corrupt Practices Act of 1925, and replaced it with comprehensive and stringent financial reporting and disclosure provisions applicable to candidates, political committees, and contributors.

These provisions were designed to overhaul and tighten the obvious inadequacies of the Corrupt Practices Act. Just as importantly, they were also intended to inform the electorate in full and timely fashion of the sources and amounts of campaign contributions and how these contributions were spent. This information, it was felt, would further help the voters choose their candidates.

Mr. President, when my committee, indeed when the entire Senate, considered the Campaign Act of 1971, lengthy deliberation was given to the various categories of campaign expenses that might effectively be placed under the spending limitation.

Radio, television, and CATV were, of course, readily included. Being regulated industries there were existing mechanisms for assuring compliance with any such limitation.

Newspapers and certain other forms of printed media were also included without too much hesitation regarding the effectiveness of a spending limitation on them. The use of telephones gave us more difficulty before they were included, however.

As Members of this body well know, we considered extending the limitation to other specific categories of campaign expenses. Such grave doubts as to the effectiveness of including other categories were raised that we abandoned the efforts.

We also felt that the limitations we did adopt covered the items which contributed most significantly to the high costs of campaigning.

Our formulation of provisions requiring full reporting and disclosure of campaign contributions and expenditures also required long and arduous deliberation. It was obvious to everyone that the Federal Corrupt Practices Act was inadequate on several accounts. How to draft legislation which would fully inform the electorate in timely fashion before an election and at the same time not put an unworkable burden on the candidates, their committees, and those charged wtih supervising and enforcing the legislation, was another matter, however.

The law Congress finally enacted was hailed by almost everyone as a sound approach and long overdue solution to the problems of excessive campaign costs and inadequate reporting and disclosure of campaign contributions and expenditures.

Mr. President, no one, I believe, was naive enough to think the Election Campaign Act of 1971 was the final solution to these problems.

The 1972 elections have given us our first experience under the new law. Much has already been written about the reporting and disclosure provisions. Undoubtedly many recommendations will be made in this Congress for amending them in order to better achieve their objective. In this connection, I would hope Congress will seriously consider putting a limitation on individual contributions. To me it is utterly scandalous when individual contributions approach or exceed the million-dollar mark.

What is already apparent, however, is the need for stricter spending limitations. Simply stated, even though congressional candidates stayed within their media and telephone spending limits, the total costs of their individual campaigns increased on the whole over the amounts spent in previous election years when there were no media limitations. And, I might add, the increase cannot be adequately explained by the perennial rise in the cost of goods and services.

Mr. President, the Federal Election Campaign Act does not require financial reports to be filed until the end of January. Nevertheless, some estimates and interim reports have been available since October of last year. I would like to quote from an article appearing in the November 18 edition of the New York Times entitled, "Campaign Spending in '72 Hits Record $400 Million":

> By all estimates, when the final official campaign contribution and expenditure figures are computed and published on Jan. 31, the 1972 elections at all levels will prove to have been roughly a $400-million enterprise, up $100-million from the record $300-million estimated to have been spent in 1968.

That article goes on to say that overall estimates place the cost of the 1972 presidential campaign at $100 million with another $100 million for the Senate and House races.

Specifically, according to that article, based on filings required by State law, a successful U.S. senatorial candidate spent $2.5 million. And existing data now on file with the Secretary of the Senate indicates that the $2.5 million spent by the winning candidate will be closely followed by the expenditures of the successful candidates in two other States.

Mr. President, when these expenditures are compared with the spending limitations we placed on the use of the media and telephones it is obvious we have not gone far enough in our efforts to halt the spiraling costs of campaigning for public office.

In view of our experience with the spending limitation in the 1972 elections, I submit we must seriously consider replacing the present selective limitations with an overall ceiling covering all campaign expenditures. Then there will be

no question of effectively stopping these escalating costs.

Moreover, each candidate will be in a position to decide how best he may apportion his campaign expenditures. We know, for example, in some of the smaller States, and in certain congressional districts, the electronic media is not the major item of expense. Direct mailings, handbills, and so forth—none of which are covered by the present limitations—figure more prominently. Each candidate should be free to decide these matters and yet still be subject to an overall limitation.

Mr. President, today I am introducing legislation which builds on the experience of 1972. I believe it will offer greater assurance to the electorate and the candidates that the costs of campaigning will not continue to escalate as rapidly as they have in the past. My committee expects to hold early and extensive hearings on the bill so that Congress will have ample opportunity to consider it before the 1974 congressional elections.

I would hope that during these hearings the committee will receive a wide range of views and recommendations. Although I believe the legislation I am introducing today is fundamentally sound, I realize there are many authorities on this subject and no one has a monopoly on solutions to this problem.

Essentially this proposal would do two things, neither of which, I might add, is without precedent.

First, it would repeal the equal time requirement of section 315 of the Communications Act insofar as it applies to candidates for President and Vice President of the United States.

That provision was, of course, suspended for the 1960 presidential campaign, and the electorate was more widely informed as a consequence.

Repeal of this provision would also contribute significantly toward arresting the growing costs of presidential campaigns.

Television is relied on extensively by the candidates, and is also the most expensive media form. Undoubtedly it is the greatest single contributor to the high cost of campaigning.

The networks have expressly said if they are relieved of the equal time strictures they will give substantial amounts of free television time to significant candidates.

The second thing this legislation would do is extend the existing limitation on media and telephone spending to include any expenditures whatsoever by or on behalf of a candidate for Federal elective office; and to increase the amount a candidate would be entitled to spend from 10 cents to 25 cents times the voting age population of the geographic area in which the election is being held.

Unlike existing law which, as I have mentioned, only places a limitation on specified media and telephone expenditures, the limitation in this proposal would cover all expenditures made by or on behalf of a candidate in connection with his campaign. Any person making expenditure of $100 or more in connection with a candidate's campaign would have to receive a certificate from the candidate or his authorized representative stating that the expenditure did not put the candidate over his allowable limitation.

Mr. President, the limitation provisions of this legislation are not without precedent. On the contrary, the Presidential Election Campaign Fund Act which we passed in 1971 contains a similar though not identical limitation for those presidential and vice presidential candidates wishing to finance their campaigns in 1976 through the presidential election campaign fund. And, of course, we now have selective limitation and certification requirements in the Federal Election Campaign Act of 1971.

Mr. President, failure of Congress to recognize and remedy the many instances of exorbitant campaign spending in the 1972 general elections can only be interpreted by the electorate as acquiescence on our part. Should this come to pass it would be doubly unfortunate. In my judgment we will be reneging on the commitments we made to the American people when we enacted the Election Campaign Act of 1971; and we will once again be inviting cynicism to undermine the integrity of the democratic process.

Mr. President, the purpose of this bill is to place a ceiling on all campaign expenditures.

Mr. President, under the bill candidates can spend 25 cents times the estimated voting population for the office in question. That means for the President it would be 25 cents for the entire voting population; for a Senator, 25 cents for the estimated voting population in his State; and for every Congressman, 25 cents for every estimated voter in his district. I think this is an adequate amount.

Mr. President, I ask unanimous consent at this time that a list showing the estimated voting population in each of the States be printed in the RECORD, together with a table showing the amounts that can be spent in presidential and senatorial races.

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

(See exhibit 1.)

Mr. PASTORE. Mr. President, I ask unanimous consent to have printed in the RECORD a section-by-section analysis of the measure.

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

(See exhibit 2.)

Mr. PASTORE. Mr. President, the reason for doing this is that when we first passed the Campaign Communication Reform Act last year we had no way of knowing what the full consequences would be. We had to wait for the election in 1972. We found in some instances in some States more than $2 million was spent by a candidate to win election. In my State, between the two candidates the amount was $1 million. This is absolutely out of hand. The American people are going to lose confidence in our democratic process unless we have an overall ceiling. In my State of Rhode Island, with the formula I have suggested, each candidate will be at liberty to spend $168,000. From my experience that is more than enough. I hope our committee will agree with me that we should hold hearings on this matter as soon as possible, and I have every confidence that when it comes to the floor of the Senate it shall receive the support of my colleagues.

EXHIBIT 1

CAMPAIGN SPENDING FOR PRESIDENTIAL AND SENATORIAL ELECTIONS BASED ON FORMULAS OF 30, 25 AND 20 CENTS TIMES THE ESTIMATED VOTING POPULATION

	Estimated voting population	Spending ceiling		
		30 cents	25 cents	20 cents
President	139,642,000	$41,892,600	$34,910,500	$27,928,400
Senate:				
Alabama	2,274,000		568,500	
Alaska	200,000		50,000	
Arizona	1,239,000		309,750	
Arkansas	1,310,000		327,500	
California	13,945,000		3,486,250	
Colorado	1,558,000		389,500	
Connecticut	2,106,000		526,500	
Delaware	371,000		92,750	
District of Columbia	518,000		145,250	
Florida	5,105,000		1,276,250	
Georgia	3,104,000		776,000	
Hawaii	531,000		132,750	
Idaho	479,000		119,750	
Illinois	7,542,000		1,885,500	
Indiana	3,509,000		877,250	
Iowa	1,909,000		477,250	
Kansas	1,541,000		385,250	
Kentucky	2,206,000		551,500	
Louisiana	2,339,000		584,750	
Maine	666,000		166,500	
Maryland	2,688,000		672,000	
Massachusetts	3,955,000		988,750	
Michigan	5,874,000		1,468,500	
Minnesota	2,560,000		640,000	
Mississippi	1,403,000		350,750	
Missouri	3,266,000		$816,500	
Montana	460,000		115,000	
Nebraska	1,022,000		255,500	
Nevada	348,000		87,000	
New Hampshire	521,000		130,250	
New Jersey	5,025,000		1,256,250	
New Mexico	636,000		159,000	
New York	12,773,000		3,193,250	
North Carolina	3,463,000		865,750	
North Dakota	402,000		100,500	
Ohio	7,185,000		1,796,250	
Oklahoma	1,812,000		453,000	
Oregon	1,500,000		375,000	
Pennsylvania	8,161,000		2,040,250	
Rhode Island	673,000		168,250	
South Carolina	1,706,000		426,500	
South Dakota	434,000		108,500	
Tennessee	2,713,000		678,250	
Texas	7,681,000		1,920,250	
Utah	689,000		172,250	
Vermont	309,000		77,250	
Virginia	3,197,000		799,250	
Washington	2,371,000		592,750	
West Virginia	1,182,000		295,500	
Wisconsin	2,955,000		738,750	
Wyoming	225,000		56,250	

EXHIBIT 2

SECTION-BY-SECTION ANALYSIS

Section 2 exempts the use of a broadcast station's facilities by a legally qualified candidate for President and Vice President in the general election from the equal opportunities requirement of Section 315(a) of the Communications Act.

Section 3(a) repeals the definition of "communications media" which appears in the Campaign Communications Reform Act, and adds a definition of campaign "expenditure" to that Act. The definition of "expenditure" is the same as that which appears in Titles II and III of the Federal Election Campaign Act with the added provision that "those who volunteer to work on behalf of a candidate" are not deemed to have made an "expenditure" on behalf of a candidate.

Section 3(b) makes a clarifying amendment to the section of the Campaign Communications Reform Act requiring the Secretary of Commerce to ascertain yearly an estimate of the voting age population of States and congressional districts.

Section 4(a) amends the limitation of expenditures for use of communications media contained in the Campaign Communications Reform Act. As amended, no candidate for Federal elective office could make expenditures (as defined in section 3(a) of the bill) in connection with his campaign for nomination for election, or election, in excess of 25 cents multiplied by the voting age population of the geographical area in which the election for such office is held. Separate limitations would apply to primary, primary runoff, general, and special election campaigns.

Expenditures made on behalf of any candidate shall be deemed to have been expended by the candidate. Expenditures made on behalf of any candidate for the office of Vice President shall be deemed to have been made by the presidential candidate with whom he is running.

No person shall make any charge for services or products furnished to, or for the benefit of, any candidate in connection with his campaign in an amount in excess of $100 unless the candidate or his authorized agent certifies in writing to the person making the charge that the payment of the charge will not exceed the candidate's expenditure limitation.

The provisions of the Campaign Communications Reform Act limiting the expenditures in each State of candidates for the presidential nomination to the amounts senatorial candidates in that State could spend remain intact.

Similarly, the tests set out in the Campaign Communications Reform Act for determining when a person is a candidate for presidential nomination for purposes of the spending limitation is retained.

The Comptroller General shall prescribe regulations under which any expenditure by a candidate for presidential nomination for the use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such expenditure.

The requirements of the Campaign Communications Reform Act that the Secretary of Commerce ascertain yearly and certify to the Comptroller General the estimate of voting age population in each State and congressional district and that the spending limitation be adjusted upward to reflect rises in the Consumer Price Index remain.

Section 5 directs the Comptroller General to prescribe regulations to carry out the Act.

Section 6 provides penalties for violation of the Act.

Section 7 repeals certain amendments to the Communications Act made by the Campaign Communications Reform Act which enabled States to put a spending limitation on candidates for State offices regarding the use of the broadcast media if the limitation conformed to the one prescribed for candidates for Federal office. These provisions would not be relevant if the media limitation were replaced by an over-all limitation as this legislation would do.

By Mr. ERVIN (for himself, Mr. ROBERT C. BYRD, Mr. EASTLAND, Mr. CHURCH, Mr. JACKSON, Mr. FULBRIGHT, Mr. MONDALE, Mr. RANDOLPH, Mr. MCGOVERN, Mr. BIBLE, Mr. WILLIAMS, Mr. SPARKMAN, Mr. EAGLETON, Mr. TALMADGE, Mr. MAGNUSON, Mr. HARTKE, Mr. METCALF, Mr. HUGHES, Mr. HUMPHREY, Mr. CRANSTON, Mr. HOLLINGS, Mr. PELL, Mr. CANNON, Mr. BURDICK, Mr. MCINTYRE, Mr. INOUYE, Mr. HATHAWAY, Mr. HART, Mr. MCGEE, Mr. CHILES, Mr. HASKELL, Mr. HATFIELD, Mr. DOMENICI, Mr. MUSKIE, Mr. BROOKE, Mr. MATHIAS, Mr. BAYH, Mr. SYMINGTON, Mr. JAVITS, Mr. RIBICOFF, Mr. GRAVEL, Mr. MOSS, Mr. WEICKER, Mr. CLARK, and Mr. NELSON):

S. 373. A bill to insure the separation of Federal powers and to protect the legislative function by requiring the President to notify the Congress whenever he impounds funds, or authorizes the impounding of funds, and to provide a procedure under which the Senate and House of Representatives may approve the President's action or require the President to cease such action. Referred to the Committee on the Judiciary; and, by unanimous consent, if and when reported by that committee, to the Committee on Government Operations.

IMPOUNDMENT CONTROL

Mr. ERVIN. Mr. President, on behalf of 45 other Senators and myself, I introduce for appropriate reference a bill to protect the legislative function by requiring the President to notify the Congress whenever he impounds or terminates or authorizes the impounding or termination, of a Federal program, and to provide that the President shall cease such impounding at the expiration of 60 calendar days unless the Congress shall approve his action by concurrent resolution.

The bill also establishes a procedure whereby the Senate and House of Representatives can approve each impoundment reported by the President—an action which would be required in order for the impoundment to continue beyond 60 calendar days after it is reported to the Congress.

Mr. President, this bill is very similar to a bill (S. 2581) I introduced during the 92d Congress, on September 27, 1971. I believe the new bill is an improvement over the earlier version.

Within a few weeks, the Judiciary Subcommittee on Separation of Powers, of which I am honored to serve as chairman, will conduct hearings on this bill, in conjunction with an ad hoc subcommittee of the Committee on Government Operations. I sincerely hope that the bill can be ready for consideration by the Senate before the heat of summer has beset the Nation's Capital.

The impoundment control bill is the outgrowth of hearings conducted in March 1971, by the Subcommittee on Separation of Powers, on the constitutional issues raised by the practice of Executive impoundment of appropriated funds. The bill I introduce today will provide a practical and reasonable solution to the issues raised during those hearings and during the intervening time.

Testimony and materials adduced at the subcommittee's hearings revealed that over $12 billion in appropriated funds were being impounded by the President at that time. Since then, President Nixon has asserted that he will keep Federal spending within a $250 billion ceiling by impounding funds appropriated above that limit. Already we have seen the termination of several agricultural programs, including the rural environment assistance program and emergency disaster loans to farmers. More than likely the list of impounded and terminated programs will grow. These actions are being undertaken with no prior approval by the Congress, which, pursuant to its constitutional responsibility, created and funded the programs in the first place.

While I would be the last to advocate deficit financing by the Federal Government—in fact, I always have been in favor of a balanced Federal budget—this series of Executive actions demands the immediate attention of the Congress and swift remedial action. In my capacity as chairman of the Subcommittee on Separation of Powers, I have come to realize that the Congress cannot long survive as a viable institution if it does not develop the capacity to gather, retrieve, and analyze budgetary data and to exert control over the budgetary powers. The power of the purse is one of the most basic powers of the legislative branch, and if it is not exercised in a decisive and fiscally responsible manner, the Congress itself may rightfully be accused of abrogating its role under the separation of powers doctrine. While I feel that on occasion the Congress has indeed been a spendthrift and has appropriated money in an irresponsible manner, I do not believe that the President's impoundment of the amounts appropriated constitutes a cure for our Nation's fiscal and economic woes. Impoundment does not save anybody any money, nor does it lead to lower taxes. It is merely a means whereby the White House can give effect to the social goals of its own choosing by reallocating national resources in contravention of congressional dictates. In any event, the President's motive, however worthy, cannot legalize an inherently unconstitutional act.

Reserving of appropriated funds, that is, not spending an entire appropriation, is not a new concept, and when undertaken in a lawful manner it may be quite useful in effecting economy. Various procedures have been used over the years, the most common being the reserving of funds to prevent deficiencies in a Federal program, or to effect savings in ac-

cordance with provisions of the Anti-deficiency Act (31 U.S.C. 665). Freezing of funds has occurred when Congress, for some special reason such as war or economic uncertainty, passes appropriations as nothing more than ceilings for expenditures, leaving it to the executive branch to expend part or all of the funds at its discretion. Moreover, freezing may occur as the result of a specific congressional mandate. Under any of these forms of impoundment, the executive branch is permitted—or required—to withhold funds under certain specified conditions.

Unfortunately, impoundment often occurs under circumstances where the executive branch, for reasons of its own, desires to avoid expending funds which the Congress has explicitly directed to be spent for some particular purpose. It is this situation which poses a threat to our system of government and which so patently violates the separation-of-powers doctrine.

One example of an impoundment which flies directly in the face of expressed congressional intent is the withholding from obligation of more than $5 billion in the Highway Trust Fund. On January 2 of this year 17 other Senators joined me in filing an amicus curiae brief in the case of Missouri Highway Commission against Volpe. The U.S. District Court on June 19, 1972, held in that case (347 F. Supp. 951) that the Secretary of Transportation and the Director of the Office of Management and Budget do not have discretion, under the Federal-Aid Highway Act of 1956 as amended, to impound Highway Trust Fund moneys except for very specific reasons. The district court's decision was based on language in the Federal-Aid Highway Act, and it is a more narrow case than if it involved a general appropriations act. This case was argued on January 10, 1973, before the U.S. Court of Appeals for the Eighth Circuit in St. Louis, and is pending decision by that court. If the Missouri Highway Commission wins this case, it should establish the precedent that Congress can mandate the expenditure of funds by inserting language to that effect in the particular appropriations act. We eagerly await the decision of the court.

Neither I nor my many colleagues who are cosponsoring this bill desire that the executive branch expend the taxpayers' money foolishly. Nor is this a partisan problem, for impoundment had occurred under Democratic and Republican administrations; it is as objectionable under one as under the other. After all, we are concerned with maintaining the constitutional role of the Congress and not with the performance of either political party. The Congress must not become a stepchild of the Executive, and the Presidency must not be allowed to assume the powers of a divine monarchy.

Perhaps the most disturbing aspect of the impoundment practice is that it enables the President to effect an item or line veto. Such a power clearly is prohibited by the Constitution which empowers the President to veto entire bills only. By impounding appropriated funds, the President is able to modify, reshape, or nullify completely laws passed by the legislative branch, thereby making legislative policy—a power reserved exclusively to the Congress. Such an illegal exercise of the power of his office violates clear constitutional provisions. The bill I introduce today will give the Congress a chance to override this illegal and absolute veto and will give the Congress an opportunity to review its choice of priorities and rearrange them if changed conditions make such action desirable. However, that is not the task of the President under our Constitution.

In this era, the powers of the executive branch have become dominant in the operation of the governmental structure. The "power of the purse" is one of the few remaining tools which Congress can use to oversee and control the burgeoning Federal bureaucracy. Congress is constitutionally obligated to make legislative policy, and is accountable to the citizens for carrying out that obligation. The impoundment practice seriously interferes with the successful operation of that principle and places Congress in the paradoxical and belittling role of having to lobby the Executive to carry out the laws it has passed.

The impoundment control bill provides that the President must cease a specific impoundment unless he receives the approval of the Congress. It requires the President to notify each House of the Congress by special message of every instance in which he impounds or authorizes an impoundment by any officer of the United States. Each special message must specify, first, the amount of the funds impounded; second, the date on which funds were ordered to be impounded; third, the date the funds were impounded; fourth, any account, department, or establishment of the Government to which the impounded funds would have been available for obligation except for the impoundment; fifth, the period of time during which the funds are to be impounded; sixth, the reasons for the impoundment; and seventh, the estimated fiscal, economic, and budgetary effects of the impoundment.

The reporting provisions of the bill are identical to those of Senator HUMPHREY'S amendment to the Debt Ceiling Act of 1972, and I believe that they strengthen the impoundment control bill.

The bill also provides that the special messages submitted by the President be published in the Federal Register, and it requires the President to publish in the Federal Register a list of funds impounded as of the first of each calendar month. These provisions are designed to keep the Congress and the American people informed about the status of impounded funds, for a lack of up-to-date information has been a major impediment to solving the impoundment problem.

The bill further provides that the President shall cease the impounding of funds specified in each special message within 60 calendar days of continuous session after the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by concurrent resolution in accordance with a procedure based on provisions of the Legislative Reorganization Act of 1970 and set forth in the bill. Such concurrent resolution will be privileged business, and it will be considered promptly and with a reasonable period for debate. Such concurrent resolutions would not be referred to committee, for the appropriate authorizing committee and the appropriations committee already would have considered thoroughly the considerations underlying the original authorization and appropriation of the funds.

The bill also contains a definition of "impounding of funds" which is intended to include every instance of impounding, withholding, delaying the expenditure or obligation of funds, or the termination of authorized projects or activities. The definition includes "any type of executive action which effectively precludes the obligation or expenditure of the appropriated funds." The intent is to preclude any form of executive action affecting appropriated funds from escaping the scope of the bill through semantic gyrations.

Hearings on the "impoundment control bill" will be held on January 30 and 31 and February 1 and 6.

Mr. President, I send the bill to the desk, and ask unanimous consent that its text appear in the RECORD following these introductory remarks.

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

S. 373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) whenever the President impounds any funds appropriated or otherwise obligated for a specific purpose or project, or approves the impounding of such funds by any officer or employee of the United States, he shall, within ten days thereafter, transmit to the Senate and the House of Representatives a special message specifying—

(1) the amount of the funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any account, department, or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment;

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document for each House.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day as it is transmitted to the Senate and the House of Representatives.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall transmit promptly to the Congress and the Comptroller General a supplementary message stating and explaining each such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the *Federal*

Register published after that special or supplemental message is so transmitted.

(f) The President shall publish in the *Federal Register* each month a list of funds impounded as of the first calendar day of that month. Each list shall be published no later than the tenth calendar day of the month and shall contain the information required to be submitted by special message pursuant to subsection (a).

SEC. 2. The President shall cease the impounding of funds set forth in each special message within sixty calendar days of continuous session after the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by passage of a resolution in accordance with the procedure set out in section 4 of this Act.

SEC. 3. For purposes of this Act, the impounding of funds includes—(a)(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated or otherwise obligated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and

(2) Any type of executive action which effectively precludes the obligation or expenditure of the appropriated funds.

SEC. 4. The following subsections of this section are enacted by the Congress—

(a)(1) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(b)(1) For purposes of this section, the term "resolution" means only a concurrent resolution of the Senate or House of Representatives, as the case may be, which is introduced and acted upon by both Houses before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the President's message is received by that House.

(2) The matter after the resolving clause of each resolution shall read as follows: "That the Senate (House of Representatives) approves the impounding of funds as set forth in the special message of the President dated ————, Senate (House) Document No. ——".

(3) For purposes of this subsection, the continuity of a session is broken only by an adjournment of the Congress *sine die*, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period.

(c)(1) A resolution introduced with respect to a special message shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of a resolution is agreed to, debate on the resolution shall be limited to ten hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution shall not be in order. It shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to, and it shall not be in order to move to consider any other resolution introduced with respect to the same special message.

(3) Motions to postpone, made with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

Mr. ERVIN. Mr. President, I also ask unanimous consent that a statement prepared by the Senator from Wisconsin (Mr. NELSON) concerning the bill also be printed at this point in the RECORD.

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

SENATOR NELSON'S STATEMENT UPON INTRODUCTION OF THE IMPOUNDMENT PROCEDURES BILL

Over the years, a dangerous concentration of power has accumulated in the Presidency. This accumulation of executive control is most readily apparent in the practice of executive impoundment of Congressionally appropriated funds. This exercise of executive power over the public purse is a direct challenge to basic constitutional principles of the separation and balance of powers between the three coordinate branches of government. In particular, the exercise of impoundment gives the President an item veto prohibited by the Constitution as an infringement of legislative perogatives.

There is agreement that the practice of impounding funds has been exercised by both Democratic and Republican Presidents. However, as Professor Arthur S. Miller of The George Washington University Law School pointed out in a letter to the Washington Post last October 26th, this Administration has elevated this practice to a favored mechanism of fiscal policy. Thus, Professor Miller shows that 1971 hearings before the Separation of Powers Subcommittee revealed:

"(a) more than $12 billion in appropriated funds were blocked by the White House (a sum far exceeding what any previous President has done; (b) that the Executive's spokesmen, including the present Associate Justice William Rehnquist and Caspar Weinberger (now head of OMC), could cite no express constitutional or statutory basis for it; and (c) most withholding in the past—which took a big jump under F.D.R.—dealt mainly with national defense appropriations (e.g. President Truman and the proposed 70-wing Air Force)."

There is also agreement that the legislative branch of the federal government has already ceded a great deal of authority over the national pursestrings to the executive branch. In the Anti-Deficiency Acts of 1905 and 1906, the Congress gave the President authority to reserve appropriations in order to reflect savings in authorized programs and to prevent deficiencies from too rapid expenditure of funds. Then, under the pressures of national crisis—the Great Depression of the 1930's and later World War II—the pinciple of a difference between permissive and mandatory appropriations was asserted. In 1942, President Franklin D. Roosevelt claimed that just because Congress appropriated funds for certain governmental programs, this is only a ceiling on possible expenditures and "is not a mandate that such funds must be fully expended."

In addition to the impoundment of funds under so-called permissive appropriations, recent Presidents have been given express authority to withhold appropriated funds when certain conditions exist. Under Title VI of the Civil Rights Act of 1964, the President may refuse to expend funds in areas which practice discrimination.

The one area in which there appears to be a clear constitutional bar to unilateral Executive action and impoundment of appropriated funds without Congressional approval is where there is a clear Congressional "direction to spend". The distinction between "direction" to spend and "authorized" to spend was articulated in the 1962 controversy over the B-70 bomber between President Kennedy and Chairman Carl Vinson of the House Armed Services Committee. The President, opposing the program, requested the latter wording.

The lack of constitutional authority for the President to act contrary to the mandate of Congress and withhold legislatively appropriated funds whenever and wherever he pleases is equally clear. In a memorandum dated December 19, 1969, by then Assistant Attorney General William H. Rehnquist, the Deputy Counsel to President Nixon was advised that "With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent."

Without reason or precedent, the President tried to force Congress last October in the Debt Limit Ceiling legislation to turn over a legislative grant of fiscal powers when he requested authority to cut the budget wherever he wished without even a token notification much less consultation with Congress. What no President is authorized to do under the Constitution, he requested the Congress to trade for a promissory note of confidence. Fortunately, the Senate rose to the occasion and, in a hopeful expression of support which was non-partisan and spanned the ideological spectrum, said "No deal! The Constitutional power over the purse given to Congress has already wandered too far down Pennsylvania Avenue."

It is time for Congress not only to resist further erosions of Constitutional powers, but to reassert itself in the determination of national fiscal policy and priorities and forcefully exercise what are properly Congress rights, duties and prerogatives.

A particularly striking case is the President's recent action cutting $6 billion in Federal water cleanup funds authorized by Congress over the President's veto in the Water Quality Act Amendments of 1972. These actions are environmentally unwise and economically unsound; they also go far beyond any discretion intended by the Congress when it thoroughly considered this measure, and specifically ignores an express Congressional mandate to allocate these funds to the States. Not only is this action an affront to serious efforts throughout the nation to comply with the national clean water program, it undermines every effort of Congress to set priorities for this country.

In order to regain an important measure of initiative in the determination of legislative policy, and to provide a more representative accounting to the public of the decision-making process which enters into such policy, I am a co-sponsor of The Impoundment Procedures Bill developed by the distinguished Senator from North Carolina, Sam Ervin. Senator Ervin's leadership in asserting a revitalized role for the legislative branch under strict constitutional principles is acknowledged not only for its prescience, but for its persistence and its excellent advocacy.

The Impoundment Procedures Bill introduced today would require the President to transmit to the Senate and the House of Representatives a special message whenever the Executive branch has impounded funds appropriated by Congress or otherwise obligated for a specific purpose or project. Unless

the specific impoundment is approved by Congress through the passage of a joint resolution to that effect within 60 days of continuous session after the special message is received, the President shall cease such impoundment under this bill.

This procedure will certainly permit the appropriate Executive actions to reserve funds where economies, and savings can be achieved and uncertainties avoided or deficiencies prevented. At the same time, the constitutional obligation for Congress to set legislative policy and be accountable to the citizens of this country for properly fulfilling that obligation will be restored.

This latter obligation was also succinctly stated by an early and distinguished Carolinian in Congress. In a speech before the House of Representatives on January 17, 1817, Congressman John C. Calhoun of South Carolina stated:

"But what mainly distinguishes the Legislative and Executive branches, as it regards their *actual* responsibility to the people, is the nature of their operation. It is the duty of the former to enact laws, of the latter to execute them. Every citizen of ordinary information is capable, in a greater or less degree, to form an opinion of the propriety of the law, and consequently whether Congress has or has not done its duty; but of the execution of the laws, they are far less competent to judge. How can the community judge whether the President, in appointing officers to execute the laws, has in all cases been governed by fair and honest motives, or by favor or corruption? How much less competent is it to judge whether the application of the public money has been made with economy and fidelity or with waste and corruption! These are facts that can be fully investigated and brought before the public by Congress, and Congress only. Hence it is that the Constitution has made the President responsible to Congress. This, then, is the essence of our liberty; Congress is responsible to the people immediately, and the other branches of Government are responsible to it. . . ."

Mr. ERVIN. Mr. President, I ask unanimous consent that an editorial from the New York Times dated October 27, 1972, and entitled "Power of the Purse" be printed at this point in the RECORD.

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

POWER OF THE PURSE

Despite the refusal of Congress to grant the President power to make whatever cuts he wanted in spending programs to hold the Federal budget under a $250-billion ceiling, Mr. Nixon's aides say that he still intends to impound funds on his own to reach the same objective.

Congress has never conceded that Presidents have the power to ignore laws it has enacted or to reverse the priorities it has set. The Constitution gives Congress the responsibility of raising funds and determining how they shall be spent, and it charges the President with faithfully executing the laws. The President's veto powers are spelled out, and limited. When Presidents have withheld authorized expenditures, because economies could be effected or, because the outlays were no longer required (as when a war ended), usually Congress has insisted on giving its specific approval and legislative sanction to such Presidential actions.

However, it is certainly true that Presidents and Congresses have sometimes done battle over particular Administration refusals to spend funds. That issue has not been clearly resolved because successive Administrations kept it out of the courts until 1970. In several cases, the right of Presidents to impound funds has now been challenged; in the first important test—the Missouri State Highway Commission v. Volpe—a Federal judge in Missouri ruled this year that it was illegal for the Nixon Administration to impound highway funds. The Government has appealed this verdict.

Looking beyond the immediate controversy, we believe that it would be desirable for the President to have carefully limited authority to impound funds either to effect economies in specific programs or to achieve over-all fiscal objectives. Senator Ervin of North Carolina in the last session of Congress introduced a bill that could achieve this objective on the expenditure side in a way that would not encroach upon the constitutional powers of Congress, by giving the President authority to impound funds for a limited period pending Congressional review.

Both the need for greater economy in Government and better fiscal planning require a greater degree of budgetary flexibility; but it is equally important that the constitutional responsibilities and authority of Congress not be undermined by undue assertions of Presidential power.

Mr. ERVIN. Mr. President, I might state that in my judgment both the Judiciary Committee and the Government Operations Committee have jurisdiction of this proposed legislation. The Subcommittee on Separation of Powers of the Senate Committee on the Judiciary conducted extensive hearings on this matter during the last session.

Mr. President, I ask unanimous consent that the bill be referred in the first instance to the Judiciary Committee, with the understanding that when the Judiciary Committee completes its action on the bill, the bill then be referred to the Committee on Government Operations. I might state that the purpose of this unanimous-consent request is to enable the two committees to jointly hold hearings on the bill.

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

Mr. HUMPHREY. Mr. President, I want to commend the distinguished Senator from North Carolina for his admirable and effective leadership on this whole issue of the impoundment of funds by the President and the executive branch.

No Member of this body is a more capable lawyer, a more capable student of the law, or more dedicated to the constitutional processes than is the distinguished Senator from North Carolina.

I am so grateful that he has taken the leadership here on this matter because we trust him and I think the country trusts him. He is a man of moderation and judicious temperament. I am so pleased that he is taking this bill before the two committees to get the matter completely aired and hear all of the testimony and take appropriate legislative action.

Mr. ERVIN. Mr. President, if the Senator would yield, I wish to thank him for the high compliment he has paid me. I point out that the distinguished Senator from Minnesota has been very much interested in this subject and has added amendments, which were agreed to by the Senate, to bills on this subject matter. Some of the ideas he has expressed in his amendments are incorporated in the bill.

Mr. HUMPHREY. Mr. President, I thank the Senator very much.

IMPOUNDMENT OF FUNDS

Mr. MUSKIE. Mr. President, it is with pleasure that I join my distinguished colleague, the senior Senator from North Carolina, in sponsoring legislation to reconfirm the power of Congress to supervise the financial policies of government.

The arrogance with which the administration has ignored and twisted specific congressional directives on funding Federal programs has made firm action on our part a necessity. Ours is not a political vendetta but an urgent effort to safeguard the constitutional checks and balances that are now so grossly violated.

The appropriations process has been brought into disrepute by executive actions that openly defy the will of the Congress and the intent of our fundamental laws. Those laws require that an administration set forth its priorities and present specific requests for the financial means with which to carry them out. The Congress then has the duty both to consider and revise those budget priorities and to determine the funds required. Once Congress has made those decisions, it is, of course, proper for the President to dissent—by vetoing our acts and submitting his veto to the Congress for reconsideration.

But it is not just improper—it is devious in the extreme and brutally damaging to the constitutional scheme of government—to accede to a congressional order and then secretively undermine its implementation by impounding public funds the Congress has directed be spent. If the President chooses to dispute our directives—and he has every right to do so—the dispute must be in the open. Hole-and-corner tactics do grave injury to the political process and sap the strength of democracy.

The bill I am proud to support as a cosponsor will, first of all, put an end to dissembling. It will require the President to explain his actions to Congress and seek approval for them. It does not prohibit a President from exercising fiscal responsibility or taking emergency economic measures a particular situation may require. But it compels the Executive to inform the Congress and the people of all such actions and to acknowledge the shared responsibility of both branches of Government for the sound administration of our resources.

The exercise of greater candor and consultation by the administration in its relations with Congress would have precluded this legislation. But the reverse policy—one of deception and defiance—necessitates our unmistakable response. I urge speedy consideration and enactment of this important bill to restore to the representatives of the American people the authority that is now being drained from them.

By Mr. CURTIS (for himself, Mr. BENNETT, Mr. DOMINICK, Mr. FANNIN, and Mr. HANSEN):

S. 374. A bill to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, by allowing deductions to individuals for personal savings for re-

tirement, and by increasing contribution limitations for self-employed individuals and shareholder-employees of electing small business corporations. Referred to the Committee on Finance.

"INDIVIDUAL BENEFITS RETIREMENT ACT OF 1973"

Mr. CURTIS. Mr. President, I rise to introduce, in behalf of myself and Senators BENNETT, DOMINICK, FANNIN, and HANSEN, a bill known as the Individual Retirement Benefits Act of 1973.

Mr. President, about half of the people of the country have the benefits of a company retirement plan. When a company sets up a retirement plan for its officers and employees, the payments going into that fund are tax free. The earnings of the fund are likewise tax free. It means that those funds grow very rapidly.

The other half of our population have no such opportunity. The citizen who does not enjoy a company pension plan must earn his money, pay taxes upon all of it, save after taxes, and then, if his savings draw interest or dividends, that is taxed—a very uneven situation.

The purpose of the Individual Retirement Benefit Act of 1973 which I am introducing—it is identical to S. 3102 of the last Congress—is to bring full justice to the other half of our population. It will provide that any citizen can, within certain limits, set aside his earnings before taxes, invest them in a plan for his old age, and the earnings on those investments will be tax free. Then, in his retirement years, he will pay taxes on it as he draws it out, just as they do in company plans. That is usually at a time when the tax rates are lower, and it is spread over a greater period of time.

This proposal is identical to S. 3012, a measure which I sponsored in the 92d Congress. No action was taken on this legislation during the last Congress; thus, I reintroduce this proposed legislation, urging its immediate consideration.

The well being of half the wage earners in the United States depends on the swift enactment of this legislation. This proposal, which has the backing of the administration, will bring about equality for the wage earners who are not covered by the benefits of a company retirement plan. Presently, the funds of these company retirement plans are paid in before taxes and the plan itself is free from tax insofar as the earnings, interest, and dividends are concerned.

The workers not covered by such plans, approximately half of our wage earners, are allowed none of these benefits. Such a worker must pay taxes on all of his income and if he has any money remaining after his day-to-day living expenses are paid for savings, the interest, dividends, or capital gains on this savings are subject to taxation. The bill which I introduce today would ameliorate the inadequacy of the existing law. It would allow individuals a deduction in determining adjusted gross income for amounts contributed to individual retirement plans which they have established or to private retirement plans established by their employers. Also, investment earnings on amounts contributed to individual retirement plans would be excluded from gross income. There would still be a tax to be paid at the time the moneys were withdrawn, but it would be at a lower rate and over a longer period so as not to be so burdensome.

This bill is most certainly in the public interest. Not only will it promote savings and self-reliance, but it will also lessen the pressures on the Federal Government for many programs. All this bill really does is to enable half of our wage earners to do what the other half is already doing.

Mr. President, I ask unanimous consent that an analysis of this proposal be printed in the RECORD at this point.

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

INDIVIDUAL RETIREMENT BENEFITS ACT OF 1973

1. INTRODUCTION

Since 1942 the Internal Revenue Code has accorded special tax benefits to retirement plans established by employers for the benefit of their employees and the beneficiaries of their employees. To insure that benefits are provided under these plans for a broad range of the employees of the sponsoring employer and not merely for a small group of select employees, the availability of these special tax benefits is conditioned upon the plan's meeting certain statutory requirements.

Private retirement plans form an important part of the total framework of income maintenance for older Americans. As such, it is appropriate to provide tax incentives to encourage employers to establish these plans and thus provide for their employees' post-retirement needs. In so doing the employer performs a function and assumes a burden which otherwise might be thrust upon society at large. Private retirement plans are a significant supplement to the social security system as a source of income for retired and disabled Americans and their dependents. Because private retirement plans are established by individual employers, they can be shaped to respond to unique needs and situations in a manner that a public system covering tens of millions of individuals cannot.

The experience of the past 30 years has demonstrated that while the private retirement system has the capacity to deal with an important social problem through individual initiative, changes in existing law are needed. In the first place, recent surveys indicate that, in spite of the incentives provided by existing law, approximately one-half of the non-agricultural labor force does not now participate in private retirement plans and that coverage is not likely to expand significantly under existing conditions. Moreover, overly restrictive requirements for participation in, or acquisition of vested benefits under, private retirement plans have resulted in effectively denying to millions of employees the full benefits of the private retirement system. Special limitations upon contributions on behalf of self-employed individuals and requirements for the plans in which they participate are so restrictive that they have created an artificial preference for the corporate form over other business forms which might be more suitable or desirable for a particular enterprise.

2. ELIGIBILITY REQUIREMENTS

A. Present law

The Internal Revenue Code does not now contain any specific requirements concerning eligibility conditions based on age or service that may be included in a private retirement plan established by a corporate employer. Existing administrative practice does permit such a plan to provide that participation in the plan is limited to employees who have attained a specified age or have been employed for a specified number of years if the effect of such provisions is not discrimination in favor of officers, shareholders, supervisory employees, or highly compensated employees. Likewise, such a plan may exclude from participation employees who have attained a specified age close to retirement when they otherwise become eligible to participate in the plan. On the other hand, the Internal Revenue Code specifically requires that a plan established by an unincorporated business in which an owner-employee (*i.e.*, a sole proprietor or a partner with a greater than 10 percent interest in capital or income) participates must provide that no employee with 3 or more years of service may be excluded from the plan.

B. Proposal

Reasonable service or age requirements are an appropriate means of preventing the dissipation of plan assets. The benefits earned by employees with short periods of service are usually small, both in absolute terms and in relation to the administrative costs attributable to these benefits. Overly restrictive requirements may, however, result in the arbitrary exclusion of employees from participation in private retirement plans and thereby frustrate the effective functioning of the private retirement system.

The proposed bill would therefore provide that a private retirement plan not be permitted to require, as a condition of participation, that an employee have completed a period of service with the employer in excess of 3 years, that the employee have attained an age in excess of 30 years, or that he not have attained an age which is less than 5 years preceding normal retirement age under the plan. For this purpose, normal retirement age means the earliest age under the plan at which an employee may retire and receive benefits which are not actuarily reduced.

In the case of a plan in which self-employed individuals who are owner-employees may participate, the bill would provide that the plan not be permitted to require, as a condition of participation, that the employee have completed more than 1 year of service with the employer if his then age is 35 years or greater, more than 2 years of service if his then age is 30 years or greater but less than 35 years, or more than 3 years of service if his then age is less than 30 years. Thus, the bill will require such plans to permit earlier participation by employees whose age exceeds 30 years.

C. Effective date

These rules would apply to all private retirement plans established after June 30, 1973. In the case of plans in effect on June 30, 1973, these rules would apply, to plan years beginning after January 1, 1975, except that in the case of plans which are collectively bargained, these rules would not apply to plan years beginning before the expiration of the collective bargaining agreement in effect on June 30, 1973.

3. VESTING REQUIREMENTS

A. Present law

There is no generally applicable requirement under existing law that a participant in a private retirement plan have at any time before he attains normal retirement age a nonforfeitable right to receive his accrued benefit under the plan. However, the failure to provide pre-retirement vesting is taken into account by the Internal Revenue Service in determining whether a plan satisfies the statutory requirement that it not discriminate in favor of officers, shareholders, supervisory employees, or highly compensated employees, and in appropriate circumstances the Service will not issue such a determination if a plan does not provide pre-retirement vesting. Neither the circumstances in which pre-retirement vesting is

required nor the degree of such vesting is well defined, and considerable variation has arisen. The Internal Revenue Code requires that a plan established by an unincorporated business in which an owner-employee participates must provide that each participant have an immediately nonforfeitable interest in the contributions made on his behalf under the plan.

B. Proposal

Some measures of pre-retirement vesting is essential if the private retirement system is to exist as a functioning and effective supplement to the social security system. This is especially true in view of our highly mobile labor force. An individual whose participation in a private retirement plan terminates before his rights in his benefits accrued under the plan have become nonforfeitable has, for all practical purposes, not really participated in the plan. In addition, pre-retirement vesting is needed to reinforce the non-discrimination requirements of existing law in cases where most of the employer contributions under a plan are made on behalf of participants with a proprietary interest in the employer.

The proposed bill would therefore require a private retirement plan to provide that a participant's rights in at least 50 percent of his accrued benefits (or the employer contributions and other amounts credited to his account) be nonforfeitable when the sum of his age and his years of participation in the plan equal 50 years and that this percentage increase ratably to 100 percent over the succeeding 5 years. Under this rule, the rights of older employees would vest more rapidly than the rights of younger employees, reflecting the fact that an older employee has less of an opportunity to earn a reasonable pension with a new employer or to save for his retirement.

To remove any disincentive against hiring older workers, a plan could provide that an employee's rights remain forfeitable until his period of plan participation is 3 years reduced by any period of service with the employer during which he did not participate in the plan. The plan would have to provide that upon completing this period of participation his rights in at least 50 percent of his accrued benefits are nonforfeitable, and this percentage would be required to increase ratably to 100 percent over the succeeding 5 years. Thus, if a plan requires 1 year of service with the employer as a condition of participation, it could provide that an employee's rights are 50 percent vested when the sum of his age and his years of participation equal 50 years but not before he has participated in the plan for 2 years. An employee hired at age 50 would become eligible to participate in the plan at age 51 and would not become 50 percent vested until age 53. He would not become fully vested until attaining age 58.

To avoid additional costs for plans in difficult financial condition, pre-retirement vesting would not be required with respect to benefits accrued for any plan year for which benefit payments to retired participants exceed benefit accruals by active participants and the present value of accrued liabilities to retired and active participants exceeds the value of plan assets. If, however, the plan is amended to provide greater benefits during a plan year when this exception would otherwise be operable, or within 5 years thereafter, the exception would not apply. This exception is designed to provide relief for plans that have a large number of retired participants in relation to the number of active participants and are not fully funded. These plans are typically found in industries where employment is declining and where any increase in pension costs would be especially burdensome.

In the case of private retirement plans in which self-employed individuals who are owner-employees participate, an employee's interest in at least 50 percent of his rights under the plan would be required to be nonforfeitable when the sum of his age and his years of participation equal 35 years. The balance of his rights under the plan would be required to become nonforfeitable not less rapidly than ratably over the succeeding 5 years of participation.

C. Effective date

These rules would apply to all private retirement plans established after June 30, 1973. In the case of plans in effect on June 30, 1973, these rules would apply only to benefits accrued or contributions made during plan years beginning after January 1975. In the case of collectively bargained plans, however, these rules would not apply to benefits accrued during plan years beginning before the expiration of the collective bargaining agreement in effect on June 30, 1973. In applying these rules, all participation in the plan (whether before or after January 1975) would be considered in determining whether the sum of the employee's age and his years of participation equal 50 years or 35 years, whichever is applicable.

4. SPECIAL ELIGIBILITY AND VESTING REQUIREMENTS TO INSURE NONDISCRIMINATION

A. Present Law

While the Internal Revenue Code does not provide for specific and generally applicable requirements on the age and service and generally applicable requirements on the age and service conditions for participation in a qualified plan and does not contain any specific and generally applicable requirement that a participant in a qualified plan have at any time before retirement age a nonforfeitable right to receive his accrued benefits, the age and service conditions for participation in a plan and the extent of pre-retirement vesting under the plan are considered by the Internal Revenue Service in determining whether the plan satisfies the nondiscrimination requirements of the Code. However, neither the circumstances under which less restrictive age and service conditions for participation and pre-retirement vesting will be required to satisfy the non-discrimination test, nor the substances of satisfactory provisions in cases where they are required, are well defined. As a result, considerable variation and uncertainty has arisen.

B. Proposal

The proposed bill would authorize the promulgation of regulations setting forth (1) the circumstances under which a plan will satisfy the nondiscrimination requirements only if the conditions of participation in the plan are less restrictive than those which would be generally applicable under the proposed bill and the conditions for vesting of benefits under the plan are less restrictive than those of general application under the proposed bill, and (2) the provisions which will be required in order to insure that a plan will satisfy the nondiscrimination requirements in light of the particular circumstances. Failure to include such conditions in a plan would result in the disqualification of the plan. Such provisions could not however, be required to be more restrictive than those which would be imposed by the bill on plans benefiting self-employed individuals who are owner-employees. The proposed bill in this respect would apply only to plans covering—

(1) a partner having (a) more than a 5 percent interest in capital or income, or (b) more than a 1 percent, but not more than a 5 percent, interest in capital or income if all such partners have more than 50 percent of the interests in capital or income; or

(2) an employee owning (or considered as owning within the meaning of section 318(a)(1) of the Code) (a) more than 5 percent in value of the outstanding stock of the corporation or (b) more than 1 percent, but not more than 5 percent, in value of the outstanding stock if all such employees together own more than 50 percent in value of the outstanding stock.

C. Effective date

These rules would apply to plan years to which the proposals relating to eligibility and vesting would apply.

5. DEDUCTION FOR PERSONAL SAVINGS FOR RETIREMENT

A. Present law

Under present law, employer contritions on behalf of an employee to a private retirement plan satisfying the qualification requirements of the Internal Revenue Code and investment earnings on these contributions are generally not subject to tax until paid to the employee or his beneficiaries, even though the employee's right to receive these amounts becomes nonforfeitable before payment is made. Employee contributions to such a plan are subject to tax currently (i.e., no deduction or exclusion is allowable), but investment earnings on these contributions are not subject to tax until paid. Amounts saved by an individual for his retirement outside the scope of a qualified plan are not deductible or excludible from gross income, and investment earnings on such amounts are subject to tax currently.

B. Proposal

The effect of existing law relating to saving for retirement purposes is to discriminate substantially against individuals who do not participate in qualified private retirement plans or who participate in plans providing inadequate benefits. Frequently, this situation is the result of a unilateral decision of the employer not to establish a private retirement plan for its employees or not to improve benefits under an existing plan. Many other individuals, because of the nature of their occupations, never have a sufficient period of service with any one employer to accrue adequate retirement benefits.

To remedy this inadequacy in existing law, the proposed bill would allow individuals a deduction in computing adjusted gross income for amounts contributed to individual retirement plans which they have established or to private retirement plans established by their employers. In addition, investment earnings on amounts contributed to individual retirement plans would be excludable from gross income.

In the case of an individual who does not participate in an employer-financed private retirement plan, the amount deductible would be limited to 20 percent of the first $7,500 of earned income. In the case of a married couple, each spouse would be eligible to claim this deduction, and the limit would be applied separately to each spouse. Thus, if a husband had earned income of $12,000 and his wife had earned income of $7,000, the maximum deduction for him would be $1,500, and the maximum deduction for her would be $1,400, permitting a total deduction of $2,900.

If an individual participates in an employer-financed plan, the 20 percent limitation on the deduction would be reduced to reflect employer contributions to the plan on his behalf. For this purpose, an individual would be permitted to assume that employer contributions on his behalf are 7 percent of his earned income. He could show, however, that a lesser amount had been contributed on his behalf; such amount would be determined in accordance with Treasury Department regulations on the basis of the particular facts and circumstances of his situation. In the case of individuals who have earned income which is not covered by the social security ssystem or the railroad retirement system, the limitation on the deduction would be further reduced by the amount of tax that would be imposed under the Federal Insurance Con-

tributions Act if that income were covered by the social security system. This reflects the fact that taxes imposed on employees under the Federal Insurance Contributions Act are not deductible.

Under the proposed bill, an individual would be allowed to invest these amounts in a broad range of assets, including stocks, bonds, mutual fund shares, annuity and other life insurance contracts, face-amount certificates, and savings accounts with financial institutions. While these assets could not be commingled with other property, they could be held in custodial accounts, and a taxpayer would not be required to establish a trust for this purpose.

To insure that amounts contributed to individual retirement programs and investment earnings on such amounts are used only for retirement purposes, withdrawals before the individual attains age 59½ would not qualify for the general income averaging provided under existing law and would also be subject to an additional penalty tax of 30 percent of the amount withdrawn. This penalty would not apply, however, if the taxpayer has died or has become disabled or if the amount withdrawn is deposited in another individual retirement plan within 60 days. This last exception is designed to permit transfer of individual retirement amounts from one type of investment to another, or from one trustee or custodian to another.

Moreover, withdrawals would be required to begin by the time the taxpayer reaches age 70½ and would have to be sufficiently large so that the entire accumulation will be distributed over his life expectancy or the combined life expectancy of the taxpayer and his spouse. If sufficient amounts are not withdrawn to meet these rules after age 70½, an annual penalty of 10 percent of the excess accumulation would be imposed.

To insure compliance with the foregoing requirements, trustees, custodians, and other persons having control of amounts deducted under the proposal would be required to submit annual reports to the Internal Revenue Service similar to those which are now required of trustees of plans benefitting self-employed individuals who are owner-employees.

C. Effective date

This proposal would apply to taxable years ending after the date of enactment of the proposed bill.

6. CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS AND SHAREHOLDER-EMPLOYEES OF ELECTING SMALL BUSINESS CORPORATIONS

A. Present law

The Internal Revenue Code now limits the deductible contribution to a qualified private retirement plan on behalf of a self-employed individual to the lesser of 10 percent of earned income or $2,500. In certain circumstances, an additional $2,500 nondeductible contribution may be made. Penalties are imposed if excessive contributions are made and are not returned. With respect to a shareholder-employee of an electing small business corporation, no limit is imposed on the amount that may be contributed on his behalf, but if the contribution exceeds the lesser of 10 percent of compensation or $2,500, the excess is includable in his gross income.

The limitation on contributions on behalf of self-employed individuals has had a number of undesirable effects. In the first place, while the limitation applies by its terms only to contributions on behalf of self-employed individuals, as a matter of practice, it applies as well to their employees with the result that the contributions on their behalf may be a very small percentage of their compensation. Another undesirable effect of the limitation on contributions on behalf of self-employed persons is that it has provided an artificial incentive for the incorporation of businesses and professional practices.

B. Proposal

The proposed bill would provide that the rate at which deductible contributions may be made on behalf of self-employed individuals should be the rate at which contributions are made on behalf of other participants (but not more than 15 percent), and that the maximum amount of earned income to which this rate may be applied should be $50,000. As a result, a self-employed individual would be permitted a deduction of as much as $7,500, but only if he contributed 15 percent of compensation for his employees. The maximum rate at which additional nondeductible contributions could be made would be limited to 10 percent of earned income (again considering not more than $50,000 of earned income); ten percent is the limit under existing administrative practice applicable to nondeductible voluntary contributions by any participant in a qualified plan.

The limitation of excludable contributions on behalf of shareholder-employees of electing small business corporations would likewise be the product of the rate at which contributions are made on behalf of other employees (but not more than 15 percent) and the lesser of his competition or $50,000.

C. Effective date

These revised limitations would apply to taxable years beginning after December 31, 1974, unless the taxpayer elected to apply them to taxable years ending after December 31, 1973.

Mr. CURTIS. Mr. President, it is my hope that the Committee on Finance, on which I serve, will set this bill down for hearing soon. It has the support of the President of the United States. It has the support of the Treasury of our country. It is a much needed piece of legislation that will bring justice to one half of our population who are now discriminated against in a very severe way.

By Mr. HARRY F. BYRD, JR. (for himself and Mr. SCOTT of Virginia):

S. 378. A bill to provide for the establishment and operation of a research center at Blacksburg, Va. Referred to the Committee on Interior and Insular Affairs.

ESTABLISHMENT OF A RESEARCH CENTER FOR THE BUREAU OF MINES AT VIRGINIA POLYTECHNIC INSTITUTE

Mr. HARRY F. BYRD, JR. Mr. President, for myself and my colleague (Mr. SCOTT of Virginia) I send to the desk a bill and ask that it be printed and appropriately referred.

Mr. President, this bill is legislation to provide for the establishment of a research center for the Bureau of Mines, of the Department of the Interior, at Virginia Polytechnic Institute and State University at Blacksburg, Va.

A similar research center is now at the University of Maryland, but on October 1, 1965, the Congress authorized reconveyance to the State of Maryland that land on which the center is now situated, along with the buildings thereon. This was done because of the need of the space by the University of Maryland. The research center thereupon leased the premises until a suitable relocation site could be found.

That lease expires on June 10, 1978, and the University of Maryland has informed the Bureau of Mines that it will not renew the lease. Because of the dire need for additional space, the University of Maryland desires that the buildings housing the research center be vacated at the earliest possible moment.

Virginia Polytechnic Institute and State University has offered without cost, to the Bureau of Mines, a tract of approximately 20 acres on or adjacent to its campus upon which a research center can be built. The proposed legislation would authorize the expenditure of $6.1 million to erect and equip such a facility and would also provide for funds necessary for the annual maintenance and operation of such facility.

The location of this center at VPI and SU would be most beneficial to the Bureau of Mines. The university is a large and well respected institution of higher learning, which has especially fine schools in the area of technology and science.

It has a large library well oriented in technical and scientific fields. The university atmosphere and the locale are such that will be most attractive to prospective employees of the center.

Blacksburg, Va., is located adjacent to Virginia's vast coal mining regions. Therefore, the center would be located close to active workshops of all description.

As the research center must be relocated prior to June 1978, there is a one-time expense of relocation, which the Government must bear. Relocation to the southwest Virginia area would, in the estimation of the Bureau of Mines, result in substantial savings in annual maintenance and operation costs.

Thus, over the years the Federal Treasury will benefit.

My colleague from Virginia, Senator SCOTT, is cosponsoring this legislation with me. Also, there is companion legislation being introduced in the House which is cosponsored by the entire 10-man Virginia delegation.

By Mr. COOK:

S. 384. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of coal. Referred to the Committee on Finance.

FEDERAL COAL SEVERANCE TAX AND REVENUE SHARING ACT OF 1973

Mr. COOK. Mr. President, in March of last year I introduced S. 3444, a bill which would impose a Federal severance tax on the extraction of coal and would also allow the States to share in the revenue collected. At the time I introduced this bill, I encouraged the Senate Finance Committee to study my proposal. On June 19, in a letter to Senator LONG, I again urged that hearings be conducted on this bill at the earliest practical date. Unfortunately, there were no hearings scheduled and no action was taken on this proposed legislation. Therefore, I am updating and again introducing the Federal Coal Severance Tax and Revenue Sharing Act of 1973.

The proposed tax would be imposed on coal on property located within the United States and would be of an amount equal to 4 percent of the gross income from the property derived by the holder of the working interest during the tax-

able period. Because of certain exclusions in the bill, it would, in effect, tax the gross value of the coal extracted from the mineral property. Furthermore, it places a minimum tax or floor on an amount equal to a rate of 30 cents per ton to the total number of tons produced and sold.

Mr. President, many coal mining companies have generally opposed State severance taxes on the grounds that if nonuniform taxes were enacted in the various States, those companies in the States which impose a severance tax higher than its neighbor would be at a competitive disadvantage. It has also been argued that independent action by a State to implement a tax would reduce sharply the demand for coal in that State and would adversely affect employment and make the industry less profitable. Because of this fear, the individual States were deprived of much needed revenues.

My State has now had some experience with a coal severance tax such as I now propose. During the first quarter after enactment, the tax yielded $8,703,822 which is 85 percent of the total revenue collected for the license and privilege category of tax in Kentucky. The category includes corporation, alcoholic beverage, motorboat, and similar licenses. It is also interesting to note that the coal severance tax produced more revenue than that received from the tax on the consumption of beer, distilled spirits, cigarettes, and insurance premiums combined. Beer $1.2, distilled spirits $2.1, cigarettes $4.2, Insurance $1.0—Kentucky has many uses for this revenue.

There are those who hold that the tax has been the sole cause of the failure of many coal producers in Kentucky. It is difficult to prove or disprove this claim. However, one must consider the many other factors affecting the coal industry. I include the coal mine health and safety legislation, the restrictions placed on the use of high sulfur coal, water quality controls, and increased restrictions on strip mining. I would be less than honest if I did not include the severance tax as a contributor to some mine closings.

However, we have within our power to eliminate this latter cause and still permit the States to receive the much needed additional revenue the severance tax produces. This can best be accomplished by putting all States on an equal footing and this is what I propose be done.

By adopting this bill we would impose a Federal tax of 4 percent on coal in a uniform manner and provide the individual States with revenue commensurate with the value of the coal produced in that State.

In 1970 the total production of coal amounted to approximately 603 million tons. The gross value for the 1970 production was placed somewhere in the neighborhood of $3.8 billion. In 1971 preliminary figures indicate a production of 560 million tons of coal valued at approximately $3.5 billion. A Federal severance tax imposed upon the 1971 figure would have yielded over $140 million in new revenue. While this figure might seem relatively small in relation to the proposed Federal budget for fiscal 1973 of $246.3 billion, it should be remembered that this tax is a new tax and would be a substantial amount to those States which receive a Federal tax credit for the imposition of a similar State imposed severance tax.

This brings us to the second most important feature of this bill, the Federal tax credit. Since the President has now signed into law a revenue sharing plan, that concept is now a term of everyday use. The bill provides that any State severance taxes on coal collected by the States will be deducted from the amount levied by the Federal Government. Thus, the bill creates an incentive for State governments to enact their own severance taxes which in turn will create new sources of income for many of our tax-starved States.

Mr. President, I think we are all only too familiar with the need of the States and localities for additional revenues to finance education and other very necessary expenditures. I believe that this legislation is urgently needed, and I strongly encourage the Senate Finance Committee to very carefully study my proposal.

By Mr. COOK (for himself and Mr. HUDDLESTON):

S. 385. A bill to amend the Uniform Time Act of 1966 to provide that daylight saving time be used from Memorial Day to September 30. Referred to the Committee on Commerce.

Mr. COOK. Mr. President, on April 23, 1970, I initially introduced a bill which sought to amend the Uniform Time Act of 1966. At that time, an identical bill was introduced in the House by Congressman TIM LEE CARTER of Kentucky; however, neither bill was acted upon. In the 92d Congress, I reintroduced the bill, which was favorably reported out of committee, however, due to the persistent objections of my distinguished colleagues from New England, floor action was prevented. The reasons for the proposed amendment have not changed.

Schoolchildren, both suburban and rural, are forced to walk dark streets and highways in order to catch schoolbuses, thereby exposing themselves to potentially hazardous situations.

Farmers also are hindered in their work by being forced to work in darkness, since the functions of nature do not conform to the mechanics of a timepiece. The widespread support from residents of many areas throughout this region has indicated to me that such an amendment would be of great benefit to thousands of citizens, while creating inconvenience for very few.

Therefore, because of the great need and the widespread support for such a change, I am reintroducing the amendment to the Uniform Time Act of 1966 to reduce the period of daylight saving time from Memorial Day to September 30 and I urge the Senate to act on this extremely necessary proposal. I ask unanimous consent that my introductory remarks of April 23, 1970 be printed in the RECORD.

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

S. 3760—INTRODUCTION OF A BILL TO AMEND THE UNIFORM TIME ACT OF 1966

Mr. COOK. Mr. President, the 89th Congress enacted the Federal Uniform Time Act of 1966. The legislation divided the United States into eight standard time zones. It further provided that on the last Sunday in April the time is advanced 1 hour until the last Sunday in October. In effect, Congress has given us 6 months of daylight saving time.

The issue of uniform time and daylight saving time has been debated many times in the past. I have no quarrel with the general principle of a uniform time in this commercial and industrial era. However, there are equally important needs in this country which must also be considered.

For example, my own State of Kentucky is geographically located at the far western end of the eastern time zone. Further compounding this problem, a portion of Kentucky quite logically belongs in the central time zone. This situation causes peculiar hardships and difficulties, especially during the months of May and October.

In both suburban and rural sections of Kentucky, our young children have to walk on dangerous streets and highways to catch school buses in the early darkness of the fall months. There is no reason to expose them to this hazard the entire school year.

The forgotten man in our country, the farmer, also suffers under the hardships of these black mornings. Many a farmers has wryly stated that "chickens and cows don't observe daylight saving time." Unfortunately, the farmer has to start working when the needs of his livestock and crops require it—rather than by the artificial time on his clock.

Mr. President, I do not propose a repeal of the Federal Uniform Time Act because it does have some merit. What I propose is to amend the 1966 act so that daylight saving time prevails only in that period from Memorial Day to Labor Day. My bill would not repeal uniform time, but merely make it more sensible. It would reduce daylight saving time from the present 6 months to little more than 3 months. It would protect our school children who must now travel the highways during the dark, fall mornings. If passed, it would also provide the farmer an additional 3 months to farm according to nature.

Mr. President, on December 16, 1969, the distinguished Congressman from Kentucky's Fifth Congressional District, the Honorable TIM LEE CARTER, introduced H.R. 15276 in the House. Because of both the need for such change in the law and the favorable reception it received, I am offering it for consideration in the Senate.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. STEVENSON, Mr. CRANSTON, Mr. CASE, Mr. PERCY, and Mr. JAVITS):

S. 386. A bill to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

THE EMERGENCY COMMUTER RELIEF ACT

Mr. WILLIAMS. Mr. President, today our Nation's urban mass transportation systems are in a state of crisis and things are going from bad to worse.

More and more commuter lines are on the verge of bankruptcy. Services are

being curtailed and fares are continually raised in order to meet ever-increasing operating deficits which currently amount to over $360 million a year. And these deficits are not a big-city phenomenon. Systems in Biloxi, Miss.; Waterloo, Iowa; Altoona, Pa.; and Manchester, N.H., are now operating in the red and are being subsidized out of local funds.

In my home State of New Jersey ever-increasing operating deficits have recently caused the bankrupt Central Railroad to petition the court to terminate commuter services for over 15,000 of our citizens. These commuters may now be forced to find alternative ways of getting to and from work. And we all know what that alternative will be: the increased use of the automobile, resulting in additional air pollution, traffic congestion, and the perpetration of a mode of transportation which cannot, by itself, meet our urban and suburban commuter needs.

Today's situation is grave and is getting worse. Just last year Patrick Healy, the executive vice president of the National League of Cities-U.S. Conference of Mayors, testified on the future of urban mass transportation as follows:

> At present rates, all vestiges of private enterprise will disappear, thus greatly increasing the public cost due to takeovers and depleting the funds of the capital grants program. Costs, fares, and deficits will continue to rise, and as the pattern goes, ridership and services will continue to shrink.
>
> The 108 systems which are at present subsidized—in 1965 the figure was 27—will almost certainly increase to the point where every large city transit system will be publicly owned and heavily subsidized.

Mayor Luken of Cincinnati, Ohio, has stated that:

> Ridership in Cincinnati has declined severely because of the fares, at least in large part because of the fares. Loss of ridership has meant loss of revenues and necessitated cutbacks in transit service.
>
> At one time Cincinnati Transit Co. had passengers of approximately 132 million, back in the late 1940's per year. This year it will be less than 20 million. It got down to about 21 million last year and the estimates are for a continuing decline of about 14 percent or so per year.
>
> So the transit system which covers the Ohio part of the metropolitan area has in fact been dying a slow death and there seems to be precious little time left. One thing is certain, and that is that the transit system cannot continue to be operated from revenues derived from the farebox. This has meant one round after another of fare increases and service cutbacks.

Mr. President, the need for revitalization and expansion of our Nation's mass transit systems is persuasive and overwhelming. The Emergency Commuter Relief Act is designed to meet this need.

It is designed to aid our States and municipalities so that more and more mass transit systems will not be forced to raise fares, curtail services, and eventually grind to a halt.

It recognizes the fact that mass transportation is the lifeblood of an urbanized society. And that the capital assistance program created by the Urban Mass Transportation Assistance Act of 1970 must be complemented by a new program of operating assistance if we are to alleviate the plight of the transit industry, the increasing number of municipalities which own and operate transit systems and the many millions of our citizens who are dependent upon urban mass transit.

The legislation which I am introducing today does not embody new or revolutionary programs. Almost identical provisions which provided for operating assistance to mass transit systems were first passed by this body during the 91st Congress, but were not acted upon by the House.

During the 92d Congress the Senate again responded to the obvious need for Federal operating assistance and passed the Emergency Commuter Relief Act as part of S. 3248, the Housing and Urban Development Act of 1972. However, last September when it became apparent that the House of Representatives, due to time limitations, would not act on Housing legislation, the Senate once again passed the Emergency Commuter Relief Act as an amendment to the Federal-Aid Highway Act. This provision was then adopted by the House-Senate conference, but failed to become law when the House adjourned on October 18, due to the lack of a quorum.

Mr. President, on three occasions the Senate has acted favorably on this most important legislation. And now our Nation's transit situation is even more critical and there is a far greater need for definitive Federal action today than there was even 1 short year ago.

Let me now briefly outline how the Emergency Communter Relief Act would alleviate the transit crisis.

It would amend section 3 of the Urban Mass Transportation Act of 1964 to prevent reduction of essential transportation services by authorizing assistance to defray operating expenses.

Grants, on a two-third Federal, one-third local matching basis, would be provided to State or local public bodies in order to assist any mass transportation system maintaining service in an urban area and to pay operating expenses incurred as a result of providing this service.

Included within the terms of such assistence are grants for debt servicing for mass transit investments.

As a prerequisite for obtaining a grant for operating expenses, the States and localities would have to determine which systems in their jurisdiction were in need of such aid and then submit to the Secretary of Transportation a comprehensive mass transportation program to improve such service and to place mass transportation operations on a sound financial basis. The Secretary would also be required to make a determination that the mass transit services are being efficiently provided by the system applying for the grant in accordance with regulations promulgated by the Secretary.

The operating assistance provisions are geared to fulfilling three prime objectives: Maintenance of service to the public; stimulation of further ridership, especially in the commuter peak hour category; and assistance to communities in meeting their overall development aims.

If enacted, this program will be an immense and immediate benefit to local communities.

It will give them the option to plan and implement the mix of transportation services most responsive to their own needs and their own goals for orderly community growth and development.

It will provide local governments with the resources to determine their own transportation policy.

And, it will bring a new measure of flexibility and balance to the planning and implementation of urban transportation programs.

To fund this program, $800 million would be made available over the next 2 years. This is a realistic figure of actual needs and is fully supported by the Committee on Banking, Housing and Urban Affairs hearing record which was made during the 92d Congress.

The Emergency Commuter Relief Act would also amend the Urban Mass Transportation Act of 1964 to provide that Federal grants under the capital assistance program shall be in an amount to 90 percent of the net project cost. In addition, grants for technical assistance under section 9 of the act would also be authorized at the 90-percent level. In this manner, funding for mass transit facilities and equipment would be put on a ratio which is identical to that of the interstate highway program. This type of parody is essential if our Nation's transit investment is to become an attractive alternative to highway programs, which over the years have been funded on a 90-to-10 basis for interstate construction.

Finally, my bill would provide an additional $3 billion in contract authority to sustain the capital grant program through fiscal year 1977. Under the 1970 Urban Mass Transportation Assistance Act, the Secretary of Transportation was required to submit to the Congress by February 1, 1972, his estimate of the authorizations needed to carry out that program from July 1, 1975, to July 1, 1977.

Unfortunately, the administration failed to submit such information to the Congress within the legally prescribed time limitation and we were unable to act upon their recommendation when it was finally submitted on September 7 of last year. However, the $3 billion contained in this legislation is in accordance with the administration's recommendations. This level of funding should satisfy the act's objectives which were to assure the continued progress and continuity of the program.

Mr. President, today there is a great national stake in expanding and modernizing our public mass transportation systems. The Emergency Commuter Relief Act reflects this stake and authorizes a total commitment of $3.8 billion in additional Federal resources to meet the No. 1 transportation challenge of the 1970's.

If we are to reverse the decline and fall of transportation alternatives and not adversely effect the millions of people who use mass transportation, we must keep our present systems alive. We must turn them around and improve their services. If we do this, fares can be stabilized, services improved, equipment

modernized and we can begin to construct a viable mass transportation network which will serve all of our Nation's citizens. The prompt enactment of the Emergency Commuter Relief Act will go a long way toward meeting these goals.

Mr. President, I now ask unanimous consent that the full text of the Emergency Commuter Relief Act be inserted in the RECORD.

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

S. 386

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

SECTION 1. The Congress finds—

(1) that over 70 per centum of the Nation's population lives in urban areas;

(2) that transportation is the lifeblood of an urbanized society and the health and welfare of that society depends upon the provision of efficient economical and convenient transportation within and between its urban areas;

(3) that for many years the mass transportation industry satisfied the transportation needs of the urban areas of the country capably and profitably;

(4) that in recent years the maintenance of even minimal mass transportation service in urban areas has become so financially burdensome as to threaten the continuation of this essential public service;

(5) that the termination of such service or the continued increase in its cost to the user is undesirable, and may have a particularly serious adverse effect upon the welfare of a substantial number of lower income persons;

(6) that some urban areas are now engaged in developing preliminary plans for, or are actually carrying out, comprehensive projects to revitalize their mass transportation operations; and

(7) that immediate substantial Federal assistance is needed to enable many mass transportation systems to continue to provide vital service.

SEC. 2. (a) The fifth sentence of section 4(a) of the Urban Mass Transportation Act of 1964 is amended to read as follows: "The Federal grant for any such project to be assisted under section 3 (other than a project for payment of operating expenses) shall be in an amount equal to 90 per centum of the net project cost."

(b) The amendment made by subsection (a) shall apply only with respect to projects which were not subject to administrative reservation on or before July 1, 1973.

SEC. 3. (a) Section 3 of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "No" in the fifth sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (f), no"; and

(2) by adding at the end thereof a new subsection as follows:

"(f) The Secretary is also authorized, on such terms and conditions as he may prescribe, to make grants or loans to any State or local public body to enable it to assist any mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. No financial assistance shall be provided under this subsection unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed to carry out a program referred to in section 4(a), and (2) the applicant State or public body has submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program, meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for placing the mass transportation operations of such system on a sound financial basis, and (3) the Secretary determines that the mass transportation services provided by each system involved is being provided by an efficient operation of such system in accordance with regulations promulgated by the Secretary.

The amount of any grant under this subsection to a State or local public body to enable it to assist any mass transportation system to pay operating expenses shall not exceed twice the amount of financial assistance provided from State or local sources for that purpose. The Secretary shall issue such regulations as he deems necessary to administer this subsection in an equitable manner. Such regulations shall include appropriate definitions of (A) operating expenses, and (B) the sources or types of State or local financial assistance which may be considered in computing the maximum allowable Federal grant."

(b) The fourth sentence of section 4(a) of such Act is amended by striking out "section 3" and inserting in lieu thereof "section 3 (other than subsection (f))".

(c) Section 4(c) of such Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "sections 3, 7(b), and 9" and inserting in lieu thereof "section 3 (except subsection (f)), and sections 7(b) and 9";

(3) by striking out "this subsection" wherever it appears and inserting in lieu thereof "this paragraph"; and

(4) by adding at the end thereof a new paragraph as follows:

"(2) To finance grants and loans under section 3(f) of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $800,000,000. This amount shall become available for obligation upon the date of enactment of this paragraph and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $400,000,000 prior to July 1, 1974, which amount may be increased to not to exceed an aggregate of $800,000,000 prior to July 1, 1975. Sums so appropriated shall remain available until expended."

(d) Section 4(c) of such Act is amended by striking out "$3,100,000,000" in the first and third sentences and inserting in lieu thereof "$6,100,000,000".

(e) (1) Section 12(c) of such Act is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and ";

(C) by adding after paragraph (5) a new paragraph as follows:

"(6) the term 'mass transportation system' means any private company or public authority or agency providing mass transportation service."

(2) Section 12 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) The provision of assistance for the payment of operating expenses under section 3(f) shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable."

SEC. 4. Section 9 of the Urban Mass Transportation Act of 1964 is amended as follows:

(a) insert "(a)" before the first sentence;

(b) in the first sentence, delete the words "engineering, and designing" and insert in lieu thereof the words "engineering, designing, and evaluation";

(c) in the second sentence, delete the word "and" before "(3)", delete the period at the end of the sentence, and insert "; and (4) evaluation of such projects after their implementation." at the end of the sentence;

(d) in the third sentence, change the word "section" to "subsection" and insert the words "ninety per centum" in lieu of two-thirds"; and

(e) add the following new subsection:

"(b) The Secretary is authorized to utilize not to exceed one half of one percent of the authorization provided in Section 4(c) to carry out technical studies by contract without limitation on the Federal share of the cost."

URBAN MASS TRANSIT

Mr. JAVITS. Mr. President. I am pleased to join with the distinguished Senator from New Jersey (Mr. WILLIAMS) as a cosponsor of the Emergency Commuter Act. I view this legislation as one of the most important and necessary programs that the 93d Congress will have before it. Our Nation's need for improved mass transportation services has reached the critical stage and the Congress must not continue the present system of providing unbalanced piecemeal authorizations for our multiple transportation modes.

The legislative history in the Senate on operating subsidies for urban mass transit and commuter lines should be well remembered by Senators. The legislation passed the Senate twice last Congress, first as chapter VI of S. 3248, the Housing and Urban Development Act of 1972, and later as title III of S. 3939, the Federal-Aid Highway Act of 1972. Title IV of S. 3248 Housing and Urban Development Act contained an amendment I offered which provided additional funds to cover the new mass transit operating authorization within the act. But the bill died in conference. This new authority combined with the necessary funds is incorporated in the legislation introduced today.

The need for developing and improving urban transportation systems is evident when one experiences a transportation snarl in an urban area. With over 70 percent of the American people living in metropolitan areas, together with the fact that more and more citizens are traveling greater distances to and from their employment each year, there is certainly a broad mandate for urban transportation reform.

In New York City, the Metropolitan Transit Authority moves more than 2½ billion riders a year. The Long Island Railroad carries 70 million; subways, 1¼ billion; buses, 800 million; bridges and tunnels, over 400 million; and other facilities, about 18 million. For cities to continue to maintain the operation of such transit systems, new solutions are needed.

The Senate Committee on Banking, Housing and Urban Affairs stated in its report on S. 3939, the 1972 Federal-aid highway bill, that, in the decade from 1961–71, the number of municipalities which were forced to initiate programs of operating assistance to transit systems

increased by nearly 400 percent. It further reported that deficits are currently running at a rate of $360 million a year and are nationwide with 35 cities facing the issue of initiating local subsidies for transit operations.

Congress must take action to change the ever-present picture of our urban transit industry from one of rising fares, increasing operating expenses, and declining ridership to that of an improved and sound financial operation. It is my belief that the Emergency Commuter Act is vital in this effort. The bill, which amends the Urban Mass Transportation Act of 1964, provides the following:

A separate fund to allow the Secretary of Transportation to incur obligations by grant agreement, contracts, or otherwise up to $400 million for each of the next 2 fiscal years to cover the estimated operating deficits of the Nation's mass transit systems. This $800 million operating subsidy would be provided on a cost-sharing basis of two-thirds Federal to one-third State and local.

Increases by $3 billion existing contract authority to sustain the capital grant financing program of urban mass transportation through fiscal year 1977. The Federal-local cost sharing formula was modified from two-thirds, one-third to 90 to 10.

In contrast to a $400 million operating subsidy as authorized by this amendment to an already existing transportation system, it is estimated that the building of roads costs anywhere from $1 million to $5 million per mile. On a cost-benefit ratio, there is little question of the attractiveness of the operating subsidy. Certainly, the American taxpayer is entitled to greater returns on his tax dollars. In addition, further roads only contribute to the ever mounting problem of air pollution while mass transit can play a key role in reducing such pollution.

Mr. President, we are subsidizing airlines, ships, housing, and numerous other programs, but I know of no subsidy more indispensable to the life of the increasingly city-dwelling and commuting American people than that which is called for by this legislation.

Mr. COOK (for himself and Mr. GURNEY):

S. 388. A bill to amend the Soil Conservation and Domestic Allotment Act in order to prohibit the impoundment of funds appropriated to carry out the Rural Environmental Assistance Program. Referred to the Committee on Agriculture and Forestry.

Mr. COOK. Mr. President, on December 26 the U.S. Department of Agriculture announced that the rural environmental assistance program was to be terminated. REAP, which was the successor to the agricultural conservation program, was the primary instrument by which the Federal Government shared with farmers the costs of carrying out approved soil, water, woodland, and wildlife conservation and pollution abatement practices on their land.

It has been the cost-sharing provisions of the REAP program which have made it possible for many of our Nation's farmers to engage in practices, such as the following:

First. Establishment of vegetative cover—utilized to establish cover in crop rotations to retard erosion plus the use of strip-cropping to protect soil from wind and water erosion.

Second. Tree planting and timber stand improvement—primarily for soil protection and the production of forest products or for windbreaks, shelterbelts, or to stabilize gullies or streambanks.

Third. Development of livestock water facilities—enabled farmers to build facilities for watering livestock in order to disperse stock and protect vegetative cover at the same time reducing the erosion and pollution.

Fourth. Establishment of conservation systems—provide for construction of terrace systems to control runoff including the construction of ditches or dikes and the laying of title to intercept runoff and divert excess water.

Fifth. Conservation and safe disposal of water—included the development and renovation of irrigation systems to conserve water, prevent erosion, and reduce pollution.

Sixth. Wildlife practices—provided for establishment of habitat, protective cover or food plots for wildlife. Other wildlife practices included the development or restoration of shallow water.

Seventh. Animal waste disposal—provided for construction of animal waste storage pits, ponds, lagoons, diversions, channels, waterways, and other structures needed to manage animal waste on farms.

Eighth. Sediment retention and chemical runoff control—the prevention or reduction of pollution by means of sediment retention and water control structure, vegetated filter strips, sod waterways, and similar practices.

Ninth. Disposal of farm residues and solid wastes—included the chopping or shredding of certain solid crop and woodland residues as well as the construction of pits to disperse of solid wastes.

Tenth. Emergency conservation practices—provided funds in certain instances to meet emergency conservation measures needed as the result of natural disasters.

The rationale given by the Department of Agriculture for the termination of the REAP program was that in order to restrict 1973 Federal budget outlays to $250 billion, many of the federal programs would have to be trimmed and those of lower priority eliminated entirely. Since December 26, 1972, it has been the position of the Department that the American farmer has reached an earnings level which will enable him to bear the full costs of these conservation practices on his farm, thereby making REAP a low priority program.

This is in direct contradiction to the basic premise of the Department of Agriculture publication entitled "The Rural Environmental Assistance Program in Action" and published in 1972, only 3 months prior to termination. At that time the position of the Department was:

Cost sharing under REAP is available for conservation projects that the individual farmer or rancher would not otherwise undertake. Such projects frequently yield greater benefits to the community as a whole than they do to the producer directly involved.

I submit that it is this latter position which is the more credible of the two. Likewise, to label REAP a low-priority item as the Department does is to label conservation and pollution abatement and controls as low priorities.

In addition, this unwise and unwarranted decision by the executive branch to terminate the program by impounding the funds appropriated for it is diametrically opposed to the express will of Congress as enunciated in the Agricultural Act of 1970 which was approved by both Houses of Congress and signed by the President. Section 901(a) of the act states:

The Congress commits itself to a sound balance between rural and urban American. The Congress considers this balance so essential to the peace, prosperity, and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

Therefore, Mr. President, because of the reasons I have just listed, I am today introducing legislation for myself and the senior Senator from Florida (Mr. GURNEY) to prohibit any officer or employee of the United States from impounding funds appropriated by the Congress for the purpose of carrying into effect the rural environmental assistance program. It is my hope that Congress will expeditiously approve this proposal in order that funds will once again be available for this very worthwhile program in the next fiscal year.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

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

S. 388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590f) is amended by inserting between the first and second paragraphs a new paragraph as follows:

"Funds appropriated by Congress for the purpose of carrying into effect the programs authorized in sections 7 through 15, 16(a), and 17 of this Act shall not be impounded, or otherwise withheld from obligation or expenditure, by any officer or employee of the United States. Such funds shall be fully expended for the purposes for which they were appropriated in the fiscal year or years for which they are appropriated."

SEC. 2. The amendment made by the first section of this Act shall be effective with respect to funds appropriated for the fiscal year beginning July 1, 1972, to carry out sections 7 through 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act and to funds appropriated for each fiscal year thereafter to carry out such sections.

By Mr. SCHWEIKER:

S. 390. A bill to amend the National Flood Insurance Act of 1968. Referred to the Committee on Banking, Housing and Urban Affairs.

NATIONAL FLOOD INSURANCE ACT AMENDMENTS OF 1973

Mr. SCHWEIKER. Mr. President, I introduce a bill to amend the National Flood Insurance Act and ask that it be appropriately referred.

Last summer Hurricane Agnes caused over $3 billion in property damage, flooded 5,000 square miles of land area, and caused 118 deaths. It was the worst natural disaster in the entire history of the United States. In addition, there was severe flooding in other parts of the country, including the particularly disastrous flood in South Dakota shortly before the Agnes storm.

Of the six States involved in the Agnes disaster, Pennsylvania was hardest hit. According to Government estimates, about 70 percent of the total damage occurred in Pennsylvania. Of the damage inflicted on Pennsylvania, about 70 percent of the total occurred in the area of Wilkes-Barre. Many other communities, including the capital city, Harrisburg, were very hard hit.

The Office of Emergency Preparedness has said that hundreds of cities, towns, and rural communities along 4,500 miles of major rivers and 9,000 miles of streams and tributaries were flooded. Over 500,000 people suffered losses, 116,000 dwellings and mobile homes, and 2,400 farm buildings, were damaged or destroyed, and 5,800 businesses were destroyed.

This bill is similar to legislation I introduced shortly after the flooding last summer. On August 14, 1972, I introduced S. 3912. The Subcommittee on Housing and Urban Affairs held hearings on my bill, along with other similar bills relating to flood insurance, on August 15. Unfortunately, no further action was taken by the committee, but I am sincerely hopeful that we will have new legislation this year. Experience has shown us that the existing flood insurance program is simply not adequate to meet the problems resulting from a large natural disaster.

It is indeed regrettable that very few citizens were covered by flood insurance under the Federal program set up by the National Flood Insurance Act. Nobody in Harrisburg, for example, was covered. Only two people in Wilkes-Barre had flood insurance. Although 93 communities in Pennsylvania had qualified for flood insurance, very few individual citizens had obtained it.

One of the problems has been in distributing the insurance. Last year I received reports, for example, of individuals who tried to obtain flood insurance through insurance agents, but were unable to do so. This program was designed to be available to all qualified citizens, and the Department of Housing and Urban Development must take every action necessary to encourage the widespread availability of flood insurance as a practical matter. HUD did take one step in that direction by establishing a $10 minimum commission, regardless of the size of the premium. It was hoped this would encourage agents to sell the policies and broaden the protection currently available to the public.

The National Flood Insurance Act Amendments of 1973 would do the following:

First, it would double the statutory flood insurance coverage limits. That is, it would double both the subsidized limits on various types of structures and contents, as well as doubling the maximum limits of flood insurance coverage. The subsidized limits on single-family residential units would be raised from $17,500 to $35,000. The limits on other residential units and nonresidential structures would be increased from $30,000 to $60,000. The coverage for the contents of residential structures would be raised from $5,000 to $10,000, and the coverage for the contents of nonresidential structures would be substantially increased from $5,000 to $60,000. The latter provision regarding the contents of nonresidential structures is concerned primarily with businesses, and the $5,000 present limit is clearly very insufficient. Therefore, my legislation would increase that coverage to $60,000. In each case, nonsubsidized flood insurance at actuarial rates could be obtained in an amount equivalent to the amount of subsidized coverage. Therefore, maximum coverage is double the amount of the subsidized coverage.

Second, my legislation would increase the authorization for total coverage in force under the national flood insurance program from $2.5 billion to $10 billion. Although legislation is now pending in the 1972 Housing Act to increase the debt limit to $4 billion, even this is inadequate for any substantial expansion of the program. I feel that a $10 billion statutory limit is more realistic.

Third, the bill requires individuals to purchase flood insurance as a condition of the issuance of Federal mortgage insurance in identified flood-prone areas. That is, in order for an individual who lives in a flood-prone area to obtain FHA, VA or Farmers Home Administration mortgage insurance, he must purchase flood insurance. HUD defines a "special flood hazard area" as any area which has a 1-percent annual chance of flooding. I believe we should encourage the purchase of flood insurance in areas which are clearly subject to flooding by conditioning the issuance of Federal mortgage insurance on the purchase of flood insurance.

Fourth, the bill broadens the availability of the flood insurance program to any individual who wishes to obtain it. Flood insurance would be available whether or not the community in which the individual resides has been approved for flood insurance. However, in order to encourage local communities to sign up for the flood insurance program and meet Federal land-use requirements, the premium rates on policies issued in communities which have not been approved would be 25 percent above the subsidized rate offered to residents of approved communities. In other words, we would not foreclose anyone from getting flood insurance who wants it, but we would put additional pressure on local communities to sign up for the program by making the rate for those who had not, 25 percent above the federally subsidized rate.

Fifth, as an additional incentive to get communities to sign up, those communities which have been identified as being special flood hazard areas would be required to participate in the national flood insurance program. If they do not participate, future Federal financial assistance for construction programs such as urban renewal would be reduced. The penalty for inaction by a local community would increase as time goes on. Under my bill, beginning July 1, 1976, the availability of FHA, VA, and Farmer's Home Administration mortgage insurance and guarantees for new construction to local residents would be restricted. Federal financial assistance under all other construction programs would also be reduced over a 4-year period. In fiscal year 1977, the availability of these programs would be reduced by 10 percent. In 1978, an additional 20-percent reduction would occur. In 1979, 30 percent, and in 1980, 40 percent. Thus, the total reduction over a 4-year period would be 100 percent. After fiscal year 1980, communities would not be able to obtain this Federal assistance.

Let me make it clear that this last provision applies only where a community has been identified as being a special flood hazard area. In other words, we are only talking about communities where there is a substantial likelihood of flooding. In these cases, communities would be strongly encouraged to take actions necessary to minimize the impact of future flooding. The reason I have suggested tying this into Federal financial assistance for construction programs is that such construction projects in flood-prone areas are particularly subject to being damaged by floods. It simply makes good sense to require local communities to take measures to minimize the impact of flooding.

Mr. President, I ask unanimous consent that the text of the National Flood Insurance Act Amendments of 1973 be reprinted in the RECORD at this point.

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

S. 390

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

SHORT TITLE

SECTION 1. This Act may be cited as the "National Flood Insurance Act Amendments of 1973".

INSURANCE LIMITS

SEC. 2. (a) Section 1306(b)(1)(A) of the National Flood Insurance Act of 1968 is amended by striking out "$17,500", "$30,000", and "$5,000" and inserting in lieu thereof "$35,000", "$60,000", and "$10,000", respectively.

(b) Section 1306(b)(1)(B) of such Act is amended by striking out "$30,000" (each place it appears) and "$5,000" and inserting in lieu thereof "$60,000" and "$60,000", respectively.

(c) Section 1306(b)(1)(C) of such Act is amended by striking out "$30,000" and "$5,000" and inserting in lieu thereof "$60,000" and "$60,000", respectively.

PROGRAM LIMITATION

SEC. 3. Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "$2,500,000,000" and inserting in lieu thereof "$10,000,000,000".

SEC. 4. (a) Chapter I of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new section:

"REQUIREMENT OF FLOOD INSURANCE COVERAGE FOR FEDERALLY INSURED OR FEDERALLY GUARANTEED MORTGAGES

"SEC. 1321. (a) No officer or agency of the United States shall insure or guarantee or

enter into a contract or commitment for the insurance or guaranty of any mortgage or real estate loan if the property to which such mortgage or loan relates is situated in a flood-prone area as determined by the Secretary under section 1360, unless such property is covered by the flood insurance program under this title (to the extent that such program applies or has been extended to property of the type involved under section 1305 (a) and (b)).

"(b) For purposes of subsection (a), the terms 'insure or guarantee' and 'insurance or guaranty', with respect to mortgages or real estate loans, include or refer to the insurance of any mortgage (or financial institution) under the National Housing Act or title V of the Housing Act of 1949, the insurance or guaranty of any loan under chapter 37 of title 38, United States Code, and any other insurance or guaranty issued under Federal law with respect to a mortgage on real estate or with respect to a loan made to finance the purchase, acquisition, or rehabilitation of real property."

(b) The amendment made by subsection (a) of this section shall apply with respect to mortgages executed and loans made on or after the first day of the seventh month which begins after the date of enactment of this Act (except that such amendment shall not apply with respect to any such mortgage or loan which is executed pursuant to a contract or commitment entered into before such first day).

PROVISION OF FLOOD INSURANCE IN CERTAIN AREAS NOT MEETING REQUIREMENTS OF PROGRAM

SEC. 5. The National Flood Insurance Act of 1968 is amended—

(1) by striking out "The" in section 1305 (c) and inserting in lieu thereof "Except as provided in section 1322, the";

(2) by striking out "After" in section 1315 and inserting in lieu thereof "Except as provided in section 1322, after"; and

(3) by inserting after section 1321 (added by section 4 of this Act, a new section as follows:

"FLOOD INSURANCE COVERAGE IN NONQUALIFYING AREAS

"SEC. 1322. Notwithstanding any other provision of this Act, flood insurance coverage may be provided under this title in any State or area (or subdivision thereof) which has not complied with the requirements of section 1305(c) or 1315, if—

"(1) the property with respect to which the insurance is sought is eligible for coverage under section 1305 (a) or (b); and

"(2) the premium charged for the coverage provided is at a rate which exceeds by 25 per centum the rate which would otherwise be chargeable on similar property in a State or area (or subdivision thereof) meeting the requirements of section 1305(c) and 1315."

REDUCTION OF CERTAIN FEDERAL BENEFITS IN THE CASE OF COMMUNITIES NOT PARTICIPATING IN THE FLOOD INSURANCE PROGRAM

SEC. 6. (a) Notwithstanding any other provision of law, in the case of any unit of local government which is determined by the Secretary of Housing and Urban Development under section 1360 of the National Flood Insurance Act of 1968 to be located in an area which has special flood hazards, and which is not participating in the flood insurance program established under such Act, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs shall reduce the aggregate Federal benefits for such unit of local government by 10 per centum on July 1, 1977, by an additional 20 per centum on July 1, 1978, by an additional 30 per centum on July 1, 1979, and by an additional 40 per centum on July 1, 1980.

(b) For the purpose of subsection (a), a reduction of the aggregate Federal benefits of a unit of local government shall be carried out by applying the percentages referred to in such subsection to each of the following:

(1) The aggregate dollar amount obligated or expended in connection with any contract or other agreement entered into by such unit under title I of the Housing Act of 1949, title I of the Demonstration Cities and Metropolitan Development Act of 1966, title VII of the Housing and Urban Development Act of 1965, title VII of the Housing and Urban Development Act of 1970, and title VII of the Housing Act of 1961 during the fiscal year ending on June 30, 1977;

(2) The number of dwelling units covered by mortgages insured under section 203 of the National Housing Act in the jurisdiction of such unit which were purchased during the fiscal year ending June 30, 1977;

(3) The number of dwelling units with respect to which the Administrator of Veterans' Affairs furnished financial assistance under chapter 37 of title 38, United States Code, which were purchased during the fiscal year ending June 30, 1977; and

(4) The number of dwelling units with respect to which the Secretary of Agriculture furnished financial assistance under title V of the Housing Act of 1949 during the fiscal year ending June 30, 1977.

By Mr. HUMPHREY:

S. 393. A bill to provide for project grants for the development and demonstration of programs for rehabilitative and habilitative care of the aged, blind, and disabled patients of long-term health care facilities. Referred to the Committee on Labor and Public Welfare.

NATIONAL CHRONICARE DEMONSTRATION CENTER ACT OF 1973

Mr. HUMPHREY. Mr. President, the legislation I am introducing today would establish a demonstration program on the rehabilitation of chronically ill patients in long-term health care facilities. My bill would provide for project grants by which to test the diagnostic and medical treatment, day care, rehabilitation, supportive, and community outreach services to the aged, the blind, and the disabled.

The serious need to establish a comprehensive, efficient, and humane system to fulfill the health needs of the chronically ill and disabled, and to promote the maximum use of residential, outpatient, and nursing home care as an alternative to hospitalization, ought to be abundantly clear by now. It is also essential that this area of health care be fully integrated into a national health insurance program.

It has been estimated that over 700,000 Americans are long-term hospital patients, and over 1 million more persons are patients in nursing homes. But there are almost 20 million additional people in our Nation who are not in an institution but have disabilities severe enough to restrict or prohibit their major activities. Four out of five of these patients are over 65 years old, and the elderly constitute 90 percent of the patients in nursing home facilities.

The harsh reality posing a demand for reform of our health care delivery system is that over half of the skyrocketing costs of hospital care are accounted for in the treatment of chronic conditions. Mental, circulatory, sensory system, and bone diseases absorb well over half the current expenditures, amounting to some $28 billion, for the treatment of chronic conditions.

In December 1972, the General Accounting Office submitted to Congress a major study of health facilities construction costs, which concluded that the Nation's health care delivery system is in drastic need of a massive overhaul. The major criticism in this study was that the present orientation toward acute care, or hospitalization, has resulted in a system which has allowed costs to rise at a staggering rate. The cost of health care has jumped 500 percent during the past two decades with the result that America's health care bill now amounts to 7.4 percent of the gross national product.

The basic conclusion of the GAO study was that the demand for hospitals must be reduced. It recommended that greater emphasis be placed on preventive medicine practices and on increasing the use of alternative and efficient medical care delivery systems to reduce the current dependency upon hospitalization. To this end, the study urged that health insurance incentives that currently emphasize inpatient care should be changed, and that areawide planning and systems be developed to assure that health care delivery resources are used more efficiently and are in line with actual community needs.

A highly important argument in support of the National Chronicare Demonstration Center Act is the citation in the GAO report of a recent U.S. Public Health Service study which indicated that 17 out of every 100 patients in a hospital on any given day could be cared for in a convalescent facility for 25 percent of the cost. And the GAO study estimates that reducing the average length of hospital stay by only 1 day could cut as much as $2 billion a year from health care costs.

My bill envisions the development of community chronicare centers, operated much like prepaid group health plans or health maintenance organizations, which would make lower cost care for chronic ailments a reality. For too long, the chronically ill in this country have been almost totally neglected. They have a critical need for immediately accessible centers offering an entire range of services from simple outpatient care to intensive nursing. And these services must be made available to the total community.

The legislation I am introducing today, based upon a constructive proposal by the American Nursing Home Association, can lead to the development of these centers to enable the chronically ill to achieve optimum social and physical functioning within their communities. A key component of these centers would be a therapeutic team of professional personnel in the fields of medicine, psychiatry, social work, and physical therapy, which would establish and constantly monitor a total care plan for each patient.

Mr. President, I ask unanimous consent that the text of my bill, the National

Chronicare Demonstration Center Act, be printed in the RECORD.

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

S. 393

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 National Chronicare Demonstration Center Act of 1973".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) long-term care has always been neglected in the development of the Nation's health care delivery system;

(2) present programs such as medicare and medicaid have neglected to provide adequate coverage for long-term care;

(3) any program of national health insurance must address the critical need for coverage of long-term care;

(4) most Americans lack direct access to non-hospital health care;

(5) society has been largely unwilling to deal with the problems of persons who are unproductive over extended periods because of poor health;

(6) outmoded laws or policies limit the realistic use of paramedical personnel, resulting in increased health care costs; and

(7) the nursing home industry has been the one health specialty which has accepted the responsibility for developing long-term care through the years.

(b) It is the purpose of this Act to establish demonstration programs to provide a basis for a commitment to a lasting national program for long-term health care for the chronically ill.

PROGRAM ESTABLISHMENT

SEC. 3. (a) There are hereby authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for each of the next two succeeding fiscal years, to enable the Secretary to make grants to any public, nonprofit, or proprietary private agency, institution, or organization or provider of services to cover all or any part of the cost of projects for the development or demonstration of several programs in representative areas of the country designed to care for and rehabilitate chronically ill inpatients of long-term health care facilities by testing the economic feasibility, efficiency, and health care delivery system, utilizing community chronicare health centers.

(b) To be eligible for a grant under subsection (a) an applicant must give satisfactory assurances of the capability of providing the following:

(1) diagnostic service,

(2) inpatient care,

(3) day care,

(4) rehabilitation service (on both inpatient and outpatient basis), and

(5) outreach service.

The applicant must itself, provide directly (not by contract) at least one of the abovementioned services.

(c) The diagnostic service shall be the point of entry into the system of health care provided by the community chronicare health center and must be available for initial entry or screening and for diagnostic workup on patients located within a facility, day care and outpatient service elements determined by the therapeutic service team.

SEC. 3. Each community chronicare health center shall maintain a therapeutic service team which shall be responsible—

(1) for establishing and maintaining a total patient care plan following initial screening;

(2) for assessment of patient health status on a continuing basis; and

(3) for the involvement of additional ancillary service professionals for provision of required services.

DEFINITIONS

(1) "Community chronicare health center" means a skilled nursing home, intermediate care facility, or home health agency, which may provide—

(A) primary physician's services;

(B) primary dentist services;

(C) rehabilitation services;

(D) outpatient preventive service;

(E) optometric services;

(F) durable medical equipment;

(G) drugs prescribed on an outpatient basis;

(H) prosthetic and supportive devices; and

(I) home health services.

(2) "Therapeutic service team" means the combination of the following personnel working in a community chronicare health center—

(A) a medical director who is a licensed physician responsible for the medical services of the patients;

(B) a director of nursing who is a registered professional nurse responsible for nursing care of the patients;

(C) a social worker who is accountable for expediting programs to meet the social needs of the patients;

(D) a physical therapist who is accountable for meeting the physical rehabilitative, habilitative, and supportive needs of patients;

(E) a mental health specialist who is responsible for a plan of care for mental, psychoneurotic, and personality disorders of patients; and

(F) other paramedical personnel utilized in a manner prescribed by the Secretary in regulations.

(3) "Secretary" means the Secretary of Health, Education, and Welfare.

REPORT

SEC. 5. The Secretary shall make a report to the President for transmission to the Congress within two years after the enactment of this Act stating the progress under this Act and making recommendations for further action if needed.

Mr. HUMPHREY (for himself, Mr. ALLEN, Mr. AIKEN, Mr. ABOUREZK, Mr. NELSON, Mr. MONDALE, Mr. BURDICK, Mr. DOLE, Mr. EAGLETON, Mr. MCGOVERN, Mr. MCGEE, Mr. BELLMON, Mr. CLARK, Mr. HUDDLESTON, Mr. MCINTYRE, Mr. CHILES, Mr. HUGHES, Mr. SPARKMAN, Mr. YOUNG, Mr. HATHAWAY, Mr. MUSKIE, Mr. PEARSON, Mr. GRAVEL, Mr. FULBRIGHT, and Mr. METCALF):

S. 394. A bill to amend the Rural Electrification Act of 1936, as amended, to reaffirm that such funds made available for each fiscal year to carry out the programs provided for in such act be fully obligated in said year, and for other purposes. Referred to the Committee on Agriculture and Forestry.

CONGRESS MUST ACT NOW TO REVERSE NIXON REA DECISION

Mr. HUMPHREY. Mr. President, I am today introducing legislation that would reverse the Nixon administration's actions of December 29 terminating the direct loan programs of the Rural Electrification Administration for rural electric and telephone systems.

The bill I am introducing would direct the REA Administrator to "make loans each fiscal year in the full amount appropriated by Congress" in support of the rural electrification direct loan program. The administration has apparently interpreted present REA legislation as "permissive" legislation. I do not regard it as such. And, I am offering this legislation today so that there will be no mistake made by the administration about the intent of Congress.

This bill would make clear that the credit authority Congress provided under the Rural Development Act of 1972 was intended as a "supplement" and not a "replacement" to the credit mandated by Congress under the Rural Electrification Act, insofar as rural electric and telephone loans may be concerned.

The President's actions in summarily terminating the REA program and other governmental programs that have been established by law present the Congress with a grave constitutional challenge.

I do not believe that this President nor any President is above the Constitution. I do not believe that the American people gave Richard Nixon a mandate to usurp the prerogatives of Congress in deciding national priorities.

For reasons not explained, the administration chose the long New Year's weekend to announce that they were terminating the low-cost, long-term direct loan program of the Rural Electrification Administration, which has literally been the lifeline for a thousand rural electric systems in 46 States.

If the decision was timed to attract as little attention as possible, I can understand why. For there is, in fact, no sound legal, economic, and social basis on which they can rest this decision.

As virtually everyone now knows, there was no prior consultation with the leadership of Congress, though the program was established by Act of Congress. The administration did not consult with the leaders of the hundreds of rural electric systems that will be adversely affected by the decision. Millions of consumers received no warning at all that their Government, with whom they have had a solemn compact for over three decades, was about the jerk the rug from under them.

The news came by press release from the Department of Agriculture, announcing—as if it were an everyday, ho hum occurrence to effectively abolish a long-standing statute—that the old program would end January 1 and be replaced by a new program of insured and guaranteed loans under the Consolidated Farm and Rural Development Act of 1972.

In essence then, by executive fiat, the administration repealed the Rural Electrification Act of 1936, the Pace Act of 1944 and the 1949 amendment to the act, which created the rural telephone program.

The administration has thumbed its noses at the U.S. Congress and implied by their actions, that what they do with the laws of this land is really none of our business.

There is not a single shred of legislative history to support their actions. They have gone clear into left field to find words never intended for the purpose to

which they are being put to use, to kill one of the most successful programs ever established.

If this administration or any administration, can terminate an ongoing, statutorily authorized program, then no program is safe from the executive whim.

What is clear is that the overreaching for power by the executive branch is pushing us into a constitutional crisis.

What is even more apparent is that the integrity of this body and its will to assert its rights under the Constitution is at stake.

So today, on behalf of myself and other Senators offer a bill to restore the REA direct loan program—one which also gives us the opportunity to reassert the right of the Senate and the Congress, to share in the decision of government.

This legislation does not seek to enunciate any new principle. Its sole purpose is to reiterate and reaffirm the original and continuing intent of Congress—that the rural electrification and rural telephone loan authority vested in the administration by the Rural Electrification Act of 1936, is mandatory in the amount appropriated each year, by language for the purpose of making such loans.

The bill would not prohibit the use of funds under the Consolidated Farm and Rural Development Act as a supplement to the amount of direct loan funds provided under the Rural Electrification Act. It does, however, prohibit them from being used in lieu of REA loan funds appropriated by Congress.

It has been apparent for some years now that appropriated funds have not been sufficient to meet the expanding capital needs of America's rural electric systems. The Consolidated Farm and Rural Development Act could be used as a source of supplemental fund to supply additional capital.

My service in the Senate goes back to 1948. It has always been my position that the President has the same constitutional obligation to execute the law contained in appropriation acts, as he has with respect to any other law. And, merely because the Congress over the years has chosen to avoid a confrontation with the executive branch on this issue, does not clothe the practice with legality, or propriety, in my judgment.

The Congress passes laws and the President may either sign them or veto them. But once a bill is approved by both the Congress and the President, the executive branch is duty bound to carry out and enforce its provisions. The President and his subordinates are then obligated to do what the law prescribes.

By no stretch of anyone's imagination can it be claimed that the executive branch has the right or power to unilaterally repeal a statute by refusing to carry out its terms. But, this is precisely what the President has done with respect to the Rural Electrification Act of 1936.

He has directed the Secretary of Agriculture to refuse without exception, all applications for loans already on hand and submitted pursuant to that act, without regard to how great the need of the loan applicant may be, and without regard to the fact that many such applications completely satisfy all eligibility requirements of the act.

In addition to the unlawful repeal of the Rural Electrification Act, the President has ordered the Secretary of Agriculture to insure and guarantee loans for rural electrification and rural telephone facilities under authority contained in the Rural Development Act of 1972. Yet, the legislative history of the latter act indicates very clearly that it was never intended by Congress to make it a substitute for the Rural Electrification Act.

I reiterate my strong feeling that the Congress cannot continue to accept this kind of arbitrary disregard by the Executive, of its plain and unambiguous constitutional duty to execute the law.

Unless the Congress accepts this overt challenge to its constitutional power and reasserts its status as a coequal branch of the Federal Government, it will soon degenerate into little more than a society for the debate of issues already decided by someone who has assumed higher authority.

The loanmaking authority of the Rural Electrification Act of 1936 was created to carry out a policy declared by Congress to be in the public interest. The act did not say to the executive branch "carry out this policy if you like it." It said:

Carry out this policy to the full extent that funds under this act are appropriated.

The issue in a nutshell is whether or not we shall continue with our system of checks and balances which the Founding Fathers considered essential to preserving our system of government—or whether we shall drift into self-serving oligarchy.

I raise my voice in alarm at attempts to relegate Congress into a second-rate branch of government. And I object to the President's actions which are designed to cripple or end programs that help those who need it the most.

I invite every Member of the Senate to join with me and Senator AIKEN in sponsoring this bill. And I say, let us pass it and promptly remind the executive branch that laws of this country enacted pursuant to its Constitution are not to be flaunted or considered optional—but are to be respected and enforced. If "law and order" in this Nation of ours is to have a meaning, then I believe we have every right to expect our President to set an appropriate example by "enforcing," not "ignoring" our laws.

This particular piece of legislation is looked upon by our rural groups and rural leaderships as a vital and important piece of legislation related to all agricultural programs.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD:

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

S. 394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purpose of this Act is to reaffirm the original intent of Congress that funds made available under authority of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) are to be loaned for the purposes prescribed in such Act during the fiscal year and in the full amount for which such funds are made available.

SEC. 2. Section 2 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 902), is amended to read as follows:

"SEC. 2. The Administrator is authorized and directed to make loans each fiscal year in the full amount determined to be necessary by the Congress or appropriated by the Congress pursuant to section 3 of this Act in the several States and territories of the United States for rural electrification and the furnishing of electric energy to persons in rural areas who are not receiving central station service and for the purpose of furnishing and improving telephone service in rural areas, as hereinafter provided; to make, or cause to be made studies, investigations, and reports concerning the condition and progress of the electrification of and the furnishing of adequate telephone service in rural areas in the several States and territories; and to publish and disseminate information with respect thereto."

SEC. 3. The first sentence of section 4 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 904), is amended by striking out at the beginning thereof "The Administrator is authorized and empowered, from the sums hereinbefore authorized, to make loans" and inserting in lieu thereof the following: "The Administrator is authorized and directed to make loans each fiscal year in the full amount determined to be necessary by the Congress or appropriated by the Congress pursuant to section 3 of this Act".

SEC. 4. The first sentence of section 201 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 922) is amended to read as follows: "From such sums as are from time to time made available by the Congress to the Administrator for such purpose, pursuant to section 3 of this Act, the Administrator is authorized and directed to make loans each fiscal year in the full amount determined to be necessary by the Congress or appropriated by the Congress pursuant to section 3 of this Act to persons now providing or who may hereafter provide telephone service in rural areas, to public bodies now providing telephone service in rural areas and to cooperative, nonprofit, limited dividend, or mutual associations."

SEC. 5. Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) is amended by inserting immediately after the first sentence thereof a new sentence as follows: "The authority contained herein to make and insure loans shall be in addition to and not in lieu of any authority contained in the Rural Electrification Act of 1936, as amended."

By Mr. DOMINICK (for himself, Mr. CURTIS, Mr. GOLDWATER, Mr. MANSFIELD, and Mr. STEVENS):

S. 395. A bill to permit citizens of the United States to buy, hold, and sell gold. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. DOMINICK. Mr. President, I introduce in the 93d Congress, as I have in previous Congresses, a bill with Senators GOLDWATER, MANSFIELD, CURTIS, and STEVENS to restore to American citizens the unfettered right to buy, possess, and sell gold; 1933 circumstances which may have originally justified removing this right are simply no longer valid.

The President's action suspending convertibility of dollars to gold had the effect of demonetizing gold and relegating it to the role of a nonmonetary commodity. As a commodity, gold should be as freely available for purchase by Americans as pork bellies, scrap steel, and silver. Of the 116 member nations

in the International Monetary Fund, 100 have more liberal gold ownership laws than the United States.

The present day realities are that the United States has less than $11 billion in gold reserves and roughly $50 billion in overseas dollar liabilities. As a matter of fact, the Eurodollar market has been estimated to equal about 30 years of South African gold production.

Last year the price of gold rose to over $70 an ounce, and the price presently is hovering around $65 an ounce. At this level, it is quite clear that any return to convertibility would trigger a run on our remaining reserves.

Preliminary estimates for 1972 indicate a domestic gold production at approximately 1.45 million ounces. This would represent a slight decrease from the 1971 figure of 1.49 million ounces. The estimated 1972 net gold importation level is 4 million ounces and domestic consumption for 1972 is estimated at a record 7.5 million ounces.

The cornerstone of our economic system is the interaction of supply and demand as the determinant of worth or value; and this can only be accomplished with gold by restoring to Americans the right to buy and sell this metal.

The U.S. Bureau of Mines estimates that at prices up to $140 per ounce, we could mine 237 million ounces of gold. Beyond giving a much needed injection to our mining industry, such an increase could alleviate our trade deficit.

The Joint Economic Committee's Subcommittee on International Exchange and Payments has been impelled, based on recent hearings, to a similar conclusion; and in a November 1972 report, recommends that Americans should be permitted to buy, sell, and hold gold after a new international monetary arrangement is negotiated.

A very interesting article by Mr. David Ganz, on this subject appeared recently in Numismatic News Weekly, and I ask unanimous consent that it be printed at the end of my remarks.

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

(See exhibit 1.)

Mr. DOMINICK. Mr. President, this bill also provides for a continuing source of supply of gold to the U.S. Treasury upon which it could draw to meet international financial institution gold contribution requirements. Domestic refiners of new gold would be required to offer 10 percent of their production at the official price for sale to the Treasury.

Any Treasury requirements above this amount would be satisfied through private market purchases at the prevailing market price. In order to avoid the possibility that large gold sales by the Treasury could depress the private market, the bill restricts Treasury gold sales to a price which is 15 percent above the current private market price.

Mr. President, I urge Congress to lay to rest this anachronism on its 40th anniversary and to restore to American citizens their right to own gold.

EXHIBIT 1

WATCH FOR CLEARANCE SALE AT UNCLE SAM'S GOLD SHOP

The United States of America, upon whose massive holdings of gold bullion the post-war world economy was shaped, is pulling out of the gold business. It isn't official yet, but the handwriting is already on the wall. Within a year or so—possibly less—an announcement will be made to the effect that a portion—perhaps as much as half—of Uncle Sam's bullion holdings will be placed on the auction block to be sold to the highest bidder.

Gold today has become an anachronism to high-volume international monetary finance. Fifty years ago, John Maynard Keynes foresaw this and termed gold a "barbarous relic," but the precious metal tenaciously persisted in maintaining its store of value. It still has, even today.

When World War II ended, the United States owned approximately three-fourths of all the gold bullion held by world governments. The Bretton Woods conference of 1944 made the decision that, because of this, the American dollar should become the international standard of value, to stand beside gold at the convertible rate of $35 per ounce. With such massive gold holdings, the U.S. could easily afford to convert any foreign held dollars for gold bullion stored in Fort Knox.

Though the 1950s, gold-dollar convertibility was accomplished without difficulty, American gold holdings continued to dwarf those of France and other major European competitors. But beginning in 1958, American balance of payments trends began a downward slide that has continued unabated to 1972. Where we once had a goods and services balance well in the black, the downward trend brought on the first negative trade deficit in this century last year. All of this had to be paid for in an outflow of dollars, which some governments requested be converted into gold bullion. Those governments which did not convert their dollars into gold continued to hold them, and by early 1971 the foreign-held dollar balance was over $50 billion, or roughly four-and-a-half to five times more than the gold held in Fort Knox.

In these over extended circumstances, a "run" began on the dollar. It was culminated in August, 1971, when President Nixon suspended the dollar's convertibility into gold. In April, 1972, acting on Nixon's recommendation, Congress formally devalued the dollar by raising the price of gold from $35 to $38 an ounce.

It is not hard to understand why governments like the United States view gold as an anachronism. Since special drawing rights (SDRs) were created in 1969, a more efficient "paper gold" began to be used. This paper gold was not subject to market demands, bullion price changes or whims of private citizens. Gold can be owned in various forms by most of the world's population. SDRs are the exclusive property of governments. to be manipulated and used as exigencies permit or require.

Because gold can be owned as bullion, as coinage, as jewelry or as art, and because as a precious metal it has a myriad of industrial uses, there is a natural market awaiting any gold production. In March, 1968, partially as a means of preventing a dollar devaluation and also as a way of keeping the price of gold at a reasonable level, a two-tiered price system was established. Under this arrangement, world governments continued to buy and sell gold to each other at the rate of $35 an ounce, while a "free market" rate prevailed for other gold purchases and sales. In the short term, the dollar's devaluation through the raising of the price of gold was prevented, and the price of gold declined from the speculative levels it has previously risen to.

In the longer run, however, the two-tiered system was indicative of the problems that the United States and the entire world financial community were headed for. Gold, ostensibly a cover for the world's currencies, was not sold at the official price because the demand far-exceeded the supply. As industrial demand rose, so did the price of "free market" gold. When inflation set in, gold, a traditional "hedge" against soft-money, continued to rise in price.

The bubble burst in August, 1971, when convertibility was suspended by the U.S., and the free market rate began a dramatic climb that briefly broke through the $70 an ounce mark in mid-1972. There was a good deal of talk that the price of gold would be revalued at the $70 an ounce level, but world governments (notably the U.S.) were not willing to make a concession of that magnitude.

It was clear that, in suspending the dollar's convertibility, the United States was taking the first step towards ultimately taking this nation out of the gold business. At least three U.S. Senators—Allott, Dominick and Hatfield—surmised as much as promptly introduced bills that would allow American citizens to own gold while simultaneously allowing the government to sell some of its still-massive bullion holdings.

The major thrust of the reasoning behind allowing American citizens to own gold is that under current law, dating to the 1934 devaluation of the dollar, citizens may own gold jewelry and gold coinage, but not gold bullion. Coinage is also subject to certain restrictions, as anyone who has ever tried to buy a piece dated after 1934 knows all too well.

In allowing American citizens to buy gold in any form—including all types of coinage—the same advantage afforded to many Europeans would be given to anyone wishing to purchase gold as a hedge against inflation, as a means of investment, or even as a way of speculating.

A dozen years ago a survey was made as to the private holdings in gold of the world citizenry. Astonishingly, some 11,000 tons of gold were in private hands. At the same time, about 35,000 tons of gold were in official reserves. Thus more than a quarter of the world's gold was in private hands. Today, the amount is even larger.

Despite this, the price of gold continues to go up. Why, one might ask, does gold go up in value when there is seemingly so much of it available? The answer is that there is not a great deal of it available for sale. The U.S. government, although it has an official price of $38 an ounce, will sell no gold at that level. On the free market, where physical transferral of gold takes place, the price is above $60 an ounce, and some have predicted it will rise still higher.

Alternatively, let us ask why people desire gold. In an interview in late 1972, James A. McClure, who will soon take a seat in the U.S. Senate from Idaho, stated that "gold has had a store of value and has served as a medium of exchange throughout history. Government planners may deny this, but gold has always been there." Then, too, gold has tended to "hedge" against inflation, generally rising in price during times of economic unrest.

Thus, although gold is an anathema to governmental monetary planners, it has retained to a remarkable extent a following among the world's peoples for centuries. Even as there is whispered talk about the government stepping out of the gold business, people continue to buy gold at higher and higher prices, and items with gold content—especially gold coinage—continue to advance in value.

How will the government get out of the gold business? In an interview in mid-1972, Sen. Mark O. Hatfield (R., Ore.) speculated that "like any other surplus commodity, it would have to be disposed of over a period of time. I have suggested five years, the same period of time as our grain sales. It seems like a reasonable figure."

The effect of the government dumping half of its $11 billion dollar stock of gold would have an immediate devastating effect on the

market. Short run rules of supply and demand would probably cause a sharp price decline, but certainly not below the official level of $38 an ounce. Still, as Hatfield remarked, "Gold will not become a common, ordinary, 'unspecial' commodity. It will maintain real value beyond the monetary. The history of gold is such a powerful and compelling force that it draws the attention of people to its many uses. It is going to maintain its intrinsic value and romantic value as well as a monetary value. It may fluctuate (in price) but it will still be a highly valued substance."

One economist that I discussed this with said that, in the short run, the price of gold would decline. In the longer term of five to seven years, the price would return to current levels and probably go even higher. The reason is that once the government dumps its massive bullion stock on the market, it has used up its overhanging threat. Eleven billion dollars in gold can only be spent once.

Gold is high priced now, especially in common date pieces, and this economist recommended that selling at the top (now) and buying back at the bottom after the dumping of bullion, by the government be the course of action to follow to maximize profits.

One other source, a former high Treasury official, indicated that the government's announcement on the disposal of at least part of the bullion stock could come before the end of 1973. This source (who refused to be identified, for obvious reasons) stated that Treasury Undersecretary Paul A. Volker was the driving force behind this move, the ultimate aim of which would be to free the United States from the "curse of gold."

In the months ahead, we shall see whether all this is borne out. Congressional hearings on the measure to free gold and allow private ownership will come up shortly, and inasmuch as the G.O.P. plank indicated support for this, too, likely as not it will be reality before we can say "King Midas." The Age of Gold is coming to an end.

By Mr. DOMINICK (for himself, Mr. HRUSKA, and Mr. ABOUREZK):

S. 396. A bill for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Co. Referred to the Committee on the Judiciary.

Mr. DOMINICK. Mr. President, for myself, the Senator from Nebraska (Mr. HRUSKA) and the Senator from South Dakota (Mr. ABOUREZK), I introduce a bill for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Co.

This matter first received congressional attention in 1960, when Senator HRUSKA introduced legislation to refer this case to the Court of Claims. For various reasons, as outlined in the synopsis below, this matter remained unresolved until April of 1970. In that year, Senator HRUSKA, with Senators ALLOTT and MUNDT, again introduced legislation designed to subject this case to scrutiny by the Court of Claims.

The Court of Claims, in a report filed with Congress in October 1972, concluded that the Adler Construction Co. has an equitable claim against the United States. For Mr. and Mrs. Adler, who have been waging this campaign since 1952, the wheels of government machinery have been painfully slow in reaching this conclusion.

Pursuant to the conclusions of the Court of Claims and in the interest of equity and fairness to the Adlers, we introduce this bill for their relief.

Mr. President, I ask unanimous consent that the text of the bill and a synopsis of Adler's claim for relief be printed in the RECORD.

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

S. 396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in accordance with the opinion, findings of fact, and conclusions of the trial commissioner in United States Court of Claims Congressional Reference Case No. 5–70, entitled Adler Construction Company v. The United States, filed October 24, 1972, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Adler Construction Company of Littleton, Colorado, the sum of $300,000, in full satisfaction of all claims by such company against the United States for compensation for losses sustained by such company in connection with a contract between such company and the Department of the Interior, Bureau of Reclamation, providing for certain work on the Pactola Dam project near Rapid City, South Dakota.

(b) No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

SYNOPSIS: PROVIDING A BRIEF DESCRIPTION OF ADLER'S CLAIM FOR RELIEF

Adler bid $3,761,115 in September 1952, in response to the government's invitation for bids on Pactola Dam, a large earth-filled dam project in the Black Hills near Rapid City, South Dakota. His bid was obviously, very low, being 23% under the next low bid ($4,878,468), and 38% under the government's pre-bid estimate ($5,962,341). Suspecting a grave mistake in bid, Adler immediately reviewed his figures, but asked the government to delay award. Adler very promptly advised the government at its supervisory Denver office that he had made a mistake of $621,000, so advising the government before award. Adler stated his bid was not acceptable without a correction to his intended bid, or the erroneous bid must be rejected.

The government, nonetheless, precipitously awarded the contract on October 14, 1952, thereby putting Adler's bid bond of $376,111 in jeopardy. He was told by the government the next day to send proofs of his claimed bid errors of $621,000 to the Contracting Officer who would forward showings to the Comptroller General. The government told Adler that the Comptroller General was the only one who could grant the relief Adler requested. Adler presented his proof of error about October 20, 1952.

After the proofs were forwarded from the Contracting Officer about October 31, 1952 to the Comptroller General, that goverment officer held, in a written decision dated November 14, 1952 that the errors had been made as claimed and could be fully corrected.

The government representatives in Denver who received Adler's proofs of error in Denver on October 20, 1952, had (in an internal memorandum dated October 31, 1952 never disclosed to Adler) concluded on their own part that Adler had made the errors as claimed, stated that the award earlier made on October 14, 1952 was not intended to prejudice or foreclose Adler's right to have his bid errors corrected, and stated that if his errors were corrected such would be to the advantage of the government because the resulting contract amount would still be over $500,000 under the next low bid. The Chief of the Bureau of Reclamation and the Administrative Assistant of the Department of Interior agreed with all these conclusions and recommended full correction of bid errors. But this was not revealed to Adler.

On November 17, 1952, a Denver conference was convened by the government, with Adler. He was not given a copy of the Comptroller General's decision. Nor was he told of the internal memorandum of October 31, 1952 or the conclusions of the Chief Assistant of the Department of Interior.

At this November 17, 1952, conference, the government representatives made an about face from their earlier position, telling Adler that "all we can pay" for bid corrections is approximately $485,000, leaving Adler shorted by $136,240 from having his bid corrected to accord with his known intended bid. Government representatives further demanded he must sign an Amendatory Agreement (which the government had unilaterally conceived and drafted), in which he would agree to be paid less than his known intended bid, or else his bid bond would be taken. This put Adler under the pressure of financial ruin if he did not sign the Amendatory Agreement. There wasn't the slightest consideration for such Amendatory Agreement. The recited consideration that the government was waiving its right to waive the construction contract was in error. There was no construction contract in existence to waive, the award being illegal and the construction contract not signed. The refusal of the government representatives to abide by the decision of the Comptroller General was in violation of the Dockery Act.

Nonetheless, Adler was forced on November 17, 1952 to sign under the unconscionable pressure being applied, while at the same time the government was concealing from him the fact that several government officers, in control of the events, had professed internally that they had no desire to prejudice or foreclose his rights to have his bid fully corrected as beneficial to the government. In short, the negotiating steps taken by the government were carried on in a matrix of deception by the government's representatives and their failure to reveal the truth about existing circumstances and their own intentions earlier declared unilaterally one to another about October 31 1952. The above circumstances involving the government's unconscionable denial of $136,240 and the unjust taking thereof constitutes Adler's Claim (a).

His Claim (b) based on encountering radically changed conditions and his Claim (c) for breach of contract are next briefly described.

Once Adler started performance, matters became still worse for Adler by reason of other circumstances which were to develop. Beginning about March 1954 (after construction began in November 1952), Adler had completed all of the scheduled quantity of Item 2 work. Adler began to complain as early as February 1954 as to improper classification of material as Item 2, that should have been classed as Item 3. The on-site construction engineer ignored and "buried" this communication from Adler. There never was a definitive ruling on that.

Also the excavation situation in the main dam area (83% of the whole job) was increasingly appearing to be materially changed from what had been expected. Adler complained repeatedly. (The old version of Article 4 clause was included in this particular contract, requiring the government to discover the situation, as well as calling for notice to be given by the contractor.) Adler made an extended written complaint charging changed conditions and seeking modification of his contract and a large extension of time.

The government failed, and continued to fail, to make any decision or finding as to

what was the cause of the increase in volume of excavation in the main dam area (up 261%, or excess and unexpected cubic yardage of excavation so vast that it would take a 50-mile-long-train of gondola cars to move it, and a 77-mile-long-train of excess refill to replace in the embankment. Still other unexpected difficulties began to unfold.

Moreover, these great excess yardages of excavation and refill had to be performed under very complex conditions not expected or represented. For example, the defendant encountered a very rough, step-like and chaotic rockscape over the lower area of the dam foundation. The drawings had not depicted this; instead they depicted this area as relatively smooth.

Even the cutoff trench, depicted in the drawings given to bidders as having a maximum width of 150 feet, had an actual width of 300 feet to 500 feet and with very irregular margins.

To worsen matters yet further, the depth of actual excavation below the depth of the natural ground surface, was 2 to 3 times that shown on the drawings and specifications. In places, the actual depth of excavation below ground surface was in several places as deep as 48 feet as compared to about 7.5 feet average depth estimated from the drawings originally given the bidders.

In fact, the drawings and specifications were misleading and defective.

All this caused grave difficulties, and grossly increased construction costs to Mr. Adler. Not only was the work made far more expensive, but these difficulties made it impossible to perform the work in the original performance period of about 2¾ years. An entire extra year was required.

Though Adler asked for a time extension, with a particular amount requested on June 15, 1955, the government refused to give him a timely time extension. Instead the government urged and required him to speed up the work, even to continue it into one of the most severe winters in many decades. Thus, the government unduly and wrongfully accelerated the work, at serious loss to Adler. The winter work forced upon Adler in the winter of 1955 to 1956 which was not anticipated in the original contract, was performed at only 55% efficiency, as the Contracting Officer admitted.

The government breached its contract in many ways, including, but not limited to, failure to make a decision (as the contract required) as to whether or not there was a changed condition, and as to whether Adler was entitled to a classification of a large quantity of excavated material as Item 3 (at $1.20 per cu. yd.) instead of Item 2 (at 53c per cu. yd.). It wrongfully and unduly accelerated the work; and the drawings and specifications were misleading and inconsistent. The government was negligent and not rational in the preparation of its estimates of quantities and of conditions yet to be encountered.

It concealed much vital information from Adler; yet at the same time demanding of him that he give a release to any claims he might have based on anything occurring before July 5, 1956, thereby denying him an opportunity for equal bargaining power.

When Adler sought Congressional relief in 1960, Congress adopted a resolution authorizing a Congressional reference to the Court of Claims. The Bureau of Reclamation, on a retrospective review recognized with honor, that it had unconscionably forced, or overreached, Adler as Adler had stated in his "Claim (a)," requesting full rectification of the bid error, the entire correction of which has been denied him by a sum of $136,240 wrongfully taken from him.

As to Adler's "Claims (b) and (c)," the Bureau of Reclamation stated that the Contracting Officer held the belief that these claims were not based on fact. Nonetheless, the Bureau of Reclamation suggested that those two claims should, if in Congress' judgment it thought such as warranted, be referred to the Court of Claims, thereby allowing an independent tribunal to judge whether the claims of changed conditions, and breach of contract for undue acceleration and other breaches, were based on fact.

Congress did make Congressional reference in 1960 of all Adler's Claims (a), (b) and (c).

The Court of Claims, though originally accepting jurisdiction of the Congressional reference aspect of the case in 1960 (along with accepting jurisdiction on the basis of its general jurisdiction), denied jurisdiction after the appearance of the Supreme Court's decision in *Glidden* v. *Zdanok*, 370 U.S. 530 (1962). That decision cast doubt on the right of the Court of Claims to consider such reference cases if the members of that court were to enjoy the status of a constitutional court, with life terms for its judges.

In a recommended decision of the Commissioner of the Court of Claims, affirmed by the Court on April 17, 1970, the Court concluded, nonetheless, that if the matter were, in fact, before that Court on a Congressional reference, it would hold and recommend that Adler's Claim (a) for the $136,532 not yet paid him to fully rectify his bid error made known before award, be paid by Congress as an equitable obligation of the Government in a non-juridical sense. This was the Court's recommendation irrespective of any releases which Adler might have given to the government, or whether they were valid.

The Commissioner and Court also have now found as a fact that Adler's Claims (b) and (c) based on changed conditions and on undue acceleration and other breaches of contract are based on fact. The Commissioner and the Court made extensive detailed findings clearly establishing that there were radically changed conditions, and very damaging undue acceleration. It found breaches of contract based on the fact that the plans and specifications were misleading and inconsistent. It found that the government did not make an adequate investigation of the subsurface conditions resulting in its scheduled quantities for excavation and refill that were in gross error. It found Adler's costs to perform the work were severely enlarged over that which he had a right to expect from the documents bid upon. By reason of these matters for which the government, not Adler was responsible, and coupled with the original wrong of the government's unconscionable deprivation of $136,532 of Adler's entitled bid correction, he was mired in a dire financial distress known to the government at the time it demanded from him both a general release on July 6, 1956, and a government form of release on November 20, 1956.

This matter has, after man years of investigation, trial, and review by several agencies and tribunals of the government, finally been concluded in a printed report to the United States Senate filed as of October 24, 1972, in Cong. Ref. Case No. 5–70 before the Chief Commissioner of the United States Court of Claims.

Such report states: ". . . the plaintiff (Adler) does have an equitable claim against defendant, and that there is equitably due plaintiff from defendant the sum of $300,000."

It is recommended that such report to the Senate that the said amount of $300,000 be paid to Adler.

This matter was referred in December 1970 to the Chief Commissioner of the United States Court of Claims by S. Res. 445, 91st Congress, 2nd Session, by the Senate in S. 4237. After exhaustive review by the government's representatives and upon extensive negotiations, the government and Adler agreed upon a stipulation of facts in which the government recognized and agreed that Adler had a valid equitable claim against the government and that Adler was entitled to receive the sum of $300,000 on such equitable claim. The Trial Commissioner of the Court of Claims, the Honorable Mastin G. White, reviewed the claim and found for Adler. The three member Review Panel of the United States Court of Claims, comprised of the Honorable Hogenson, Spector and Wood, Commissioners appointed by the Chief Commissioner, on its additional consideration of the matter, also found for Adler, doing so by the said printed report dated October 24, 1972, in Cong. Ref. Case No. 5–70.

By Mr. MATHIAS (for himself and Mr. STEVENSON):

S. 397. A bill to require financial disclosure. Referred to the Committee on Government Operations.

Mr. MATHIAS. Mr. President, it is often said and with much truth, that sunshine is the best cure for most ills. This is equally true for political and social ills. Today Senator STEVENSON and myself are attempting through introduction of a bill, to let the sunshine into the Halls of the Congress. The bill which we are today introducing provides for "naked" financial disclosure of Members of Congress. This is an identical bill to S. 3741, a bill which I introduced last Congress and cosponsored by Senators BROOKE, CHILES, EAGLETON, NELSON, and PEARSON. S. 3741 was referred to the Committee on Government Operations.

The notion that financial disclosure can lessen public distrust and improve the credibility of the political process is at least as old as Jefferson. While President, he defended the invasion of privacy when he wrote "when a man assumes a public trust he should consider himself a public property." Support for the concept was voiced by Theodore Roosevelt and Woodrow Wilson and reaffirmed by Presidents Eisenhower and Johnson. A 1951 senatorial committee chaired by Senator Douglas regarded financial disclosure as the single most important piece of legislation that the Congress could enact to lessen the appearance of conflict of interest by public officials. Most recently under the distinguished chairmanship of Senator CANNON, the Subcommittee on Privileges and Elections of the Senate Rules Committee held hearings in November of 1971 on bills which would have provided financial disclosure for Members of Congress and selected officials of the executive and legislative branches.

The case for full disclosure was put clearly by Senator CASE while testifying on his bill, S. 343 before the Rules Committee. He said:

> The judgment of the people, I think, will be a real and effective sanction . . . disclosure will help people to elect whom they wish by giving them full knowledge of the personal financial interests of those who present themselves as candidates for election.

The 1972 elections are widely interpreted as protest against the old politics.

Additional evidence can be found by examining some recent polls. In 1967, one Gallup poll revealed that six out of 10 Americans believed shady conduct among Congressmen was fairly common. A Harris survey during the same period noted that over half of the Nation's population felt that at least some Congressmen were receiving money personally for voting a certain way. Another Harris poll published in February of last year revealed that during the period 1965 to 1971, the percentage of the public which gave Congress a positive rating, declined from 64 to 26 percent.

In November of 1971 another Harris poll indicated, by a margin of 65 to 25 percent, the public feels that only a few men in politics are dedicated public servants. It should be noted that in the fall of 1967 a similar view was expressed by a lesser margin—58 to 34 percent. In this same November poll, it was revealed, 63 to 28 percent that most Americans feel politicians are out to make money. This reflected a dramatic increase since 1967, when the same question was asked and only a close plurality registered the same viewpoint. This November survey also found that by a margin of 59 to 20 percent, a majority of Americans feel that "most politicians take graft."

These findings have been published in the CONGRESSIONAL RECORD from time to time, and have been confirmed by more recent polls. There is no way of denying the fact that the American people are fast losing confidence in the Government to govern, and in the elected leaders to lead. It is clear that this disillusionment is not limited to the young, but rather pervades the entire society. This steady and discernible loss of confidence in our elected officials is in my mind the most serious problem facing this Nation and this Congress.

I believe that for the most part this attitude of distrust is unfounded. The overwhelming number of those in Government are honorable, hardworking, and dedicated public servants and the public has unfortunately characterized us all, by the actions of a few. But whether or not the public's attitude is well founded, is really not the question here; it exists, and we must react. This representative system is based upon and gets its strength from the consent of the people, and without this trust, the system simply will not work.

A good deal of problem, I believe, is due to the public's attitude of not being adequately informed about its Government and its decisionmaking process. This was made clear, not only in the polls mentioned earlier in this statement, but also by a Harris poll taken during the Pentagon papers episode. Most Americans interviewed, sided with the newspapers' right to publish the Pentagon papers on the basis that Government usually hides the true facts and the motives for their decisions.

With this increased distrust and disillusionment in the Government, we are witnesssing a continuing dropout, isolation, and detachment of the electorate. This isolation more fundamentally has resulted in a loss of production that has weakened the entire framework of Government. The biggest and most difficult challenge of this Congress is to restore the confidence in our Government, and stop this trend of isolation. Resolving this problem should occupy every working day and every decision.

How do we restore this confidence? Of course, we can become more candid and open in our legislative activities. We can provide moral leadership for the Nation, and be conscientious in our responses to human needs. We can also do something very specific, something which I am sure will go a long way in restoring this confidence, and dispelling this attitude of mistrust.

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

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

S. 397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Disclosure of financial interests by Members of Congress and certain congressional employees

"(a) Each Member of Congress and each employee of the Congress shall file annually with the Comptroller General a report containing a full and complete statement of—

"(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from his spouse or any member of his immediate family) received by him or by him and his spouse jointly during the preceding calendar year which exceeds $100 in amount of value, including any fee or other honorarium received by him for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, entertainment, travel, and other facilities received by him in kind.

"(2) the value of each asset held by him, or by him and his spouse jointly which has a value in excess of $5,000 and the amount of each liability owed by him, or by him and his spouse jointly, which is in excess of $5,000 as of the close of the preceding calendar year; and

"(3) any business transaction, including the sale, purchase, or transfer of securities of any business entity, commodity, real property, or any other asset or any interest therein, by him, or by him and his spouse jointly, or by any person acting on his behalf or pursuant to his direction during the preceding calendar year if the aggregate amount involved in such transactions exceeds $5,000 during such year.

"(b) Reports required by this section shall be filed not later than May 15 of each year. In the case of any person who ceases, prior to such date in any year, to occupy the office or position the occupancy of which imposes upon him the reporting requirements contained in subsection (a) shall file such report on the last day he occupies such office or position, or on such later date, not more than three months after such last day, as the Comptroller General may prescribe.

"(c) Reports required by this section shall be in such form and detail as the Comptroller General may prescribe. The Comptroller General may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchase and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities, or purchases and sales of real property of any individual.

"(d) Whoever willfully fails to file a report required by this section, or knowingly and willfully files a false report under this section, shall be fined $2,000, or imprisoned for not more than five years, or both.

"(e) All reports filed under this section shall be maintained by the Comptroller General as public records which, under such reasonable regulations as he shall prescribe, shall be available for inspection by members of the public.

"(f) For the purposes of any report required by this section, an individual shall be considered to have been a Member of Congress or an employee of the Congress during any calendar year if he served in such position for more than six months during the calendar year.

"(g) As used in this section the term—

"(1) 'income' means income from whatever source delivered.

"(2) 'security' means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

"(3) 'commodity' means commodity as defined in section 2 of the Commodity Exchange Act, as amended (7 U.S.C. 2);

"(4) 'Member of Congress' means a Senator, a Representative, a Resident Commissioner, or a Delegate;

"(5) 'employee of the Congress' means a congressional employee, as defined in paragraph (1), (2), (3), or (5) of section 2107 of title 5, United States Code, who is compensated at a rate in excess of $22,000 per year; and

"(6) 'immediate family' means the child, parent, grandparent, brother, or sister of an individual, and the spouse of such persons."

(b) The table of sections for such chapter 11 is amended by adding at the end thereof the following item:

"225. Disclosure of financial interests by Members of Congress and certain congressional employees.".

(c) The chapter analysis for title 18, United States Code, is amended by striking out the item relating to chapter 11 and inserting in lieu thereof the following:

"11. Bribery, graft, and conflicts of interest".

As you can see this bill requires all Members, as well as Members' staff who earn over $22,000 a year, to report to the Comptroller General information regarding one's income, debts, assets, and business transactions in the preceding year. Specifically, it requires public disclosure of the amount and source of each item of income, regardless of its value, and all gifts which exceed $100 in value. It requires the disclosure of each asset, and the nature of each liability, which has a value in excess of $5,000. And finally it requires the disclosure of any transaction, whether it be in securities, real estate, or commodities, which has a value in excess of $5,000. These reports would be filed with the Comptroller General for review by the public not later than May 15 of each year. Violation of the law would bring a fine of $2,000 or imprisonment for not more than 5 years, or both.

Bills of this nature have been introduced in each Congress since 1958, when my distinguished colleague from New Jersey (Mr. CASE) introduced the first comprehensive disclosure bill. My colleague from New Jersey is the recognized advocate in the Senate for full disclosure, and he should be congratulated for his leadership. Twice in recent years, the Senate has come within four votes of adopting a full disclosure rule.

The bill which I am introducing is similar to Senate bills S. 343 and S. 344, introduced in this Congress by Senators CASE and SPONG, respectively. It differs from these measures in two main respects. First, unlike the Spong and Case bills, it covers only Members of the Congress and their employees. S. 343 and S. 344 cover specified employees of the executive and judicial branches as well as employees of the Armed Forces. They also cover candidates for political offices. Senator SPONG's bill goes even further and includes members of the national political committees of each major party.

Second, the bill which I am today introducing has a more liberal reporting requirement. In the case of reporting one's assets, debts, and transactions, S. 343 and S. 344 require the reporting of such items regardless of their values, while my bill would provide a $5,000 minimum in these categories.

I am a cosponsor of S. 343 along with 18 of our colleagues, including both the majority and minority leaders. We must however, now think about realistic and acceptable legislation with the objective of passing these measures in the very near future. There are some problems with S. 343 and S. 344 that were brought out by the 1971 hearings held on these two bills by the Subcommittee on Privileges and Elections. For instance, there is a problem of coverage. Should we include all presidential appointees? What about State officials who administer Federal grants? It was testified during these hearings that over 219,000 Federal employees would be required to file if either of these two bills would pass. With regard to the dollar amounts, the figures which I have chosen are, in my mind, realistic and workable compromises.

In addition, and more importantly, it is essential that we first put our own house in order, and let the standards created by this legislation be the norms and standards for the other branches of Government. This bill, if enacted, could be just the first step. But it would, in the interim, enact the needed uniformity among both Chambers of Congress, which is now lacking. Each Chamber would, of course, decide whether it wanted to retain its present reporting and disclosure procedure.

The introduction of this bill comes at a time when the Senate is considering the qualifications of nominated cabinet members. A part of each committee's inquiry will no doubt be an examination of the nominees financial holdings and interests in order to determine the possibility of a conflict of interest. We will no doubt in most cases each nominee to disclose openly to the public regarding each's financial relationships and related information.

What the Congress imposes upon others, it has been reluctant to demand of itself. We ask judges to create blind trusts before taking office, but when it comes to Members of the Congress, it is the public that is asked to put up the blind trust.

Financial disclosure by Members takes place for the most part behind sealed envelopes and sealed doors in an air of mystery and mystique. Disclosure is beyond the view of the public, and for the most part beyond the view of even our colleagues. Some committees such as the Committee on Commerce and the Armed Services, require their members to disclose their financial interests, but such disclosure is usually examined only by committee counsel. It is never disclosed to the public.

We are required only to publicly disclose the source and amount of each honorarium over $300 in value. The rest of our financial interests, our income and financial ties, are kept from public scrutiny.

At this time, Mr. President, I ask unanimous consent to insert into the RECORD the full text of the appropriate House and Senate rules on this subject.

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

RULES XLI, XLII, XLIII, AND XLIV OF THE STANDING RULES OF THE SENATE

RULE XLI[1]

OUTSIDE BUSINESS OR PROFESSIONAL ACTIVITY OR EMPLOYMENT BY OFFICERS OR EMPLOYEES

1. No officer or employee whose salary is paid by the Senate may engage in any business or professional activity or employment for compensation unless—

(a) the activity or employment is not inconsistent nor in conflict with the conscientious performance of his official duties; and

(b) he has reported in writing when this rule takes effect or when his office or employment starts and on the 15th day of May in each year thereafter the nature of any personal service activity or employment to his supervisor. The supervisor shall then, in the discharge of his duties, take such action as he considers necessary for the avoidance of conflict of interest or interference with duties to the Senate.

2. For the purpose of this rule—

(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, and the employees of the Office of the Legislative Counsel;

(e) the Secretary of the Senate is the supervisor of the employees of this office;

(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices;

(h) the Majority Leader is the supervisor of the Secretary for the Minority. The Secretary for the Majority is the supervisor of the employees of his office; and

(i) the Minority Leader is the supervisor of the Secretary for the Minority. The Secretary for the Minority is the supervisor of the employees of his office.

3. This rule shall take effect ninety days after adoption.

RULE XLII[1]

CONTRIBUTIONS

1. A Senator or person who has declared or otherwise made known his intention to seek nomination or election or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator, may accept a contribution from—

(a) a fundraising event organized and held primarily in his behalf, provided—

(1) he has expressly given his approval of the fundraising event to the sponsors before any funds were raised; and

(2) he receives a complete and accurate accounting of the source, amounts, and disposition of the funds raised; or

(b) an individual or an organization, provided the Senator makes a complete and accurate accounting of the source, amount, and disposition of the funds received; or

(c) his political party when such contributions were from a fundraising event sponsored by his party, without giving his express approval for such fundraising event when such fundraising event is for the purpose of providing contributions for candidates of his party and such contributions are reported by the Senator or candidate for Senator as provided in paragraph (b).

2. The Senator may use the contribution only to influence his nomination for election, or his election, and shall not use directly or indirectly, any part of any contribution for any other purpose, except as otherwise provided herein.

3. Nothing in this rule shall preclude the use of contributions to defray expenses for travel to and from each Senator's home State; for printing and other expenses in connection with the mailing of speeches, newsletters, and reports to a Senator's constituents; for expenses of radio, television; and news media methods of reporting to a Senator's constituents; for telephone, telegraph, postage, and stationery expenses in excess of allowance; and for newspaper subscriptions from his home State.

4. All gifts in the aggregate amount or value of $50 or more received by a Senator from any single source during a year, except a gift from his spouse, child, or parent, and except a contribution under sections 1 and 2, shall be reported under rule XLIV.

5. This rule shall take effect ninety days after adoption.

RULE XLIII[2]

POLITICAL FUND ACTIVITY BY OFFICERS AND EMPLOYEES

1. No officer or employee whose salary is paid by the Senate may receive, solicit, be the custodian of, or distribute any funds in connection with any campaign for the nomination for election, or the election of any individual to be a Member of the Senate or to any other Federal office. This prohibition does not apply to any assistant to a Senator who has been designated by that Senator to perform any of the functions described in the first sentence of this paragraph and who is compensated at a rate in excess of $10,000 per annum if such designation has been made in writing and filed with the Secretary of the Senate. The Secretary of the Senate shall make the designation available for public inspection.

2. This rule shall take effect sixty days after adoption.

RULE XLIV[2]

DISCLOSURE OF FINANCIAL INTERESTS

1. Each Senator or person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or who has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law, to the office of United States Senator, and each officer or employee of the Senate who is compensated at a rate in excess of $15,000 a year, shall file with the Comptroller General of the United States, in a sealed envelope marked "Confidential Personal Financial Disclosure of _____ (Name)," before the 15th day of May in each year, the following reports of his personal financial interests:

(a) a copy of the returns of taxes, declarations, statements, or other documents which he, or he and his spouse jointly, made for

[1] S. Jour. 247, 90–2, Mar. 22, 1968.

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the preceding year in compliance with the income tax provisions of the Internal Revenue Code;

(b) the amount or value and source of each fee or compensation of $1,000 or more received by him during the preceding year from a client;

(c) the name and address of each business or professional corporation, firm, or enterprise in which he was an officer, director, partner, proprietor, or employee who received compensation during the preceding year and the amount of such compensation;

(d) the identity of each interest in real or personal property having a value of $10,000 or more which he owned at any time during the preceding year;

(e) the identity of each trust or other fiduciary relation in which he held a beneficial interest having a value of $10,000 or more, and the identity if known of each interest of the trust or other fiduciary relation in real or personal property in which the Senator, officer, or employee held a beneficial interest having a value of $10,000 or more, at any time during the preceding year. If he cannot obtain the identity of the fiduciary interests, the Senator, officer, or employee shall request the fiduciary to report that information to the Comptroller General in the same manner that reports are filed under this rule;

(f) the identity of each liability of $5,000 or more owed by him, or by him and his spouse jointly, at any time during the preceding year; and

(g) the source and value of all gifts in the aggregate amount or value of $50 or more from any single source received by him during the preceding year.

2. Except as otherwise provided by this section, all papers filed under section 1 of this rule shall be kept by the Comptroller General for not less than seven years, and while so kept shall remain sealed. Upon receipt of a resolution of the Select Committee on Standards and Conduct, adopted by a recorded majority vote of the full committee, requesting the transmission to the committee of any of the reports filed by any individual under section 1 of this rule, the Comptroller General shall transmit to the committee the envelopes containing such reports. Within a reasonable time after such recorded vote has been taken, the individual concerned shall be informed of the vote to examine and audit, and shall be advised of the nature and scope of such examination. When any sealed envelope containing any such report is received by the committee, such envelope may be opened and the contents thereof may be examined only by members of the committee in executive session. If, upon such examination, the committee determines that further consideration by the committee is warranted and is within the jurisdiction of the committee, it may make the contents of any such envelope available for any use by any member of the committee, or any member of the staff of the committee, which is required for the discharge of his official duties. The committee may receive the papers as evidence, after giving to the individual concerned due notice and opportunity for hearing in a closed session. The Comptroller General shall report to the Select Committee on Standards and Conduct not later than the 1st day of June in each year the names of Senators, officers, and employees who have filed a report. Any paper which has been filed with the Comptroller General for longer than seven years, in accordance with the provisions of this section, shall be returned to the individual concerned or his legal representative. In the event of the death or termination of service of a Member of the Senate, an officer or employee, such papers shall be returned unopened to such individual, or to the surviving spouse or legal representative of such individual within one year of such death or termination of service.

3. Each Senator or person who has declared or otherwise made known his intention to seek nomination or election, or who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed, or has otherwise, directly or indirectly, manifested his intention to seek nomination or election, pursuant to State law to the office of United States Senator, and each officer or employee of the Senate who is compensated at a rate in excess of $15,000 a year, shall file with the Secretary of the Senate, before the 15th day of March in each year, the following reports of his personal financial interests;

(a) the accounting required by rule XLII for all contributions received by him during the preceding year, except that contributions in the aggregate amount or value of less than $50 received from any single source during the reporting period may be totaled without further itemization; and

(b) the amount or value and source of each honorarium of $300 or more received by him during the preceding year.

4. All papers filed under section 3 of this rule shall be kept by the Secretary of the Senate for not less than three years and shall be made available promptly for public inspection and copying.

5. This rule shall take effect on July 1, 1968. No reports shall be filed for any period before office or employment was held with the Senate, or during a period of office or employment with the Senate of less than ninety days in a year; except that the Senator, or officer or employee of the Senate, may file a copy of the return of taxes for the year 1968, or a report of substantially equivalent information for only the effective part of the year 1968.

RULES XLIII AND XLIV OF THE RULES OF THE HOUSE OF REPRESENTATIVES

RULE XLIII

CODE OF OFFICIAL CONDUCT

There is hereby established by and for the House of Representatives the following code of conduct, to be known as the "Code of Official Conduct":

1. A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

2. A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.

3. A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

4. A Member, officer, or employee of the House of Representatives shall accept no gift of substantial value, directly or indirectly, from any person, organization, or corporation having a direct interest in legislation before the Congress.

5. A Member, officer, or employee of the House of Representatives shall accept no honorarium for a speech, writing for publication, or other similar activity, from any person, organization, or corporation in excess of the usual and customary value for such services.

6. A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. He shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable prior campaign expenditures. He shall expend no funds from his campaign account not attributable to bona fide campaign purposes.

7. A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund raising events if the sponsors of such affairs do not give clear notice in advance to the donors or participants that the proceeds are intended for other purposes.

8. A Member of the House of Representatives shall retain no one from his clerk hire allowance who does not perform duties commensurate with the compensation he receives.

As used in this Code of Official Conduct of the House of Representatives—

(a) the terms "Member" and "Member of the House of Representatives" include the Resident Commissioner from Puerto Rico; and

(b) the term "officer or employee of the House of Representatives" means any individual whose compensation is disbursed by the Clerk of the House of Representatives.

RULE XLIV

FINANCIAL DISCLOSURE

Members, officers, principal assistants to Members and officers, and professional staff members of committees shall, not later than April 30, 1969, and by April 30 of each year thereafter, file with the Committee on Standards of Official Conduct a report disclosing certain financial interests as provided in this rule. The interest of a spouse or any other party, if constructively controlled by the person reporting, shall be considered to be the same as the interest of the person reporting. The report shall be in two parts as follows:

PART A

1. List the name, instrument of ownership, and any position of management held in any business entity doing a substantial business with the Federal Government or subject to Federal regulatory agencies, in which the ownership is in excess of $5,000 fair market value as of the date of filing or from which income of $1,000 or more was derived during the preceding calendar year. Do not list any time or demand deposit in a financial institution, or any debt instrument having a fixed yield unless it is convertible to an equity instrument.

2. List the name, address, and type of practice of any professional organization in which the person reporting, or his spouse, is an officer, director, or partner, or serves in any advisory capacity, from which income of $1,000 or more was derived during the preceding calendar year.

3. List the source of each of the following items received during the preceding calendar year:

(a) Any income for services rendered (other than from the United States Government) exceeding $5,000.

(b) Any capital gain from a single source exceeding $5,000, other than from the sale of a residence occupied by the person reporting.

(c) Reimbursement for expenditures (other than from the United States Government) exceeding $1,000 in each instance. Campaign receipts shall not be included in this report.

Information filed under part A shall be maintained by the Committee on Standards of Official Conduct and made available at reasonable hours to responsible public inquiry, subject to such regulations as the committee may prescribe including, but not limited to, regulations requiring identification by name, occupation, address, and telephone number of each person examining information filed under part A, and the reason for each such inquiry.

The committee shall promptly notify each person required to file a report under this rule of each instance of an examination of his report. The committee shall also promptly notify a Member of each examination of the reports filed by his principal assistants and of each examination of the reports of professional staff members of committees who are responsible to such Member.

PART B

1. List the fair market value (as of the date of filing) of each item listed under paragraph 1 of part A and the income derived therefrom during the preceding calendar year.

2. List the amount of income derived from each item listed under paragraphs 2 and 3 of part A.

The information filed under this part B shall be sealed by the person filing and shall remain sealed unless the Committee on Standards of Official Conduct, pursuant to its investigative authority, determines by a vote of not less than seven members of the committee that the examination of such information is essential in an official investigation by the commitee and promptly notifies the Member concerned of any such determination. The committee may, by a vote of not less than seven members of the committee, make public any portion of the information unsealed by the committee under the preceding sentence and which the committee deems to be in the public interest.

Any person required to file a report under this rule who has no interests covered by any of the provisions of this rule shall file a report so stating.

In any case in which a person required to file a sealed report under part B of this rule is no longer required to file such a report, the committee shall return to such person, or his legal representative, all sealed reports filed by such person under part B and remaining in the possession of the committee.

As used in this rule—

(1) the term "Members" includes the Resident Commissioner from Puerto Rico; and

(2) the term "committees" includes any committee or subcommittee of the House of Representatives and any joint committee of Congress, the expenses of which are paid from the contingent fund of the House of Representatives.

(b) Paragraph (a) of clause 16 of Rule XI of the Rules of the House of Representatives is amended by striking out "rules, joint rules" and inserting in lieu thereof "rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct or relating to financial disclosure by a Member, officer, or employee of the House of Representatives)."

Mr. MATHIAS. Mr. President, we have created in the Senate, the Select Committee on Standards and Conduct, and in the House, the Committee on Standards of Official Conduct, to process and retain these reports. However, the machinery of these committees and the confidential disclosure of a Member's conflicts of interests to members of the committee, is only put in motion after the conflict is recognized. For the public's sake, it might then be too late.

Disclosure, I feel, is the best way to restore confidence in government. The use of disclosure to improve the legislative process and to give the public confidence in the integrity of government goes back to 1913, with the landmark legislation of the Underwood tariff. The highlight of the Senate debate came when Senator Robert LaFollette and others demanded that Senators publicly disclose their personal property holdings which might be affected by the tariff legislation. The demand was met and each Senator appeared before the Senate Judiciary Committee to disclose their financial interests. The bill passed, and the New York Times heralded the public confidence it evoked. An editorial stated—

This is no tariff by log-rolling, by manipulation, by intrigue, by bribery. It was bought by no campaign contributions. It was dictated by no conspiracy between corrupt businesses and corrupt government.

Disclosure does not attempt to define the rights or wrongs in any situation. It makes no judgment, imposes no sanctions or penalties. It gives the public the basis upon which to make a reasoned and well-founded judgment. It is a modest attempt. By permitting the public to make the judgment, disclosure respects the intelligence of the public and the integrity of the democratic process.

Some will feel that disclosure is an intolerable invasion of one's privacy, and make public officers second-class citizens. I would disagree. I, along with a growing number of my colleagues, have voluntarily disclosed a complete list of my financial interests to the public annually in the CONGRESSIONAL RECORD. The public's confidence in the democratic process is a bigger issue, I believe, than an invasion into one's privacy. If we are to restore this needed confidence, we must permit the public to judge us on our complete record for clearly this is the public's domain.

Most of us in the Congress will find disclosure to our benefit, for it will protect us from an uninformed rumor or ill-founded suspicion. It will also help us more directly by permitting the public to judge us rather than we judging each other. We all know how unpleasant it is to sit in judgment of a fellow colleague's conflict of interest. It is indeed an ugly task. Disclosure will put the burden of policing where it belongs—in the hands of the public.

Disclosure is based upon the public's right to know, and its right to have information accessible to it. It is clearly aimed at increasing the sensitivity and involvement of the public in the governmental process. These were the same objectives in passing the recently enacted Campaign Reform Act of 1972. It is a logical and necessary second step to now require what we asked of candidates, to now ask of the elected officials. In this campaign reform legislation, we required both incumbents and challengers to disclose to the public, information regarding their political campaign. We must now afford the public the same protection once that person is elected.

The procedure used in the enforcement of this proposed bill is conveniently identical to that used in enforcing the campaign reform legislation. The reports would go to the Comptroller General, who would perform the ministerial act of receiving and storing the reports, while the enforcement of the disclosure requirements would be delegated to the Justice Department.

Mr. President, I publicly declare today my firm intention to whatever I possibly can to assure the enactment of this bill in the 93d Congress. If adequate and complete hearings are not held on this bill, I will have to consider the possibility of offering the bill as an amendment when there is an opportunity which will further its passage. I am most sincere when I say that the passage of this bill is essential to the workings of the Congress and to the public's involvement in the political process. I would hope that the Committee on Government Operations or the Committee on Rules and Administration will conduct thorough hearings on this measure in the very near future.

I would like to acknowledge the great and valuable contribution of the National Committee for an Effective Congress under the leadership of Russell Hemenway. NCEC has been an enormous encouragement and support for my contribution in this area and I am indeed grateful.

Mr. President, this bill is really a modest attempt to reform the Congress. We are not providing any prohibitions on the outside activities of Members. We are not saying that Members must divest themselves of outside income. We are therefore not saying what Members should or should not do. We are simply putting the facts before the public for their judgment. It is not asking too much; yet its benefits are profound. During the recent hearings conducted by Senator STEVENSON and myself by the Ad Hoc Committee on Congressional Reform witness after witness testified on the need for a bill of this type. The notion that this bill is needed is indeed widespread.

Mr. President, I urge that the Senate consider this bill and we welcome our colleagues to join us in this effort.

By Mr. WEICKER (for himself, Mr. GRIFFIN, and Mr. BUCKLEY):

S. 399. A bill to amend the Federal law relating to the care and treatment of animals to broaden the categories of persons regulated under such law, to assure that birds in pet stores and zoos are protected, and to increase protection for animals in transit. Referred to the Committee on Commerce.

PROTECTION OF ANIMALS IN AIR TRANSPORT

Mr. WEICKER. Mr. President, the Animal Welfare Act of 1970, amending the 1966 act, added substance and scope to Federal standards and enforcement of humane treatment of animals.

And yet, on a recent tour of air freight facilities at Washington's National Airport, I observed a number of substandard shipments of animals stuffed in flimsy crates and afforded no better treatment than regular air freight.

I submit that Congress must exercise legislative leadership to assure humane treatment of animals transported in air commerce. The thrust of the bill reintroduced today by myself and Senator GRIFFIN is to amend the Animal Welfare Act of 1970 to provide that all animal shipment regulations in the act will be adhered to by the common carriers, now exempt in an unexplicable loophole. The bill, entitled the "Animal Air Transport Act" has also been introduced in the House by Congressman WHITEHURST, of Virginia.

Ever since the 91st Congress, I have investigated alternatives for humane action in air commerce, first as a Congressman, and now as a Senator from Connecticut. The problem and tragedies need not be elaborated on further; I would only refer my distinguished colleagues to an excellent article from the January issue of Air Line Pilot magazine, "Live Cargo: Cruelty Aloft?" inserted in the CONGRESSIONAL RECORD, January 11, page 907, by Congressman WHITEHURST.

In extending coverage of the Animal Welfare Act to common carriers, terminal facilities, and all pet shops, this bill closes major loopholes in existing law

and affords an opportunity for shippers, carriers, humane societies and governmental agencies to cooperate in the formulation of new Federal standards for the protection of animals in air transit. I am hopeful that the 93d Congress will speedily enact this imperative amending legislation.

By Mr. HANSEN (for himself, Mr. PERCY, and Mr. MCGEE):

S. 400. A bill to amend the Federal Property and Administrative Services Act of 1949 so as to permit donations of surplus property to public museums. Referred to the Committee on Government Operations.

SURPLUS PROPERTY DONATIONS TO PUBLIC MUSEUMS

Mr. HANSEN. Mr. President, today, I am introducing legislation to permit the donation of surplus property to public museums.

Similar legislation was originally passed by the Senate during the 91st Congress.

During the 92d Congress, this legislation was given the consideration of the Senate Committee on Government Operations. As amended in committee, the legislation was reported with a favorable recommendation.

On September 22, 1972, the Senate passed this legislation; however, as during the 91st Congress, this legislation did not receive consideration by the House of Representatives.

In light of the history of this legislation and the continued need of many nonprofit museums which cannot qualify as educational institutions, I would respectfully request that this legislation, which was agreed to by the Senate only a few months ago, be given the early approval of this body so it might be given ample consideration by the House of Representatives.

By Mr. SPARKMAN:

S. 401. A bill to amend the Federal Credit Union Act in order that Federal credit unions may operate more efficiently and better serve the financial needs of their members and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. SPARKMAN. Mr. President, today I introduce a bill to be entitled "The Modernization of the Federal Credit Union Act." This legislation is designed to keep credit union procedures abreast of the times.

The Credit Union National Association established a study commission in 1968 to examine the Federal Credit Union Act and seek recommendations from credit unions throughout the country to make it responsive to the needs of the thousands of its members.

The bill's provisions are housekeeping in nature and deal with day to day operations of the credit unions. The bill also provides a more complete range of services to members. It simply updates the Federal act which regulates credit unions.

I ask unanimous consent to have a copy of the bill and a section by section analysis printed in the record at this point.

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

S. 401

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 "Federal Credit Union Modernization Act of 1973".

SEC. 1. (a) Section 101(1) of the Federal Credit Union Act (12 U.S.C. 1751(1)) is amended—

(1) by striking out the word "organized" and inserting "incorporated" in lieu thereof; and

(2) by striking out the word "promoting" and inserting "encouraging" in lieu thereof; and

(3) by striking out "for provident or productive purposes" and inserting "at a fair and reasonable rate of interest and providing an opportunity for its members to use and control their own money in order to improve their economic and social condition;" in lieu thereof.

(b) Section 101(4) of the Federal Credit Union Act (12 U.S.C. 1751(4)) which begins with the words "the terms 'member account' etc." is redesignated paragraph "(5)" and the succeeding paragraphs numbered (5) (8) are redesignated as paragraphs (6) through (9) respectively; and

(c) Section 101(5) of the Federal Credit Union Act, as redesignated by paragraph (b) of this section is amended by inserting the word "deposits" between the words "shares", and "share certificate", each place these words appear therein.

SEC. 2. Section 103 of the Federal Credit Union Act (12 U.S.C. 1753) is amended—

(1) by striking out the words "some officer competent to administer oaths" and inserting "a witness either individually or collectively," in lieu thereof; and

(2) by striking out the words "$5 each" at the end of paragraph (2) thereof and inserting "in $5 multiples, not less than $5 and not more than $25 each;" in lieu thereof.

SEC. 3. Section 105 of the Federal Credit Union Act (12 U.S.C. 1756) is amended by inserting between the words "regulation" and "on" the words ", subject to the advice and consent of the National Credit Union Board,".

SEC. 4. Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) is amended by inserting between the words "scale of examination fees" and "to be paid" the words "by regulation, subject to the advice and consent of the National Credit Union Board,".

SEC. 5. (a) Subsection (5) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757(5)) is amended—

(1) by striking out the words "unsecured" and "with maturities not exceeding five years, and secured loans with maturities not exceeding ten years,"; and

(2) by striking out the words "for provident or productive purposes" and inserting "at a fair and reasonable rate of interest" in lieu thereof; and

(3) by striking out the words "this chapter and the bylaws provide" and inserting "determined by the board of directors" in lieu thereof; and

(4) by inserting between the words "made" and "except" the words "nor may a director or member of the supervisory committee or credit committee endorse for borrowers"; and

(5) by striking out the words "No director or member of the supervisory or credit committee shall endorse for borrowers".

(b) Subsection (6) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757 (6)) is amended by striking all the words following "or credit committee" and inserting "provided that any such loan or aggregate of loans to one director or committee member which exceeds $2,500 plus pledged shares, must be approved by the board of directors and to permit directors and committee members to act as guarantor or endorser of loans to other members, except that when such a loan standing alone or when added to any outstanding loan or loans of the guarantor exceeds $2,500, approval of the board of directors is required and further provided that such loan complies with all lawful requirements under this chapter with respect to other borrowers and is not on terms more favorable than those extended to other borrowers.".

(c) Subsection (7) of the Federal Credit Union act (12 U.S.C. 1757(7)) is amended—

(1) by striking out the words "federally insured"; and

(2) by inserting the word "deposits" between the words "shares," and "share certificates," each place these words appear therein; and

(3) by striking the semicolon at the end thereof and inserting "subject to such terms and conditions as may be established by the board;"

(d) Paragraph (C) of subsection (8) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757 (8) (C)) is amended by striking out the words "in accordance with rules and regulations prescribed by the Administrator" and "in the total amount not exceeding 25 percentum of its paid-in and unimpaired capital and surplus".

(e) Paragraph (H) of subsection (8) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757 (8) (H)) is amended—

(1) by adding the word "deposits" between the words "shares," and "share certificates,"; and

(2) by striking out the words "federally insured".

(f) Subsection (8) of the Federal Credit Union Act (12 U.S.C. 1757 (8)) is amended by adding the following new paragraphs at the end thereof:

"(I) in participation loans with other credit unions, corporations, or financial organizations in making loans to credit union members;"

"(J) in the purchase of conditional sales contracts and similar instruments of its members;"

"(K) in the capital shares, obligations or preferred stock issues of any agency, association, cooperative, or membership corporation, provided the members, stockholders, patrons or owners are confined to credit unions or credit union organizations and provided such agency, association, cooperative or corporation is organized and designed to service or otherwise assist credit unions in accomplishing their purposes;"

"(L) in loans to any credit union association, national or state, of which such credit union is a member, except that such an investment shall be limited to 1 per centum of the unimpaired capital and surplus of the credit union;"

"(M) in stocks and bonds of United States corporations to a maximum of 5 per centum of the credit union's unimpaired capital and surplus, provided that such investment shall be limited to income stocks or bonds which appear on a list approved by the Administrator published quarterly such list to include not less than 30 corporations; and"

"(N) by making donations or contributions to any non-profit civic, charitable, or community organization as authorized by the board of directors;".

(g) Subsection (9) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757 (9)) is amended by striking out the semicolon at the end thereof and inserting "and for Federal credit unions operating suboffices on American military installations in foreign countries or trust territories of the United States to maintain demand deposit accounts in banks located in those countries or trust territories provided such banks are correspondents of banks described in this subsection;".

(h) Subsection (10) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757 (10)) is amended by striking out all the words beginning with "in an aggregate

amount" and ending with "capital" and inserting "and to discount and sell all eligible obligations, including but not limited to obligations due to agricultural loans, student loans and all other loans to members subject to rules and regulations prescribed by the Administrator".

(i) Subsection (13) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757 (13)) is amended by striking all the words beginning with "to sell to members" and ending with "orders for members," and inserting "to collect, receive and disburse monies to members and persons eligible for membership in connection with the sale or presentation of negotiable checks (including travelers checks), money orders, or similar monetary devices,"

(j) Subsection (15) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757 (15)) is amended by striking out the period at the end thereof and inserting ", including such inherent powers as are implied for general corporations;"

(k) Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by adding the following new subsections at the end thereof:

"(16) to enter into cooperative marketing agreements for its members covering such services as group life insurance, temporary disability coverage, health and accident plans and such programs which are demonstrated to be in the interest of improving the economic and social well being of Federal credit union members;"

"(17) to contribute to, support, and participate in any nonprofit service facility whose services will benefit the credit union or its membership; and"

"(18) to perform trust services for its members, including the administering of trust estates for deceased members under such rules and regulations as determined by the Administrator.".

SEC. 6. Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended to read as follows:

"(a) Membership—Federal credit union membership shall consist of the incorporators and such other persons and incorporated and unincorporated organizations as may be elected to membership and as such shall each subscribe to at least one share of its stock and pay the initial installment thereon and a uniform entrance fee and an annual membership fee if either is required by the board of directors and Federal credit union membership shall include groups having a common bond of similar occupation, association, or interest; to groups who reside or work within an identifiable neighborhood, community, or rural district or to employees of a common employer; to persons who are members of another credit union and who have been recommended for membership in writing by that credit union; to the surviving spouse of a deceased member and to members of the family of such persons described herein; and existing credit unions may include within their field of membership low-income persons, as defined by the Administrator, for whom credit union services are otherwise unavailable. In addition, membership in a Federal central type credit union shall also include persons within the field of membership of liquidated credit unions located in the state where the Federal central type credit union has its principal office."

"(b) Shares, deposits, share certificates and share deposits may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member."

"(c) Shares, deposits, share certificates and share deposits may also be issued in multiple party accounts. As used in this subsection:

(1) "Account" means a contract of deposit of funds between depositors and credit unions, and includes shares, deposits, share certificates, share deposits, and other like arrangements whether or not they may be characterized as refundable capital investments."

(2) "Beneficiary" means any person named a beneficial owner when an account provides that it is payable to a trustee for the beneficial owner.

(3) "Demand" means a request for withdrawal or for payment according to an order therefor in compliance with all conditions of the account and bylaws of the credit union.

(4) "Multiple-party account" means an account in the names of two or more persons, one or more or all of whom may make withdrawals, or an account in the name of one or more parties as trustee for one or more beneficiaries even though no mention is made of a right of withdrawal by a beneficiary. Accounts established for deposit of funds of a partnership, joint venture or other association or accounts controlled by 2 or more persons as the duly authorized agents or trustees for a corporation, unincorporated association, charitable or civic organization or any trust, except trusts of deposits evidenced only by the form of the deposit, are excluded from the meaning of the term and from the provisions of this act. At least one party to a multiple-party account shall be a member of the credit union in which the account is established."

(5) "net contribution" of a party to a multiple-party account as of any given time is the sum of all deposits made by or for him, less all withdrawals made by or for him which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. It includes, in addition, any deposit life insurance proceeds added to the account by reason of the death of the party whose net contribution is in question.

(6) "Party" means a person who, alone, or in conjunction with another, by the terms of the account or as a surviving beneficiary of a trust account, has a present right of withdrawal in a multiple-party account. Unless the context indicates otherwise, it includes a guardian, conservator-trustee, personal representative, or assignee, including an attaching creditor, of a party. It also includes a person identified as a trustee of an account for another whether or not a beneficiary is named, but it does not include any named beneficiary, unless he has a present right of withdrawal.

(7) "Payment" of sums on deposit includes withdrawal and payment on directive of a party.

(8) "Person" includes any person or entity capable of contracting.

(9) "Proof of death" includes a death certificate or other statement issued by an appropriate official which indicates that a named person is dead.

(10) "Sums on deposit" means the balance payable on a multiple-party account including interest, dividends, and in addition any deposit life insurance proceeds added to the account by reason of the death of a party.

(11) "Withdrawal" includes payments to a third person pursuant to directive of a party.

(d) The presumptions created by subsections (e) through (1) concerning beneficial ownership as between parties, or as between parties and beneficiaries, of multiple-party accounts are relevant only to controversies between these persons or their creditors and other successors, and shall have no bearing on the rights of withdrawal of such persons as determined by the terms of account contracts. The provisions of subsections (m) to (p) govern the liability of credit unions who make payments pursuant thereto, and their set-off rights.

(e) During the lifetime of all parties, a multiple-party account which provides that sums on deposit or in shares may be paid on the demand of either of 2 or more parties is presumed to belong to the parties in proportion to the net contributions by each to the sums on deposit.

(f) In the absence of satisfactory proof of the net contributions, those who are parties from time to time shall be presumed to own a multiple-party account in equal undivided interests.

(g) The death of any party to a multiple-party account shall have no effect on the beneficial ownership of the account, other than to transfer the decedent's right to his estate, unless the account is a survivorship account or trust account, as provided in subsections (h) and (i).

(h) A multiple-party account payable to 2 or more persons, jointly or severally, which does not expressly provide that there is no right of survivorship, through there is no mention of survivorship or joint tenance, is presumed to be a survivorship account. At the death of a party, sums on deposit in a survivorship account belong to the surviving party or parties as against the estate of the decedent. Where there are 2 or more survivors, their respective ownerships shall be in proportion to their previous net contributions augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before his death, plus the proceeds of insurance on decedent's life paid to the account. The right of survivorship continues between survivors.

(i) An account which states that a party is a trustee for one or more other identified persons, including but not limited to minors, is a trust account. Except where there is evidence of a trust other than as provided by the form of the account, the account and any sums withdrawn therefrom are presumed to belong beneficially to the trustee until his death. At the death of the trustee or surviving trustee any sums remaining on deposit are presumed to belong to the person or persons named as beneficiaries, if living, or to the survivor of them if one or more have died before the trustee. The death thereafter of any beneficiary has no effect on the equal ownership of all who survived the trustee, as no right of survivorship is presumed to attend the relationship of several beneficiaries who survive a trustee. If no beneficiary survives the trustee, the sums are presumed to belong to the estate of the last trustee to die. If two or more parties are named as trustees on the account, and there is no evidence of trust except as provided by the form of the account, the account is presumed to be a survivorship account as between trustees. It is presumed to be owned between trustees as provided by this Act.

(j) The presumptions stated herein are based upon inferences of the intention of parties to multiple-party accounts arising from the form of the account and the usual expectations of people using these accounts. The presumptions are rebuttable by clear and convincing evidence of a different intention. The presumptions of survivorship are not subject to change by will but may be rebutted by a written order received by the credit union to change the form of account or directing that payment not be made in accordance with the account which is signed by a party and is received by the credit union during the party's lifetime.

(k) Where not rebutted by clear and convincing evidence the presumptions provided in this act are effective to establish beneficial ownership. Any transfers resulting from the application of these presumptions are effective by reason of the account contracts involved in this act and are not to be considered as testamentary or subject to the probate code.

(l) A credit union may enter into multiple-party accounts to the same extent that they may enter into single-party accounts. Any multiple-party account may be paid, on demand, to any one or more of the parties unless the terms of the account expressly

stipulate that joint signatures are required. No credit union shall be required to inquire as to the source of funds received for deposit to a multiple-party account or to inquire as to the proposed application of any sum withdrawn from an account. Such an account may be created with any person designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans or hold office unless he is within the field of membership and is a qualified member.

(m) Any sum in a multiple-party account which does not include a stipulation requiring joint signatures for withdrawals may be paid, on demand, to any party without regard to whether any other party is incompetent or deceased at the time the payment is demanded, except, if the account is one presumed to be a survivorship account under subsection (h) or (i) payment may not be made to the personal representative or heirs of a deceased party unless proofs of death are presented to the credit union showing that the decedent was the last survivng party.

(n) Any account payable to a trustee for another person may be paid on demand to the trustee. Unless the credit union has received written notice of the terms of any trust other than the form of the account, payment may be made to the personal representative or heirs of a deceased trustee if proof of death is presented to the credit union showing that his descendant was the survivor of all other persons named on the account either as trustee or beneficiary; and payment may be made, on demand, to the beneficiary upon presentation to the credit union of proof of death showing that the beneficiary or beneficiaries survived all persons named as trustees.

(o) Payment made pursuant to subsections (l), (m), or (n) discharges the credit union from all claims for amounts so paid whether or not the payment is consistent with the beneficial ownership of the account as between parties, or beneficiaries, or their successors. The protection here given does not extend to payments made after a credit union has received written notice from any party who has a present right of withdrawal to the effect that withdrawals in accordance with the terms of the account should not be permitted. Unless the notice is withdrawn by the person giving it, the death of any party after notice has no effect or withdrawal rights, and the personal representative, or heirs, of the decedent must concur in any demand for withdrawal if the credit union is to be protected under this section. No other notice or any other information shown to have been available to a credit union shall affect its right to the protection provided here. The protection here provided shall have no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.

(p) Without qualifying any other statutory right to set-off or lien and subject to any contractual provision, when a party to a multiple-party account is indebted to a credit union, the credit union has a right to set-off against the entire amount of the account.

SEC. 7. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended to read as follows:

"Management—The business affairs of a Federal credit union shall be managed by a board of an odd number of directors, at least five in number, to be elected at the annual members' meeting by and from the members and a supervisory and credit committee to be appointed by the board. All members of the board shall hold office for such terms, respectively as the bylaws may provide. A record of the names and addresses of the executive officers and the chairmen of the credit and supervisory committees shall be filed with the Administration within ten days after their election or appointment. Any vacancy occuring in the board shall be filled until the next annual members' meeting by appointment by the remainder of the directors. No member of the board or of any committee shall, as such, be compensated, but providing reasonable life, health, accident and similar insurance protection for a director or committee member shall not be considered compensation within the meaning of this section. Any member, while on official business of the Federal credit union authorized by the board of directors may be reimbursed for necessary expenses incidental to the performance of the business."

SEC. 8. Section 112 of the Federal Credit Union Act (12 U.S.C. 1761a) is amended to read as follows:

"Officers—At their organization meeting and within 30 days following each annual meeting of the members thereafter, the directors shall elect from their own number an executive officer who may be designated as chairman of the board or president, a vice-chairman of the board or one or more vice presidents, a treasurer, and a secretary, of whom the last two may be the same individual, and the persons so elected shall be the executive officers of the corporation. No executive officer, except the treasurer shall be compensated as such. The board of directors may employ a person to be in charge of operations whose title shall be president or general manager; or, in lieu thereof, the board of directors may designate the treasurer to act as general manager or president and be in active charge of the affairs of the Federal credit union. The duties of the officers shall be as determined in the bylaws. Before the officer in charge of operations acting as general manager or presidents or the treasurer shall enter upon his duties he shall give bond with good and sufficient security, in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Administrator, conditioned upon the faithful performance of his trust."

SEC. 9. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761(b)) is amended to read as follows:

"Directors—The board of directors shall meet at least once a month and shall have the general direction and control of the affairs of the corporation. Minutes of all such meetings shall be kept. Among other things they shall act upon application for membership; require any officer or employee handling funds to give bond with good and sufficient surety in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Administrator, and authorize the payment of the premium or premiums therefor from the funds of the Federal credit union; fill vacancies in the board until successors elected at the next annual meeting have qualified; have charge of investments other than loans to officers except that the board may designate a committee of their number to act as an investment committee or designate any qualified individual to act as an investment officer, said investment committee or officer to have charge of making investments under rules and procedures established by the board of directors; determine the interest rates on loans and the maximum amount which may be loaned with or without security to any member; authorize an interest refund to members from income earned and received in proportion to the interest paid by them on such classes of loans and under such conditions as may be prescribed by the board of directors; and provide for compensation of necessary clerical and auditing assistance requested by the supervisory committee and of loan officers appointed by the board. From the persons elected to the board of directors, the board may appoint an executive committee of not less than three directors to act for the board in all respects subject to such conditions and limitations as may be prescribed by the board. Such executive committee or one or more membership officers appointed by the board from among the members of the credit union, other than the treasurer, an assistant treasurer, or a loan officer, may be authorized by the board to approve applications for membership under such conditions as the board may prescribe; except that such committee or membership officer or officers so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require.".

SEC. 10. Section 114 of the Federal Credit Union Act is amended to read as follows:

"Credit Committee—The board of directors shall appoint a credit committee consisting of an odd number of members of the credit union. The credit committee shall hold such meetings as the business of the Federal credit union may require and not less frequently than once a month to consider applications for loans. No loan shall be made unless it is approved by a majority of the committee who are present at the meeting at which the application is considered. The board of directors may also appoint one or more loan officers, delegate to him, her, or them the power to approve loans under such rules and procedures to be determined by the board. Loans not approved by the loan officers will be reviewed by the credit committee and shall require the approval of all members who are present at the meeting when such action is reviewed. No individual shall have authority to disburse funds of the Federal credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer. Applications for loans shall be made on forms approved by the board of directors which must include the purpose for which the loan is desired, the security, if any, and such other data as the board may require. No loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed $200 or 10 per centum of the credit union's unimpaired capital and surplus, whichever is greater.".

SEC. 11. Section 115 of the Federal Credit Union Act (12 U.S.C. 1761d) is amended by striking out the word "semiannual" and inserting "annual" in lieu thereof.

SEC. 12. Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended—

(1) by striking the words "annually, semiannually, or quarterly, as the bylaws provide," and inserting "At such intervals as the board of directors may authorize," in lieu thereof; and

(b) by striking the period after the words "net earnings" and inserting "at such rate and upon such classes of shares as determined by the board.".

SEC. 13. Section 121 of the Federal Credit Union Act (12 U.S.C. 1767) is amended by adding at the end thereof the following new sentence:

"In addition, each Federal credit union is authorized to act as fiscal agent for and to receive deposits from a state government or political subdivision thereof and public housing corporations and shall be eligible to hold tax payments and proceeds of obligations of the United States as well as appropriated and nonappropriated funds.".

SEC. 14. Section 126 of the Federal Credit Union Act (12 U.S.C. 1772) is amended by inserting after the words "the several Territories" the words ", including the Trust Territories,".

DIGEST OF "FEDERAL CREDIT UNION MODERNIZATION ACT OF 1973"

SEC. 1—*Purpose of Credit Union*—The purpose of this Act is to incorporate the definition of a credit union of CUNA Model Credit

Union Act (Sec. 1): "A credit union is a cooperative non-profit association incorporated in accordance with the provisions of this Act for the purpose of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social condition."

Sec. 2—*Organization Certificates*—It will allow the Organization Certificate to be signed before a witness or the signatures to be acknowledged by some official competent to acknowledge.

Shares, Par Value—It gives the board of directors authority to establish the par value of shares in $5 multiples, not less than $5, and not more than $25.

Sec. 3 and 4—*Government Fees*—The fees will be determined by regulations established by the Administrator, with the consent of the National Credit Union Board.

Sec. 5(a)—*Loan Maturity*—This will remove all restrictions in Act on loan maturities.

Sec. 5(b)—*Officer Borrowing and Endorsing*—All restrictions will be lifted with respect to borrowing or endorsing of notes by officers, directors, and committeemen, except that any loans in excess of $2,500 plus pledged shares would require approval of the board of directors.

Sec. 5(c)—*Lines of Credit and Credit Cards*—This will allow federal credit unions to establish lines of credit for their members and enable them to use credit cards and other money-transfer type instruments or systems. It will encourage full reciprocity of credit cards in all credit unions.

Deposit Accounts—Establishment of—Credit unions will be permitted to operate deposit accounts, limited to members and treated as capital. These accounts will be subject to conditions established by the board of directors.

Sec. 5(d)—*Loans to Other Credit Unions*—This deletes from the Act the limitation that loans to other credit unions in the aggregate may not exceed 25% of the lending credit union's paid-in and unimpaired capital and surplus.

Sec. 5(e)—*Investment in Other Credit Unions*—This will authorize credit unions to deposit or purchase shares in other credit unions without limitations—further that anything in the Act in conflict with this proposal be eliminated.

Sec. 5(f)—*Investment in Service Corporations*—In addition to existing privileges, it will permit funds not used in loans to members to be invested in capital shares, obligations, or preferred stock issues of any agency or association organized either as a stock company, mutual association or membership corporation, provided the membership of stockholdings, as the case may be, of such agency or association are confined or restricted to credit unions or organizations of credit unions, and provided the purposes for which such agency or association is organized are designed to service or otherwise assist credit union operations.

Purchase of Members' Contracts—This will authorize a credit union to purchase conditional sales contracts and similar instruments executed by its members.

Investment in Corporate Securities—Credit unions will be authorized to invest up to 5% of their shares in any corporate stock or bond which appears on a list approved by the Administrator annually or quarterly. The Administrator should prepare and maintain a list of not less than 30 corporations.

Donations by Credit Unions—The board of directors will be permitted to authorize donations by the credit union to community, charitable and civic organizations.

Sec. 5(g)—*Overseas Checking Accounts*—This will authorize federal credit unions operating overseas branches to open checking accounts in foreign banks which are correspondents for U.S. banks.

Sec. 5(h)—*Borrowing Power of Credit Union*—All language will be removed from the Act (or regulations) that imposes borrowing limitations on the credit union.

Discounting of Notes—The provisions limiting discounting of paper to Federal Intermediate Credit Bank will be deleted from the law and an unrestricted discounting privilege be substituted.

Sec. 5(i)—*Secondary Services*—A credit union will be allowed to collect, receive and disburse monies in connection with the sale of travelers checks, money orders, or other money-type instruments, and for such other purposes as may provide benefit or conveniences for members or potential members.

Sec. 5(j)—*Incidental Powers*—A federal credit union will be authorized to exercise such incidental powers as shall be necessary or requisite to enable it to carry out efficiently the business for which it is organized, including such incidental powers as are generally granted to corporations.

Sec. 5(k)—*Insurance Programs*—The federal credit unions will be authorized to purchase or otherwise acquire on a group or individual basis insurance coverage and programs on behalf of its members.

Financial Counseling and Other Beneficial Services—Credit unions will be authorized to contribute to, support and participate in any non-profit service facility whose services will benefit the credit union or its membership.

Trust Fund Administration—This grants credit unions trust powers with particular emphasis on administering estates.

Sec. 6(a)—*Common Bond*—Seeks legislation to assure the broadest possible interpretation of the common bond.

Entrance—The collection of an entrance fee will be permissive rather than mandatory.

Members of Liquidated Credit Unions—This will authorize federal central-type credit unions to extend membership to members of liquidated credit unions in their state.

Sec. 6(b, c)—*Multiple Party Accounts*—This will add a new multiple party account provision enabling credit unions to offer members (1) a multiple party share account with survivorship; (2) a share-deposit account of trustee for beneficiary; (3) a multiple party share-deposit account without survivorship; (4) a multiple party share-deposit account which includes one or more nonmember parties.

Sec. 7—*Number of Directors*—The number of directors on the board will consist of an odd number, not less than five.

Reports to Administrator—The Administrator will be furnished only the names and addresses of the executive officers of the credit union, as well as the same information concerning the chairman of the supervisory and credit committees.

Insurance for Officials—This will exclude a credit union's purchase of life, accident, and health insurance for its officers, directors and committeemen from being deemed compensation within the meaning of the Act.

Sec. 8—*Title of Officers*—At the first meeting after the annual meeting of the members, the directors shall elect from their own number a chief executive officer who may be designated as chairman of the board or president, a vice-chairman or vice president(s) a treasurer, and a secretary, of whom the last two may be the same official. The board of directors may employ a chief operating officer in charge of operations whose title shall be either president or general manager; or, in lieu thereof, the board of directors may designate the chief operating officer to be in active charge of the affairs of the credit union.

Sec. 9—*Executive Committee*—The board of directors will be authorized to appoint an executive committee of not less than three directors, giving it full power to act for the board within any limitations set by the board.

Investment Officer—This authorizes an individual designated by the board of directors to make investments under policies established by the board.

Interest Refunds—Frequency of, Rate of—This will permit the interest refund period to be other than the dividend period and to provide for valuable interest refund rates.

Membership Officers—This will permit the appointment of more than one membership officer at the option of the board of directors.

Sec. 10—*Credit Committee—Appointment of*—The board of directors will be empowered to appoint the credit committee, with the option that the committee may be eliminated entirely and its responsibilities to approve or disapprove loans assigned to a loan officer(s).

Approval of Loans by—Approval of loans by the credit committee will be by a simple majority vote.

Unsecured Loan Limit—This will remove the unsecured loan limit from the Act, allowing the board of directors to set it. However, to retain the overall limit on loans to any individual.

Loan Officers—Appointment of—This will authorize the board of directors to appoint loan officer(s) and prescribe rules under which they perform.

Reports by—This reals the requirement that loan officers must report to the credit committee at least every seven days. Frequency of reports will be governed by rules of the directors.

Sec. 11—*Supervisory Committee Audit*—This requires the supervisory committee to perform one comprehensive annual audit per year and to make a report thereof to the board of directors and a summary of the report to the members at the next annual meeting.

Sec. 12—*Dividend Frequency*—The frequency for payment of dividends will be removed from the Act so as to be completely at the discretion of the board of directors.

Variable Dividend Rates—This authorizes variable dividend rates on shares.

Sec. 13—*Fiscal Agent*—This will allow federal credit unions to serve as fiscal agents for units of governments, political subdivisions thereof, and public housing corporations.

Sec. 14—*Trust Territories of Pacific Islands*—This includes any of the trust territories of the United States in the Federal Credit Union Act.

By Mr. NELSON:

S. 406. A bill to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives. Referred to the Committee on Labor and Public Welfare.

FOOD ADDITIVES

Mr. NELSON. Mr. President, since two food additives bills, S. 76 and S. 3163, were introduced in the last Congress. public concern and awareness in the food additives area has increased.

Hearings conducted before the Senate Special Committee on Nutrition and Human Needs, September 19, 20, and 21, 1972, brought out a wide range of concerns on the part of scientists, consumers, and industry over use and regulation of additives.

Meanwhile, public controversy continues over such additives as saccharin, red dye No. 2, nitrates, nitrites, monosodium glutamate, and particularly, the Delaney anticancer section of the Food, Drug, and Cosmetic Act.

These controversies are carried on in the scientific community, the legal community, and by consumer laymen. The

arguments promise to increase before they abate.

The bill we introduce today, the Food Protection Act, was designated S. 3163 in the last session. It grew out of the 1970 White House Conference on Food, Nutrition, and Health. Its goal is to eliminate the use of unsafe, poorly tested, and unnecessary chemicals in the food supply.

It would require proof that additives have a demonstrable benefit and are necessary, prior to governmental approval.

It calls for third-party testing of additives, so that approval can be based on data other than that supplied solely by the manufacturer and promoter of an additive.

The bill also calls for factory inspection and registration of additive producers, and requires the Federal Government to set nutritional standards for food.

It is worth noting that, according to industry and FDA figures, some 3,000 chemicals are used in food processing in this country: roughly 1,000 are used directly in food as additives; another 2,000 infiltrate through packaging materials or other indirect contacts. The use of food chemicals has more than doubled from an estimated 419 million pounds in 1955 to more than one billion pounds today, according to industry figures. The industry says the average American eats 5 pounds of additives every year.

In 1970, the FDA received 476 new applications for food additives; 62 were approved. In 1971, the FDA received 110 new additive applications; 51 were approved. In 1972, the FDA received 109 new applications; 77 were approved.

These chemicals are used as stabilizers, preservatives, disinfectants, antioxidants, extenders, tenderizers, emulsifiers, growth promoters, bleaches, sweeteners, conditioners, colors and flavors.

According to two papers presented at the American Chemical Society annual meeting in 1971, the food additives business is expected to boom in the next 10 years. The papers, one by an industry representative and one by a consultant to the industry, project that food additive sales will rise from the present $500 million a year to $756 millon in 1980.[1]

Many of the additives now used have never been adequately tested for toxic or harmful effects. Thus, the American public is a testing ground for many chemical agents.

Some 600 chemicals were generally recognized as safe under the 1958 food additives amendment to the Food, Drug and Cosmetics Act, and were exempted from testing and new approval by the FDA. These "gras" list items include cyclamates, now banned from all foods; MSG, which has been voluntarily removed from baby foods; saccharin, now off the "gras" list and under review; nitrates and nitrites, now under study, the latter having been restricted to certain uses by the FDA.

[1] The Future of Chemical Additives in Foods—the 1970's—A period of challenge and change for Food Additives, by Richard L. Hughes, A. D. Little Co., presented at American Chemical Society, 1971, *Congressional Record*, vol. 118, pt. 3, p. 3723.

The scientific community increasingly raises concerns over the long range, accumulative effects of all these chemicals on the human genetic structure, their effects on the unborn, and the synergistic effects of chemicals in combination.

The list grows daily of chemicals that are discovered to have harmful effects.

Many of the chemicals widely used in the United States of America are banned or restricted in other nations or condemned by the United Nations World Health Organization—WHO—and Food and Agriculture Organization—FAO. They include BHA and BHT, antioxidants that are restricted in Britain and banned from baby foods. BHA and BHT are commonly used in U.S. baking products. Red dye No. 2, used in foods and cosmetics, has been banned in the Soviet Union. Sodium benzoate and benzoic acid is banned from many foods by the State of Wisconsin. DES—diethylstylbestrol—a cancer-causing hormone added to animal feeds, is banned in 21 countries; the FDA has banned its use in liquid and dry feed form as of January 1, 1973.

The FDA is reviewing the "gras" list and testing some of the substances. Most of them remain in common use, however.

In 1970, for the first time, Americans spent more money for processed, convenience, snack, and franchised foods than for fresh foods.

This rapid increase and proliferation of processed and convenience foods has prompted the FDA to ask industry voluntarily to meet nutritional standards in the quality of products. However, the industry is not required to comply with minimum standards—only urged to do so. This bill would require minimum nutritional standard setting which products would have to meet.

Additives cut costs to the producer, but not necessarily to the consumer. A package of instant eggs, for example, advertised as containing the equivalent of two eggs, costs 30 cents, compared to an average of 5 cents for one real egg. That means the consumer is paying three times as much per package for powdered synthetic eggs as he would pay for two real eggs.

The food industry had $139.2 billion in sales in 1971, a 63 percent growth since 1960. It is the Nation's largest and fastest growing business. The managing editor of the trade magazine, Food Engineering, Leonard Trauberman, has written.

Convenience foods have contributed more than anything else to the growth of the food industry.

The trade magazines emphasize convenience foods and new additives which make them possible. Some examples of recent advertisements read:

Out of the laboratory comes (a synthetic) dehydrated cheese. (It) gives you real cheddar taste at a greatly reduced unit cost.

Partial or complete replacement of corn grits in direct-expansion snacks is possible with the use of a coarse-form modified starch from (a chemical company).

Any potato product processed with (a chemical company's sodium acid pyrophosphate [SAP]) preserves the natural color.

A fabulous new food . . . TVP (textured vegetable protein) . . . could hardly look or taste better . . . or be more economical. It is available in granular, chunk, dice, strip and chip forms. It comes unseasoned, or with flavoring of almost any kind—meaty, nutty, tangy, salty, even fruit flavors. Easy to handle and to store and completely controlled in texture, flavor and color, TVP is exceptionally well suited for institutional feeding and restaurants. It's an excellent enrichment for casseroles, snacks, stews, gravies, ground meats and many convenience foods. Find out more about this fabulous new food . . . about the profit-making opportunities it affords.

Our red coloring looks so natural you'd swear it grew on a vine.

Time to increase profits! (A stabilizer) reduces cooling period required before cutting fruit pies.

One trade magazine advertised a seminar thusly:

Now ingredients and additives suppliers can reduce significantly the risk involved in selling in this vast 5 billion dollar market.

There is no question that food additives are big business. The chemical and drug industries have joined the food industry in a vast food-industrial complex that the FDA is supposed to regulate.

The result is a proliferation of food chemicals that are unnecessary, an unknown number that are unsafe, many untested, and poorly monitored.

These bills would provide for more careful regulation, monitoring, and testing of food additives.

Dr. Jean Mayer of Harvard University, President Nixon's Adviser on Nutrition, has said:

We can live perfectly well without additives.

Ogden Johnson, head of the FDA's Division of Nutrition, has said:

If the additive has no definite benefit, why use it at all?

FDA Commissioner Charles Edwards, has stated:

If I am reading consumer complaint correctly, among other things, they are saying that at least for some foods, there must be a positive gain or benefit in the food, or, in the case of food additives, there must be a positive reason for its use."

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, along with a section-by-section analysis, following these remarks.

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

S. 406

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

SHORT TITLE

SECTION 1. This Act shall be known as the "Food Protection Act of 1973."

FOOD ADDITIVE TESTING

SEC. 2. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding immediately after section 409 a new section as follows:

"TESTING OF FOOD ADDITIVES

"SEC. 410. (a)(1) The Secretary shall be responsible for all tests or investigations conducted on all new food additives submitted to him for approval under this Act for the purpose of determining whether or not such additives may be used in food, and shall be responsible for having new tests or investigations conducted on additives which have been approved prior to the enactment of this section, in order to determine whether or not approval of such additives should be withdrawn.

"(2) The Secretary, in carrying out the provisions of paragraph (1), shall not conduct tests or investigations, but shall con-

tract with qualified individuals, organizations, but shall contract with qualified individuals, organizations, or institutions to conduct such tests or investigations.

"(b) Whenever the Secretary receives an application from any person for approval of a new food additive pursuant to this section, he shall, as soon as practicable, provide for the necessary testing or investigation of such food additive.

"(c) It shall be the responsibility of the Secretary to insure that the testing or investigation of such food additive is conducted by experts (certified by the Secretary in accordance with rules and regulations promulgated by him) qualified to investigate and evaluate the safety and effectiveness of food additives. In the preparation of specifications for the conducting of tests or investigations of any food additive under this section, the Secretary shall consider the food in or on which the additive is proposed to be used and shall consider, among other relevant factors, those factors prescribed in section 409(c)(5).

"(d) In any case in which the Secretary determines that a period of more than one year is necessary to develop the necessary data to support or deny approval of any food additive for which approval has been requested, he shall notify the applicant to that effect and indicate the amount of additional time needed for such purpose.

"(e) The sponsor of any food additive submitted to the Secretary for testing and investigation shall, upon request, be provided with the pertinent facts relating to the testing or investigation of the food additive, including the procedures being used in such testing or investigating. If the sponsor objects to the manner, scope, or procedures used by the Secretary in testing, evaluating, or investigating the food additive, or a determination made under subsection (d), he may notify the Secretary of his objections and request a hearing on the record to adjudicate the matter.

"(f) Whenever a food additive has been submitted to the Secretary by a sponsor for approval, the sponsor, at his own expense, shall make available such amount of the food additive and the food in or on which such additive is proposed to be used as the Secretary determines is necessary for adequate testing and investigation.

"(g) The testing or evaluation of any food additive shall be terminated as promptly as practicable by the Secretary upon receipt by him of a written request from the sponsor of such food additive to discontinue such testing or investigation; and the sponsor shall be liable for the payment of all costs attributable to the termination of such testing or investigation.

"(h)(1) The sponsor of any new food additive submitted to the Secretary for testing or investigation under this section shall be liable for the direct costs incurred in carrying out such testing or investigation. The Secretary shall prescribe by regulation the manner in which charges shall be computed for the testing or investigation of any food additive.

"(2) If any amount of the charges for testing or investigating a food additive under this section is unpaid after the due date thereof, as prescribed by regulations, interest shall accrue thereon at the rate of 6 per centum per annum. Past due charges and interest thereon shall be recoverable by civil action brought in the name of the United States in the appropriate district court of the United States.

"(i) In administering the provisions of this section, the Secretary is authorized to utilize the services and facilities of any other agency of the Federal Government and of any institution, organization, or individual in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

"(j) A request by the sponsor of any food additive for termination of the testing or investigation of such food additive at any time prior to one year from the date such food additive was submitted to the Secretary for testing shall constitute sufficient basis for the denial of approval for such food additive.

"(k) Nothing in this section shall be construed as prohibiting the sponsor of any food additive from conducting tests or investigations wtih such food additive in accordance with other provisions of this Act.

"(l) The results of all tests and investigations conducted under this section with any new food additive shall be made public by the Secretary in accordance with section 552 of title 5, United States Code."

Sec. 3(a) Section 301 of such Act is amended by adding to the end thereof the following new subsections:

"(q) The introduction or delivery for introduction into interstate commerce of any food additive, color additive, or any food containing a food additive or color additive, which has not been proven to be safe, effective, and necessary in accordance with procedures established and results approved by the Secretary, in the production of food, or unavoidable by good manufacturing practices for use under the conditions prescribed."

(b) Section 409(a) of such Act is amended by renumbering clauses (1) and (2) as (2) and (3), respectively, and inserting a new clause (1) as follows:

"(1) it has been tested or investigated pursuant to section 410 and approved by the Secretary for its intended use;"

(c) Section 409(c)(2) is amended by inserting before the period at the end thereof the following: ", but in any case where testing or investigation is required under section 410 the provisions of that section shall apply".

(d) Section 510(b) of such Act is amended by inserting after the word "drugs" the following "or of a food additive or food additives".

(e) Section 704(a) of such Act is amended by—

(1) inserting in clause (1) after the word "food,", each time it appears therein, the words "food additives".

(2) inserting in the second sentence after the word "which" the first time it appears therein, the following: "food, food additives, or".

Sec. 4. (a) Section 401 of such Act is amended by inserting after the word "container" the first time it appears therein a comma and the following: "and reasonable standards of nutritional value".

(b) Section 402(c) of such Act is amended by inserting before the period at the end thereof the following: "or which is unnecessary for the maintenance of the nutritional value or preservation of such food".

(c) Section 403(e) of such Act is amended by striking out "and" at the end of clause (1) and striking out the colon preceding the proviso in clause (2) and inserting in lieu thereof the following: "; and (3) an accurate statement of the nutritional value of the contents:".

SECTION-BY-SECTION ANALYSIS OF FOOD ADDITIVES BILL

Sec. 1. Title: The "Food Protection Act of 1973."

Sec. 2. Food additive testing.

Amends Chapter IV of the Food, Drug and Cosmetic Act, giving HEW authority and responsibility for all tests or invesigations conducted on all new food additives submitted for approval for use in food. The Secretary shall also be responisble for having new tests conducted on additives that were approved prior to enactment of this bill, to determine whether they should be withdrawn.

The Secretary shall contract with qualified third-party laboratories to conduct such tests.

Such tests shall be conducted by experts certified by the Secretary.

Sponsor of food additives for testing may receive pertinent facts relating to the testing procedure, and, if he objects to the procedures, may request a hearing on the matter.

Sponsor shall provide the necessary material for testing, and shall pay all costs of testing, with charges to be recoverable by civil action if unpaid after the due date.

Secretary may use services and facilities of any other agency in the federal government and of any institution, organization, or individual for testing.

Sponsor may request termination of testing prior to one year from date of application, which request shall constitute sufficient basis for denial of approval of such additive.

Nothing prohibits sponsor of any additive from conducting tests of his own.

The results of tests conducted under this section shall be made pubic.

Sec. 3. Prohibited acts, registration of producers, factory inspection.

A new section added to Sec. 301 of the Food, Drug and Cosmetic Act prohibits the introduction or delivery for introduction into interstate commerce of any food, food additive or color additive or food containing additives that have not been proven to be safe, effective and necessary in accordance with procedures established and results approved by the Secretary, in the production of food, or unavoidable by good manufacturing practices for use under the conditions prescribed.

Extends of Sec. 704(a) of the Food, Drug and Cosmetic Act to allow any factory, warehouse or establishment in which food additives are manufactured, processed, packed or held to be inspected by HEW employees.

Sec. 4. Nutrition standards.

Nutritional value is added to definitions and standards for food, under Sections 401, 402(c) and 403(e) of the Food, Drug and Cosmetic Act. The Secretary shall set reasonable standards of nutritional value for food.

By Mr. BENNETT:

S. 407. A bill to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of certain distributions and sales pursuant to the Bank Holding Company Act Amendments of 1970. Referred to the Committee on Finance.

Mr. BENNETT. Mr. President, today I am introducing legislation that would amend the Internal Revenue Code of 1954 with respect to tax treatment of certain distributions and sales pursuant to the Bank Holding Company Act Amendments of 1970. It was understood when the Senate passed the 1970 amendments that the hardship caused by divestiture would be ameliorated by appropriate tax relief legislation allowing for the tax-free distribution of divested assets. I would like to point out that similar tax legislation was enacted after the Bank Holding Company Act of 1956 and after its 1966 amendments.

In general the 1970 amendments required a one bank holding company to divest either its bank or nonbank assets. My legislation would provide some tax relief to the stockholders in those bank holding companies that will be forced to divest themselves of assets. Under this proposal, property which is required to be divested could be distributed to the stockholders without any recognition of gain to the stockholders. Without this legis-

lation, the distribution would work an unfair economic hardship on the stockholders through no fault of their own.

I think it is important to note that this will apply only to the distribution of property under the Bank Holding Company Act which had been acquired prior to July 7, 1970—the date the Senate Banking and Currency Committee ordered the bill reported to the Senate. Prior to any distribution, the bank holding company would be required to obtain the certification of the Federal Reserve Board that the distribution is necessary or appropriate to effectuate the Bank Holding Company Act of 1970.

Mr. President, this is not unusual legislation. There are numerous precedents for it, and I would hope it can be speedily enacted to prevent any undue hardships on those stockholders who may have been forced into an economic position through no fault of their own.

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

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

S. 407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter O of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new part:

"PART X—DISTRIBUTIONS AND SALES PURSUANT TO BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.

"SEC. 1121. DISTRIBUTIONS PURSUANT TO BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.

"(a) DISTRIBUTIONS OF CERTAIN NONBANKING PROPERTY.—

"(1) DISTRIBUTIONS OF PROHIBITED PROPERTY.—If—

"(A) a qualified bank holding corporation distributes prohibited property (other than stock received in an exchange to which subsection (c)(1) applies)—

"(i) to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation; or

"(ii) to a shareholder, in exchange for its preferred stock; or

"(iii) to a security holder, in exchange for its securities; and

"(B) the Board has, before the distribution, certified that the distribution of such prohibited property is necessary or appropriate to effectuate section 4 of the Bank Holding Company Act of 1956, as amended by the Bank Holding Company Act Amendments of 1970,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

"(2) DISTRIBUTIONS OF STOCK AND SECURITIES RECEIVED IN AN EXCHANGE TO WHICH SUBSECTION (C)(1) APPLIES.—If—

"(A) a qualified bank holding corporation distributes—

"(i) common stock received in an exchange to which subsection (c)(1) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation; or

"(ii) common stock received in an exchange to which subsection (c)(1) applies to a shareholder, in exchange for its common stock; or

"(iii) preferred stock or common stock received in an exchange to which subsection (c)(1) applies to a shareholder, in exchange for its preferred stock; or

"(iv) securities or preferred or common stock received in an exchange to which subsection (c)(1) applies to a security holder in exchange for its securities; and

"(B) any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchanged, then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

"(3) NON PRO RATA DISTRIBUTIONS.—Paragraphs (1) and (2) shall apply to a distribution whether or not the distribution is pro rata with respect to all of the shareholders of the distributing qualified bank holding corporation.

"(4) EXCEPTION.—This subsection shall not apply to any distribution by a company which has made any distribution pursuant to subsection (b).

"(5) DISTRIBUTIONS INVOLVING GIFT OR COMPENSATION.—In the case of a distribution to which paragraph (1) or (2) applies, but which—

"(A) results in a gift, see section 2501, and following, or

"(B) has the effect of the payment of compensation, see section 61(a)(1).

"(b) Corporation Ceasing to be a Bank Holding Company.—

"(1) DISTRIBUTIONS OF BANK PROPERTY.—If—

"(A) a qualified bank holding corporation distributes bank property (other than stock received in an exchange to which subsection (c)(2) applies)—

"(i) to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation; or

"(i) to a shareholder, in exchange for its preferred stock; or

"(iii) to a security holder, in exchange for its securities; and

"(B) the Board has, before the distribution, certified that—

"(i) such property is all or part of the property by reason of which such corporation owns or controls (within the meaning of section 2(a) of the Bank Holding Company Act of 1956, as amended) a bank or bank holding company, or did so own or control a bank or bank holding company prior to any distribution under section 1121; and

"(ii) the distribution is necessary or appropriate to effectuate the policies of such Act,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

"(2) DISTRIBUTION OF STOCK AND SECURITIES RECEIVED IN AN EXCHANGE TO WHICH SUBSECTION (C)(2) APPLIES.—If.—

"(A) a qualified bank holding corporation distributes—

"(i) common stock received in an exchange to which subsection (c)(2) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such corporation; or

"(ii) common stock received in an exchange to which subsection (c)(2) applies to a shareholder, in exchange for its common stock; or

"(iii) preferred stock or common stock received in an exchange to which subsection (c)(2) applies to a shareholder, in exchange for its preferred stock; or

"(iv) securities or preferred or common stock received in an exchange to which subsection (c)(2) applies to a security holder, in exchange for its securities; and

"(B) any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchanged,

then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

"(3) NON PRO RATA DISTRIBUTIONS.—Paragraphs (1) and ((2) shall apply to a distribution whether or not the distribution is pro rata with respect to all of the shareholders of the distributing qualified bank holding corporation.

"(4) EXCEPTION.—This subsection shall not apply to any distribution by a corporation which has made any distribution pursuant to subsection (a).

"(5) DISTRIBUTIONS INVOLVING GIFT OR COMPENSATION.—In the case of a distribution to which paragraph (1) or (2) applies, but which—

"(A) results in a gift, see section 2501, and following, or

"(B) has the effect of the payment of compensation, see section 61(a)(1).

"(c) EXCHANGES INVOLVING CREATION OF SUBSIDIARY.—

"(1) EXCHANGES INVOLVING PROHIBITED PROPERTY.—If—

"(A) any qualified bank holding corporation exchanges (i) prohibited property, which, under subsection (a)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders, and other property (except bank property), for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property;

"(B) immediately after the exchange, the qualified bank holding corporation distributes all of such stock in a manner prescribed in subsection (a)(2); and

"(C) before such distribution, the Board has certified (with respect to the property exchanged which consists of property which, under subsection (a)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain) that the exchange and distribution are necessary or appropriate to effectuate section 4 of the Bank Holding Company Act of 1956 as amended by the Bank Holding Company Act Amendments of 1970,

then subsection (a)(2) shall apply with respect to such distribution.

"(A) any qualified bank holding corporation exchanges (i) bank property which, under subsection (b)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders, and other property (except prohibited property), for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property;

"(B) immediately after the exchange, the qualified bank holding corporation distributes all of such stock in a manner prescribed in subsection (b)(2); and

"(C) before such distribution, the Board has certified (with respect to the property exchanged which consists of property which, under subsection (b)(1), such corporation could distribute directly to its shareholders or security holders without the recognition of gain) that—

"(i) such property is all or part of the property by reason of which such corporation owns or controls (within the meaning of section 2(a) of the Bank Holding Company Act of 1956, as amended) a bank or bank holding company or did so own or control a bank or bank holding company prior to any distribution under section 1121; and

"(ii) the exchange and distribution are necessary or appropriate to effectuate the policies of such Act,

then subsection (b)(2) shall apply with respect to such distribution.

"(d) DISTRIBUTORS TO AVOID FEDERAL INCOME TAX.—

"(1) PROHIBITED PROPERTY.—Subsection (a) shall not apply to a distribution if, in connection with such distribution, the dis-

tributing corporation retains, or transfers after July 7, 1970, to any corporation, property (other than prohibited property) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

"(2) BANKING PROPERTY.—Subsection (b) shall not apply to a distribution if, in connection with such distribution, the distributing corporation retains, or transfers after July 7, 1970, to any corporation, property (other than bank property) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

"(e) TIME LIMIT.—Subsection (a) or (b) shall not apply unless the distribution described in such subsection of prohibited property or bank property is completed within three years after the first distribution of such property is made.

"(f) CERTAIN EXCHANGES OF SECURITIES.—In the case of an exchange described in subsection (a)(2)(A)(iv) or subsection (b)(2)(A)(iv), subsection (a) or (b) (as the case may be) shall apply only to the extent that the principal amount of the securities received does not exceed the principal amount of the securities exchanged.

"(g) BASIS OF PROPERTY ACQUIRED IN DISTRIBUTIONS.—If, by reason of section 1121, gain is not recognized with respect to the receipt of any property, then, under regulations prescribed by the Secretary or his delegate—

"(1) if the property is received by a shareholder with respect to stock, without the surrender by such shareholder of stock, the basis of the property received and of the stock with respect to which it is distributed shall, in the distributee's hands, be determined by allocating between such property and such stock the adjusted basis of such stock; or

"(2) if the property is received by a shareholder in exchange for stock or by a security holder in exchange for securities, the basis of the property received shall, in the distributee's hands, be the same as the adjusted basis of the stock or securities exchanged, increased by—

"(A) the amount of the property received which was treated as a dividend, and

"(B) the amount of gain to the taxpayer recognized on the property received (not including any portion of such gain which was treated as a dividend).

"(h) ALLOCATION OF EARNINGS AND PROFITS.—

"(1) DISTRIBUTION OF STOCK IN A CONTROLLED CORPORATION.—In the case of a distribution by a qualified bank holding corporation under section 1121(a)(1) or (b)(1) of stock in a controlled corporation, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation shall be made under regulations prescribed by the Secretary or his delegate.

"(2) EXCHANGES DESCRIBED IN SECTION 1121(c)(1) OR (2).—In the case of any exchange described in section 1121 (c) (1) or (2), proper allocation with respect to the earnings and profits of the corporation transferring the property and the corporation receiving such property shall be made under regulations prescribed by the Secretary or his delegate.

"(3) DEFINITION OF CONTROLLED CORPORATION.—For purposes of paragraph (1), the term 'controlled corporation' means a corporation with respect to which at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock is owned by the distributing qualified bank holding corporation.

"(i) ITEMIZATION OF PROPERTY.—In any certification under this part, the Board shall make such specification and itemization of property as may be necessary to carry out the provisions of this part.

"SEC. 1122. SALES PURSUANT TO BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.

"(a) NONRECOGNITION OF GAIN.—If a qualified bank holding corporation after December 31, 1970, sells prohibited property or bank property the divestiture of either of which the Federal Reserve Board certifies is necessary or appropriate under the Bank Holding Company Act Amendments of 1970, gain from such sale, at the election of the taxpayer, shall be recognized only to the extent that the amount realized upon such sale (regardless of whether such amount is received in one or more taxable years) exceeds the cost of qualifying replacement property purchased during the reinvestment period. An election under this subsection shall be made at such time in such manner as the Secretary or his delegate may by regulations prescribe. For purposes of this subsection the taxpayer shall be considered to have purchased property only if, but for the provisions of subsection (e), the unadjusted basis of such property would be its cost within the meaning of section 1012.

"(b) CERTIFICATION.—Subsection (a) shall not apply unless the Federal Reserve Board certifies, prior to any sale, that the sale of prohibited property or bank property, as the case may be, is necessary or appropriate to effectuate the Bank Holding Company Act Amendments of 1970.

"(c) REINVESTMENT PERIOD.—The reinvestment period referred to in subsection (a) shall be the period beginning three years before the date of disposition of the prohibited property or bank property, as the case may be (but not before January 1, 1971), and ending three years after the date of disposition of such property or ending at the close of such later date as the Secretary or his delegate may designate for reasonable cause shown. For purposes of this subsection, no property acquired before the disposition of the prohibited property or bank property shall be considered to have been acquired for the purpose of replacing such property unless held by the taxpayer on the date of such disposition.

"(d) QUALIFYING REPLACEMENT PROPERTY.—For purposes of subsection (a), qualifying replacement property means property which is permitted to be held without any requirement of divestiture under the Bank Holding Company Act of 1956, as amended by the Bank Holding Company Act Amendments of 1970, and which is—

"(1) stock of another corporation if, immediately after the purchase, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the purchase); or

"(2) substantially all the assets of another corporation used in the trade or business of such corporation.

For purposes of this paragraph, the term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

"(e) BASIS OF QUALIFYING REPLACEMENT PROPERTY.—

"(1) To the extent gain is not recognized because subsection (a) applies, such gain shall be applied to reduce the basis for determining gain or loss of—

"(A) any assets which are qualifying replacement property,

"(B) any stock which is qualifying replacement property,

"(C) any assets of a corporation the stock of which is qualifying replacement property, provided that the basis of such assets shall not be reduced below the greater of (i) the basis of the stock of such corporation as reduced pursuant to paragraph (1)(B) of this section, or (ii) the basis of the prohibited property or bank property which is sold by the qualified bank holding corporation determined as of the date of such sale.

If the qualifying replacement property consists of stock of more than one corporation or assets of one or more trades or businesses, the basis determined under the preceding sentence shall be allocated, under regulations prescribed by the Secretary or his delegate, to such replacement property in proportion to its respective cost.

"(f) ASSESSMENT OF DEFICIENCIES.—If the taxpayer has made an election under subsection (a) with respect to a sale, then notwithstanding any other provision of law or rule of law the statutory period for the assessement of any deficiency (including interest and additions to the tax) shall not expire until three years from the date the Secretary or his delegate is notified by the taxpayer (in such manner as the Secretary or his delegate may by regulations prescribe) of the purchase of qualified replacement property or the failure to timely purchase such property. Such deficiency may be assessed before the expiration of such three-year period notwithstanding the provisions of section 6212(c) or the provisions of any other law or rule of law which would otherwise prevent such assessment.

"SEC. 1123. DEFINITIONS.

"(a) BANK HOLDING COMPANY.—For purposes of this part, the term 'bank holding company' has the meaning assigned to such term by section 2 of the Bank Holding Company Act of 1956, as amended by the Bank Holding Company Act Amendments of 1970.

"(b) QUALIFIED BANK HOLDING CORPORATION.—For purposes of this part, the term 'qualified bank holding corporation' means any corporation (as defined in section 7701(a)(3)) which the Federal Reserve Board certifies became, as a result of the enactment of the Bank Holding Company Act Amendments of 1970, a bank holding company on the date of such enactment.

"(c) BANK PROPERTY.—For purposes of this part, the term 'bank property' means property acquired on or before July 7, 1970, by reason of which a corporation owns or controls (within the meaning of section 2(a) of the Bank Holding Company Act of 1956, as amended) a bank or bank holding company, or did so own or control a bank or bank holding company prior to any distribution under section 1121 or 1122.

"(d) PROHIBITED PROPERTY.—For purposes of this part, the term 'prohibited property' means in the case of any qualified bank holding corporation, property (other than nonexempt property and other than bank property) acquired on or before July 7, 1970—

"(1) the disposition of which would be necessary or appropriate to effectuate section 4 of the Bank Holding Company Act of 1956, as amended by the Bank Holding Company Act Amendments of 1970; or

"(2) which would otherwise be prohibited property (within the meaning of paragraph (1) of this subsection) except for the application of section 4(c)(11) of the Bank Holding Company Act of 1956, as amended by the Bank Holding Company Act Amendments of 1970.

The term 'prohibited property' does not include ownership of (A) five percent or less of the outstanding voting shares of any company to which the prohibitions of section 4 of the Bank Holding Company Act of 1956, as amended, do not apply by reason of subsection (c)(6) of such section, or (B) ownership of shares of an investment company which is not a bank holding company and to which the prohibitions of section 4 of the Bank Holding Company Act of 1956, as amended, do not apply by reason of subsection (c)(7) of such section.

"(e) NONEXEMPT PROPERTY.—For purposes of this part, the term 'nonexempt property' means—

"(1) obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of

not exceeding 24 months, exclusive of days of grace;

"(2) securities issued by or guaranteed as to principal or interest by a government or subdivision thereof or by any instrumentality of a government or subdivision; or

"(3) money, and the right to receive money not evidenced by a security or obligation (other than a security or obligation described in paragraph (1) or (2)).

"(f) BOARD.—For purposes of this part, the term 'Board' means the Board of Governors of the Federal Reserve System."

(b) The table of parts for subchapter O of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"Part X. Distributions and Sales Pursuant to Bank Holding Company Act Amendments of 1970."

(c) Section 311(d) of the Internal Revenue Code of 1954 (relating to use of appreciated property to redeem stock) is amended by—

(1) adding at the end thereof the following new subparagraph:

"(H) a distribution by a corporation to which section 1121 (relating to bank holding companies) applies."; and

(2) deleting the word "and" at the end of subparagraph 311(d)(2)(F) and changing the period at the end of subparagraph 311(d)(2)(G) to a semicolon and adding the word "and".

By Mr. THURMOND (for himself, Mr. GOLDWATER, Mr. CURTIS, Mr. ERVIN, Mr. HELMS, Mr. MCCLURE, and Mr. SCOTT of Virginia):

S. 408. A bill to amend the Food Stamp Act of 1964 in order to prohibit the distribution of food stamps to any household where the head of the household is engaged in a labor strike. Referred to the Committee on Agriculture and Forestry.

Mr. THURMOND. Mr. President, on November 17, 1970, and again on January 26, 1971, I introduced a bill to amend the Food Stamp Act of 1964 in order to prohibit food stamp distribution to a household where the head of the household is engaged in a labor strike.

The bill was referred to the Committee on Agriculture and Forestry, and the full Senate did not vote on this matter. I am again introducing this bill today.

Mr. President, I do not believe that the majority of the people know that striking workers can receive food stamps. When our taxpayers realize this fact, they are outraged because their tax dollars are being used to help one side in a labor dispute.

To provide strikers with food stamps is to allow the Government to take sides in the dispute. This is not the purpose of the food stamp program. The purpose of the food stamp program is to assist those who are unable to work or to find employment and, therefore, cannot support their families. It should not be the purpose of the program to subsidize those who have jobs and are able to support their families.

Mr. President, the taxpayers bear the ultimate burden of financing this program. Tax dollars should not be spent on food stamps for those who voluntarily refuse to work, but should be used to help those who are genuinely in need.

The time has come to reevaluate our priorities in regard to the food stamp program, and I hope this bill receives prompt and favorable consideration.

Mr. President, I am pleased that Senators GOLDWATER, CURTIS, ERVIN, HELMS, MCCLURE, and SCOTT of Virginia join as cosponsors.

Mr. President, I ask unanimous consent that this bill be appropriately referred and that it be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

S. 408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of subsection (c) of section 5 of the Food Stamp Act of 1964, as amended (7 U.S.C. 2013), is amended to read as follows: "Refusal to work at a plant or site subject to a lockout for the duration of such lockout shall not be deemed to be a refusal to accept employment."

SEC. 2. Section 5 of the Food Stamp Act of 1964, as amended, is further amended by adding at the end thereof a new subsection as follows:

"(d) Notwithstanding any other provision of this Act, no household shall be eligible to participate in the food stamp program if the head of the household is on strike against his employer as the result of a labor dispute, except where such household was eligible for participation in such program prior to the time the head of the household went on strike against his employer. The provisions of this subsection shall not apply in any case in which the head of a household is not working because of an employer lockout. As used in this subsection the term 'head of the household' means the member of any household who provides over one-half of the support for the household."

By Mr. THURMOND:

S. 409. A bill to amend the Internal Revenue Code of 1954 to encourage the use of recycled oils. Referred to the Committee on Finance.

THE NEED IN THE UNITED STATES FOR OIL RECYCLING

Mr. THURMOND. Mr. President, in the 92d Congress I proposed that the Congress seriously consider legislation that would greatly promote the protection of our environment by providing a tax incentive for recycling lubricating oils.

Although this proposal received acclamation as a major step toward cleaning our environment from experts in the petroleum industry and environment specialists, public hearings were never conducted by the Senate Finance Committee. Today I am introducing legislation having the same basic purpose, but which is more comprehensive and I believe more likely to achieve the desired results. This issue involves not only the prevention of a major form of air and water pollution, but also the conservation of a critical natural resource. The problem involves the dumping of used lubricating oil into our water supply and indiscriminate burning of other used petroleum products.

The used oil problem is staggering. About three-quarters of one billion gallons of this precious commodity are wasted every year. However, wastage could be significantly reduced and the environment preserved by recycling.

For over 40 years, small businessmen have been dealing with recycling oil, and the Association of Petroleum Rerefiners has been trying since 1950 to draw attention to discriminatory Federal actions and rulings that threaten the very existence of the entire industry.

Mr. President, there are many individuals who are unaware of this situation and of the fact that lubricating oils can be cleaned up and literally refined over and over again to their original quality. I feel that the least we can do at this late date is to listen to the rerefiners' story with a sympathetic ear, and act to redress their very real grievances.

Let me explain the situation briefly. Only about half of the estimated 2½ billion gallons of lubricating oils sold for industrial and automotive use in the United States every year is actually used up. This means that the other half is drained at service stations, garages, airfields, railroad yards, bus and truck terminals, auto fleet headquarters, and industrial plants. More than 1 billion gallons of valuable oil could be recycled back into lubricating form and quality, yet 75 percent of it, according to recent studies, is wasted.

Mr. President, used oil is not just wasted, but it becomes a powerful pollutant of air and water. Whatever portion of those 750 million gallons that is dumped on purpose, or just allowed to drain down into the water supply, remains a health hazard almost indefinitely. Just as lube oil will not break down under the extreme temperatures and pressures of the automobile engine, so it will not break down for years when left in lakes and streams. On the other hand, whatever portion of those 750 million gallons that is burned, even when blended in small ratios with bunker fuel under carefully controlled burning conditions, may still contribute millions of pounds of metallic oxides that never break down.

Mr. President, even in view of this problem, very little of this valuable and potentially dangerous oil is rerefined and recycled. The reason is that the Federal Government has imposed obstacles and restrictions that actually prevent the petroleum rerefiners from marketing their products in competition with the major oil companies. GSA will not buy it for use in Government vehicles; IRS makes off-highway users pay extra for it; FTC insists that every can be labeled so that very few motorists will buy it; and no one will set oil quality standards and performance requirements that will give the rerefiners a chance to prove that their product can be just as good as the original. This is an incredible series of discriminatory practices which came into existence through a series of unfortunate circumstances.

Mr. President, in 1965 the Excise Tax Reduction Act leveled a double-barreled blast at the rerefiners. Before that time there had been a 6-cent-per-gallon tax levied on the manufacturer of lubricating oil which was paid by the first user of this oil. Since rerefiners were exempt from paying this tax—the tax on the original oil had already been paid—the net result was a 6-cent-per-gallon competitive edge. In 1965, the Internal Revenue Service ruled that because these tax funds were to go into the Highway Trust Fund, off-highway users, notably railroads, could be refunded their full

tax payments at the end of the tax year when they purchased 100 percent new lubricating oil. IRS also refused to allow tax refunds on any new oils that were to be blended with rerefined oil, as is often the case when the rerefiner wants to meet the viscosity requirements of the ultimate user. Thus, the rerefiners lost their 6-cent-per-gallon margin among off-highway users, and are penalized for manufacturing blended oils for off-highway users.

As a result of these handicaps, more than half of the rerefiners have been forced out of business in the past 7 years. It seems that the U.S. Government has weighted the scales against the small businessman. Unless something is done soon, the rest of the rerefiners must also close down. If this happens, what do we do with these 750 million gallons of waste oils?

The January 1971, issue of Fortune magazine featured an article entitled "Metallic Menaces in the Environment." It quotes Dr. Henry A. Schroeder, of the Dartmouth Medical School, as saying:

Pollution by toxic metals is a much more serious and much more insidious problem than is pollution by organic substances. Most organic substances are degradable by nature; no metal is degradable.

Walter C. McCrone Associates of Chicago was asked to analyze the combustion products present in waste oils before they are rerefined. This report pointed out the more than 1,000 pounds of metal oxides—mostly lead, but with lesser amounts of calcium, phosphorous, barium, and others—are released when 10,000 gallons of waste oils are burned. If we assume that only 260 million gallons were burned last year, generally regarded as a conservative figure, we come to the frightening conclusion that at least 26 million pounds of metallic oxides were released through burning last year.

Mr. President, this brings us to the realization that waste lubricating oil has to be treated somehow prior to disposal. Whether recycled back into lubricating form or blended with bunker oils as the American Petroleum Institute recommends, there must be some process to remove the metal additives. It has become almost a technological race—the demands of the auto engines for more powerful additives to improve performance versus the ability of the rerefiners to identify and remove these additives. It is time we threw our strength behind the continuing efforts of the rerefiners to win this race, not only to reclaim the oils, but also to find some economic use for the sludge that contains these unrefinable additives.

Mr. President, I am introducing a bill which would amend the Internal Revenue Code of 1954 to encourage the use of recycled oil. It is my opinion that we must take steps to clean up our environment and also take steps to preserve our dwindling natural resources. This bill is just one step in this direction, but it is a necessary one. Not only will this bill help to control pollution and preserve a natural resource, but it would also help to revitalize a faltering industry.

The bill will amend existing tax laws covering lubricating oils. It will equalize and simplify the tax on lubricating oil by requiring all producers and manufacturers of new lubricating oils to include hydraulic and cutting oils, but excluding recycled oil, to pay a 6-cent-per-gallon excise tax. The bill also will repeal section 6424 of the IRC that allowed tax refunds to users of lubricating oils. It is hoped that these amendments to the Internal Revenue Code will stimulate the purchase of recycled oil.

Mr. President, I request that this bill be appropriately referred and ask unanimous consent that it be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

S. 409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 4091, 4092, and 4093 of the Internal Revenue Code of 1954 (relating to lubricating oil) are amended to read as follows:

"SEC. 4091. IMPOSITION OF TAX.

"There is hereby imposed on lubricating, hydraulic, and cutting oils (other than recycled oils) which are sold in the United States by the manufacturer or producer a tax of 6 cents per gallon, to be paid by the manufacturer or producer.

"SEC. 4092. DEFINITIONS.

"(a) CERTAIN VENDEES CONSIDERED AS MANUFACTURERS.—For the purposes of this subpart, a vendee who has purchased lubricating, hydraulic, or cutting oils free of tax under section 4093 shall be considered the manufacturer or producer of such oils.

"(b) LUBRICATING OIL.—The term 'lubricating oil' means all oil regardless of origin, which—

"(1) is suitable for use as a lubricant, or

"(2) is sold for use as a lubricant.

"(c) HYDRAULIC OIL.—The term 'hydraulic oil' means all oil which is used primarily to transmit power or pressure, but which may also serve lubricating and other functions.

"(d) CUTTING OIL.—The term 'cutting oil' means all oil which is used primarily in cutting, milling, and machining operations (including forging, drawing, rolling, shearing, punching, and stamping), but which may also serve lubricating and other functions.

"(e) RECYCLED OIL.—The term 'recycled oil' means used oil which has been re-refined or otherwise processed to remove the physical and chemical contaminants acquired through use, which by itself or when blended with new oil or additives is substantially identical or superior to new oil intended for the same purposes.

"SEC. 4093. EXEMPTION OF SALES TO PRODUCERS.

"Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under this subpart upon lubricating, hydraulic, or cutting oils sold to a manufacturer or producer of such oils for resale by him."

(b) Section 4094 of the Internal Revenue Code of 1954 (relating to cross reference) is hereby repealed.

(c) Section 6424 of the Internal Revenue Code of 1954 (providing off-highway users of lubricating oils with a tax refund of 6 cents per gallon) is hereby repealed.

SEC. 2. The amendments made by the first section of this Act shall apply with respect to sales occurring after the last day of the calendar quarter in which this Act is enacted.

By Mr. McGEE:

S. 411. A bill to amend title 39, United States Code, relating to the Postal Service, and for other purposes. Referred to the Committee on Post Office and Civil Service.

Mr. McGEE. Mr. President, I introduce for appropriate reference a bill to amend title 39 of the United States Code as enacted in section 2 of the Postal Reorganization Act in 1970 to make certain changes in the postal laws as they now exist. Because this is a matter of substantial importance to the Nation I would like to explain briefly the provisions of the bill and to announce when we will proceed to consider these issues before the Post Office and Civil Service Committee.

The demise of Look and Life magazines in the recent past has focused considerable public attention upon the financial success of popular magazines in the United States today. A number of widely read and popular general interest publications have gone out of business in the last 15 or 20 years, and one of the reasons advanced by the magazine publishing industry has been the increasing cost of postal distribution. Despite these higher costs, the industry as a whole strongly supported the enactment of the Postal Reorganization Act in 1970 and wholeheartedly embraced the concept of a "break-even" rate policy for the post office. They recognized that they might have to pay more but they expected to receive substantially improved postal services.

The first round of postal rate increases has now been established. Over the next 5 years, second-class magazine rates will be increased by an average of 127 percent over 1971 rates, and that is just the first increase. Undoubtedly, increased costs of the post office will require further increases during the coming 4 years. We on the Post Office Committee recognized that when we recommended a phase-in period of 5 years for commercial mailers and 10 years for nonprofit mailers in the Postal Reorganization Act. The economic forecast of those in the business suggests that the cost of second-class magazine mailing, which is today $175 million can reasonably be expected to exceed $600 million by fiscal year 1977.

Inevitably, the magazine publishing industry looks upon this with a gloomy disposition. Some of us may be inclined to say "I told you so" but that is not a complete answer. Just saying "I told you so" will not prevent the decline and possibly the fall of a number of very fine publications whose financial stability is tenuous.

I believe that the American public generally has a vested interest in the survival of newspapers and magazines. Regardless of the economical, political, or social policies which they espouse, they contribute to the Nation's thought process. I am personally convinced that the Congress should not permit magazines to go under because the cost of distributing them through the postal system is higher than their readers are willing to pay.

I believe that the inevitable result of too-high postal rates will cause the elimination of general interest magazines in the country. Special interest publications will survive, but those are aimed at a select market, generally the affluent readers who are willing and able to spend a dollar or two for a nice publication devoted to the stock market, science, economics, or other subjects which do

not have the widespread appeal and readership of general interest magazines. I want both kinds. I believe America benefits by them both.

The bill which I introduce today will permit commercial publishers to have 10 years rather than 5 years to adjust to the economic impact of postal rate increases. There have been other suggestions made and I am aware that many in the publishing field may feel that another 5 years is not enough, that Congress should pick up some of the tab by direct subsidy, paying half the cost, establishing an artifically low rate regardless of the rate determined by the Postal Rate Commission. I am open to suggestions based on economic justification, but I am inclined to think that the publishing industry must recognize that the taxpayer should not forever pay part of the publisher's way.

Providing a period of additional rate relief is not the only problem with which the bill I propose deals. There are other important features. "Important" is a key word in itself. In the Postal Reorganization Act, the Congress stipulated that the delivery of important letter mail was the primary objective of the Postal Service. That adjective has been misused to the disadvantage of ordinary first-class mail. The Postal Service has undertaken a nationwide advertising campaign to persuade the public to pay more and use airmail rather than pay less and use first-class mail. Street box pick-up schedules have been severly reduced so that in some cases letters mailed by the public early Saturday afternoon will not be picked up by a postal letter carrier for 48 hours. Weekend work in post offices is being substantially reduced. The policy of the Postal Service has been to downgrade first-class mail in order to stir the public to pay more for what should be ordinary first-class service—quick pick up, air transportation for any letter mail, and daily handling and distribution. In the bill which I introduce today that discrimination against first-class mail must be eliminated. I believe that the public is entitled to first-class service on first-class mail.

The bill also will permit the Postal Service to argue some of its own cases in court to avoid a recurring problem of attorneys in the Department of Justice representing the Postal Service in highly complex judicial proceedings about which the Justice Department does not and cannot be expected to provide expert legal counseling. In a recent suit in Denver, Colo., the National Association of Letter Carriers sued for an injunction against the Independent Postal Service of America to prohibit the delivery of Christmas cards, alleged by the letter carriers to be in violation of the private express statutes. The Justice Department, which is authorized by law to handle all judicial cases for the Postal Service, did not even know of the suit until shortly before the trial. There have been other unfortunate instances which can be readily resolved by permitting the Postal Service to make the decision of when it wishes to argue its own cases in court

My bill would also permit the Governors of the Postal Service to pay the Postmaster General and the Deputy Postmaster General a salary in excess of the maximum of level I of the Executive Schedule, the applicable rate for a member of the President's Cabinet. This is a touchy and highly charged issue and as a Senator who earns a good bit less than a number of Assistant Postmasters General, I can appreciate the views of those who think level I is enough. I can also appreciate the views of those who know that the salary of a Cabinet member or the salary of the Postmaster General is about as much money as a reasonably successful doctor, lawyer, or businessman earns in a small city. It cannot attract and retain top-flight management from the private sector for a reasonable period of service.

The bill would also clarify some of the jurisdiction arguments which arose in the recent postal rate proceeding to establish clearly by law the role and powers of the Postal Rate Commission in conducting its proceedings as well as to give the Commission complete independence from the Postal Service except as to the final decision of the presidentially appointed Governors in matters concerning rates, fees, and classifications.

Finally, my bill would revise that provision of the Postal Reorganization Act concerning congressional appropriations for revenue foregone on account of rate phasing. Under the current law, if the Congress fails to appropriate money for one of the subsidized groups, the Postal Service may raise the rate on that class of mail. The Office of Management and Budget in 1971 chose to use that language to deny any money to pay for the phasing of third-class regular rate mailings. I recommend that the language be revised so that only the Congress can make such a judgment, which was what we intended in the first place. If the money is not requested by the President in the budget to be appropriated—in other words if the Office of Management and Budget tries the same end run again—then the authority to increase the rate cannot be used.

I believe that legislation of this sort will be important to a great many businessmen, mailers, and Government officials. I ask unanimous consent that the bill, which is brief, be printed in the RECORD at this point.

I expect to schedule hearings before the Post Office Committee in about 6 weeks. During that period, I hope that those who are interested in this legislation will prepare themselves to present their case. In all fairness, I think we should examine very carefully the evidence before we recommend a further subsidy for any group of mailers. The only way to do that and be fair to the taxpayers is by careful examination of the best case they can present.

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

S. 411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections "(e)" and "(f)" of section 101 of title 39, United States Code (84 Stat. 720; Public Law 91-375), are amended by striking out the word "important" in each such subsection.

SEC. 2. Section 409(d) of such title is amended by striking out the words "with the prior consent of the Attorney General".

SEC. 3. Section 410(b)(1) of such title is amended by inserting the words "section 5503 (recess appointments)," immediately before the words "and section 5532 (dual pay)".

SEC. 4. The third sentence of section 1003 (a) of such title is amended by striking out the word "No" and inserting in lieu thereof the words "Except in the case of the Postmaster General and the Deputy Postmaster General, no".

SEC. 5. Section 3603 of such title is amended to read as follows:

"§ 3603. DUTIES AND POWERS

(a) The Commission shall have the duty to make recommended decisions for changes in postal rates and fees and in mail classification matters to the Governors and to render advisory opinions on postal services and complaints in accordance with the policies and procedures of this title.

(b) The Commission is empowered to perform acts, conduct investigations, issue and amend orders, rules, and regulations, and establish procedures (subject to chapters 5 and 7 of title 5) and take any other action they deem necessary and proper to carry out their functions and powers and their obligations to the Government of the United States and the people as prescribed under this chapter. The actions of the Commission shall not be subject to any change or supervision by the Postal Service. The Commission may inquire into and examine any presentation made in any proceeding, and examine the types, quality, regularity, and reliability of any postal service, as well as the honesty, efficiency, and economy of postal management in order to carry out its duties and responsibilities and properly exercise its powers under this chapter.

(c) The Commission is empowered to issue subpenas to compel the attendance of witnesses or the production of evidence in any proceeding from the Postal Service or any party to such a proceeding. In case of disobedience to the subpena, the Commission may invoke the aid of any court of the United States to comply with the terms of a subpena.

SEC. 6. Section 3604(c) is amended to read as follows:

"(c) The Commission shall annually prepare and present to the Postal Service a statement of its expenses for facilities, supplies, compensation, and other costs incurred during the fiscal year. Such expenses incurred by the Commission shall be paid out of the Postal Service Fund established under section 2003 of this title upon presentation of vouchers signed by the Chairman of the Commission."

SEC. 7. (a) Section 3622 of such title is amended by sriking out the second sentence in subsection (a) and inserting in lieu thereof the following:

"The Postal Service shall submit to the Commission, at the time of a request for a change in a rate or fee, a schedule of rates and fees it believes to be in the public interest and in accordance with the policies of this title and its case supporting the burden of proof, together with a comprehensive statement of the kinds, quality, regularity, and reliability of service proposed to be maintained for each class of mail or each type of service for which a change in a rate or fee is requested.

(b) Section 3623(b) of such title is amended by adding at the end thereof the following new sentence;

"The Postal Service shall submit to the Commission, at the time of a request for a mail classification, a comprehensive statement of the kinds, quality, regularity, and reliability of service proposed to be maintained for each class of mail proposed in its request.

SEC. 8. (a) Section 3625(a) of such title is

amended by striking out "approve, allow under protest, reject," and inserting in lieu thereof the word "approve".

(b) Subsection "(c)" of section 3625 of such title is repealed.

(c) Subsection "(d)" of section 3625 of such title is amended by—

(1) redesignating it as subsection "(c)";

(2) striking out the first and second sentence; and

(3) amending the third sentence to read as follows:

"With the unanimous written consent of all of the Governors then holding office, the Governors may modify a recommended decision of the Commission only if they find that the record proves that the recommended decision of the Commission (1) is not in accordance with the policies of this title, (2) will not produce sufficient revenues so that all postal income and appropriations will be sufficient to operate the Postal Service at levels of service proposed to be maintained by the Postal Service in its pending request for a rate or mail classification change, (3) that the modification made by the Governors is in accordance with the policies of this title, and (4) the modification will produce such sufficient revenues.

(d) Subsection "(e)" of section 3625 of such title is amended by—

(1) redesignating it as subsection "(d)"; and

(2) striking out the words "approve, allow under protest, reject," and inserting in lieu thereof the word "approve".

(e) Subsection "(f)" of section 3625 of such title is redesignated as subsection "(e)".

SEC. 9. (a) Section 3626 of such title is amended by inserting after the word "adopted" in the first sentence the words "by the Commission".

(b)(1) Section 3626 of such title is amended by striking out the figure "4359" in paragraph "(2)";

(2) by striking out the period at the end of paragraph "(2)" and inserting in lieu thereof a semicolon; and

(3) by adding the following new paragraph "(3)":

"(3) the rates for mail under section 4359 shall be equal, on and after the first day of the tenth year following the effective date of the first rate decision applicable to that class or kind, to the rates which would have been in effect for such mail if this subsection had not been enacted."

SEC. 10. Section 3627 of such title is amended to read as follows:

"If Congress fails to appropriate any of the amounts authorized to be appropriated under section 2401(c) of this title for a class of mail sent at a free or reduced rate under section 3217, 3403-3405, or 3626 of this title, or under the Federal Voting Assistance Act of 1955, and that amount was requested by the President in the Budget of the United States to be appropriated, the Postal Service may request the Postal Rate Commission to make a recommended decision for an adjustment in the rate for that class of mail in accordance with the provisions of this subchapter so that the increased revenues received from the users of that class will equal the amount requested by the President for the class which Congress failed to appropriate.

SEC. 11. (a) Section 3628 of such title is amended by striking out the words "approve, allow under protest," and insert in lieu thereof the word "approve".

(b) Section 3641(a) of such title is amended by striking out the words "submitted, or within 30 days after the Postal Service has resubmitted", and inserting in lieu thereof the word "submitted".

SEC. 12. The caption for section 3603 at the beginning of chapter 36 of such title is amended to read as follows:

"3603. DUTIES AND POWERS."

By Mr. SPARKMAN:

S. 412. A bill to create the National Credit Union Bank to encourage the flow of credit to urban and rural areas in order to provide greater access to consumer credit at reasonable interest rates, to amend the Federal Credit Union Act, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

NATIONAL CREDIT UNION BANK ACT OF 1973

Mr. SPARKMAN. Mr. President, I introduce for appropriate reference, a bill entitled the "National Credit Union Bank Act of 1973."

In this time of the credit crunch, credit unions have been forced to curtail making loans because demand has exceeded supply. However, with the establishment of a National Credit Union Bank, as provided in this bill, the credit unions would have access to the Nation's money markets to satisfy their loan demands over and above their supply.

This legislation would improve the credit unions' liquidity and provide a stability that would benefit the borrower. As we all know, credit unions serve medium- and low-income people. This new National Credit Union Bank would help funnel money to the consumer.

The credit union legislation does not cost the taxpayer to implement; the credit unions pay their own way. This service-oriented program is in the interest of the consumer.

I ask unanimous consent to have a copy of the bill and a section-by-section analysis printed in the RECORD at this point.

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

S. 412

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 "National Credit Union Bank Act of 1973".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that there is an urgent need for consumer credit at reasonable rates and to promote commerce and thrift at the consumer level. Credit unions have been organized by people to provide a facility to supply needed credit. The relief afforded credit union members has been substantial and the extent of such relief would be enlarged by the establishment of a National Credit Union Bank. It is therefore declared to be the policy of the Congress and the purpose of this Act to improve and stimulate the ability of credit unions to provide low-cost consumer loans by establishing a National Credit Union Bank empowered to make loans for liquidity purposes to its shareholders, discount notes of its shareholders, provide a national service of interlending for credit unions, sell debt securities in the open market, aid in the rehabilitation and stabilization of credit unions, aid in the orderly liquidation of credit unions when necessary, aid in strengthening and development of credit unions serving low-income persons, and to cooperate with and assist credit unions, credit union organizations, the National Credit Union Administration, and the various State regulatory bodies for the purpose of improving the general welfare of the people through credit unions.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "bank" means the National Credit Union Bank established under section 4 or any branch thereof.

(2) The term "board" means the Board of Directors of the National Credit Union Bank.

(3) The term "shareholder" means any credit union shareholder of the National Credit Union Bank.

(4) The term "credit union" means a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

(5) The term "Federal credit union" means a Federal credit union organized in accordance with the provisions of the Federal Credit Union Act.

(6) The term "State credit union" includes any credit union organized under the laws of the States of the United States, the District of Columbia, the several territories including the trust territories and possessions of the United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico and which is not prohibited by the laws under which it is organized to become a shareholder of the bank in accordance with the requirements of this Act.

(7) The term "insured credit union" means any credit union insured by the Administrator of the National Credit Union Administration.

ESTABLISHMENT OF THE BANK

SEC. 4. There is hereby created a body corporate to be known as the National Credit Union Bank which shall be deemed to be an agency of the United States and which shall exist perpetually until dissolved by act of Congress. The principal office of the bank shall be located in the District of Columbia but the bank may establish such district and branch offices throughout the United States as it deems necessary and appropriate.

INTERIM MANAGEMENT

SEC. 5. (a) Upon the enactment of this Act and pending the appointment and election of the members of the Board of Directors of the National Credit Union Bank pursuant to section 6, the organization and management of the bank shall vest in the Secretary of the Treasury, who shall serve as the acting President of the bank until the President of the United States appoints the President of the bank.

(b) Within three months of the effective date of this Act, the Secretary of the Treasury shall prescribe procedures for the receipt of nominations concerning the election of one member of the permanent Board from each of the Federal credit union regions, said election to be held no later than six months from the effective date of this Act. To the extent practicable, the National Credit Union Administration and its regional offices shall be utilized for the receipt of nominations and mail ballots for the elective Board positions.

PERMANENT BOARD

SEC. 6. (a) The management of the bank shall vest in a Board of Directors consisting of a President of the bank, the Secretary of the Treasury, or his designee from that Department, the Administrator of the National Credit Union Administration, and one member to be elected from each of the Federal credit union regions, all of whom shall be citizens of the United States. Members of the Board shall be selected as follows:

(1) The President of the United States shall appoint the Secretary of the Treasury or his designee from that Department and the Administrator of the National Credit Union Administration who shall serve as ex officio members of the Board of Directors.

(2) The President, by and with the advice and consent of the Senate, shall appoint a President of the bank who shall serve at the pleasure of the President of the United States.

(3) One director of the Board shall be elected from each of the Federal credit union regions for a term of six years except

that the members of the National Credit Union Board, the employees of the National Credit Union Administration, and the employees of the National Credit Union Bank shall be ineligible as directors of the permanent board so long as they shall hold such positions or office except as provided in subsection (a)(1) of this section. Of the elected members first taking office, two shall serve until December 31, 1975, two shall serve until December 31, 1977, and two shall serve until December 31, 1979, as determined by the President of the United States.

The Secretary of the Treasury shall designate each elective directorship as representing the member credit unions located in a particular Federal credit union region. Each directorship shall be filled by a person of tested credit union experience who has been nominated by at least twenty-five member credit unions from his region and who receives a plurality of votes which such member credit unions in his region may cast for the purpose of filling such office. Each member credit union may cast for such office a number of votes in proportion to the number of shares of stock required by sections to be held by such member credit union at the end of the month preceding the election in accordance with the following schedule.

Shares of Stock:	Votes
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 125	5
126 to 150	6
151 to 175	7
176 to 200	8
201 to 250	9
251 to 300	10
301 to 350	11
351 to 400	12
401 to 450	13
451 to 500	14
501 to 750	15
751 to 1,000	16
1,001 to 1,500	17
1,501 to 2,000	18
2,001 to 2,500	19
2,501 to 5,000	20
5,001 to 7,500	21
7,501 to 10,000	22
10,001 to 15,000	23
15,001 to 20,000	24
20,001 to 25,000	25

As used in this subsection, the term "member credit union" means a shareholder of the National Credit Union Bank which was a member of such bank at the end of the month preceding such election.

(b) The President of the bank shall be an ex officio member of the Board of Directors and may participate in meetings of the Board, except that he shall not vote except in case of an equal division. The President of the bank shall be the chief administrative officer of the bank and shall perform all functions and duties of the bank, in accordance with the general policies established by, and subject to the general supervision of, the Board. The Board shall authorize the appointment of such other officers and employees as it deems necessary to carry out the functions of the bank. Such appointments may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and persons so appointed may be paid without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

OPERATION OF THE BOARD

SEC. 7. (a) As soon as practicable after the first directors of the Board have been elected as provided in section 6, the director shall meet, subscribe to an oath of office, and organize by electing from among the membership a Chairman, a Vice Chairman, and a Secretary. The Chairman, Vice Chairman, and Secretary shall be elected annually for terms of one year, and shall serve until their respective successors are elected and take office. The Chairman shall preside at all meetings, and the Vice Chairman shall preside in the absence or disability of the Chairman. The Board may, in the absence or disability of both the Chairman and Vice Chairman, elect any of its members to act as Chairman pro tempore. A majority of elected members shall constitute a quorum of the Board for the transaction of business, and the Board may function, notwithstanding vacancies if a quorum is present. The Board shall meet at such times and places as it may fix and determine, but shall hold at least six regularly scheduled meetings a year. Special meetings may be held on call of the Chairman or any three elected members.

(b) Notwithstanding section 6, any member of the Board may at any time be removed from office for cause by the President of the United States, or if cause exists but the President does not act, by the Congress through impeachment proceedings.

(c) Each member of the Board shall receive the sum of $100 for each day or part thereof spent in the performance of his official duties; however, such compensation shall not be paid to the Secretary of the Treasury or his designee from that Department, the Administrator of the National Credit Union Administration, or the President of the bank. In addition to receiving such compensation, each member of the Board, including the Secretary of the Treasury or his designee from that Department, the Administrator of the National Credit Union Administration, and the President of the bank shall be reimbursed for necessary travel, subsistence, and other reasonable expenses actually incurred in the discharge of his duties as such member, without regard to any other laws relating to allowances for such expenses.

(d) The compensation of the President of the bank shall be established by the Board. In addition, the Board shall prescribe rules for the election of members to the Board from each of the Federal credit union regions subject to the provisions of section 6(a)(3).

(e) The Board shall prescribe and publish such regulations and take such other actions as may be necessary and appropriate in carrying out this Act and in effectively exercising the functions expressly and impliedly vested in it under this Act.

INITIAL EXPENSES

SEC. 8. In order to facilitate the formation of the bank there is authorized to be appropriated, and the Secretary of the Treasury is authorized to advance, no more than $500,000 to be utilized for the initial organizational and operating expenses of the bank. This advance shall be at a rate of interest to be determined by the Secretary of the Treasury and shall be repaid within one year from the date of any such advance.

CAPITALIZATION OF THE BANK

SEC. 9. (a) Upon the enactment of this Act, the Board of Directors of the bank shall open books for subscription to the capital stock of the bank. The capital stock shall be divided into shares of a par value of $100 each. The minimum capital stock shall be issued at par, and stock issued thereafter shall be issued at such price not less than par as may be fixed by the Board of Directors.

(b) The original stock subscription of each credit union eligible to become a shareholder under section 11(a) shall be in an amount equal to 1 per centum of the subscriber's total assets at the close of the month before the month in which it makes application for membership in the bank, but not less than $100 except that 50 per centum of the required stock subscription may be held by the credit union on call by the bank. The bank shall annually adjust, at the close of the calendar year, in such manner and upon such terms and conditions as the Board of Directors may prescribe, the amount of stock held by each member so that such member shall have invested in the stock of the bank at least an amount calculated in the manner provided in the preceding sentence (but not less than $100). If the bank finds that the investment of any member in stock is greater than that required under this subsection, it shall, upon application of such member, retire the stock of such member in excess of the amount so required. The bank may provide for adjustment in the amounts of stock to be issued or retired in order that stock may be issued or retired only in entire shares.

(c) Upon retirement of stock of any member, the bank shall pay such member for the stock retired an amount equal to the par value of such stock, or, at the election of the bank, the whole or any part of the payment which would otherwise be so made shall be credited against the indebtedness of the member to the bank. In either such event, stock equal in par value to the amount of the payment or credit, or both, as the case may be, shall be canceled.

(d) Stock subscriptions shall be paid for in cash, and shall be paid for at the time of application therefor, or, at the election of the subscriber, in installments, but not less than one-fourth of the total amount payable shall be paid at the time of filing the application, and a further sum of not less than one-fourth of such total shall have been paid at the end of each succeeding four months.

(e) Stock subscribed for shall not be transferred or hypothecated except as provided herein.

NEWLY ORGANIZED CREDIT UNIONS

SEC. 10. (a) Each credit union which is chartered after enactment of this Act and which is accepted for membership in the bank within one year from the date it is chartered shall pay $25 in cash to be credited to its purchase of stock in the bank. At the expiration of one year from the date of its charter, the newly organized credit union shall subscribe for stock in the bank in an amount equal to 1 per centum of its total assets on this date, but in no event shall this amount be less than $100 except that 50 per centum of the required stock subscription may be held by the credit union on call by the bank.

(b) The stock subscriptions of the newly organized credit union required at the end of its first full year of operation in accordance with subsection (a) of this section shall be paid for in cash within thirty days of that date or, at the election of the subscriber, in quarterly installments beginning thirty days following its first full year of operations.

(c) For succeeding years, stock subscriptions shall be made in accordance with section 9(b) of this Act.

MEMBERSHIP

SEC. 11. (a) Every credit union insured by the Administrator of the National Credit Union Administration and which is not prohibited by the laws under which it is organized to become a shareholder in the bank shall apply for membership in the bank within three months of the effective date of this Act. Any other State credit union not insured by the Administrator of the National Credit Union Administration may apply for membership in the bank. The bank shall act on membership applications and, upon approval, shall require such applicants to subscribe to capital stock of the bank in an amount equal to 1 per centum of the subscriber's total assets subject to the provisions of section 9.

(b) Any shareholders, other than an insured credit union, may withdraw from membership in the bank six months after filing with the bank written notice of its intention to do so. The President of the bank may, after a hearing to be held at a place convenient to the principal office of the shareholder, remove any shareholder from

membership if the shareholder (1) has failed to comply with any provision of this Act, or regulation of the Board issued pursuant thereto, or (2) is insolvent. In the event of voluntary or involuntary termination of membership in the bank, the indebtedness of such shareholder to the bank shall be liquidated and the capital stock in the bank owned by such shareholder shall be surrendered and canceled. Upon the liquidation of such indebtedness, such shareholder shall be entitled to the return of its collateral, and, upon the surrender and cancellation of such capital stock, the shareholder shall receive a sum equal to its cash paid for subscriptions plus accrued dividends thereon for the capital stock surrendered. Such payment by the bank shall be made within ninety days from the date a shareholder ceases to be a member of the bank.

OPERATIONS AND POWERS OF THE BANK

SEC. 12. (a) In order to carry out the purposes of this Act, the bank is authorized to—

(1) sue and be sued, and complain and defend in its corporate name and through its own counsel;

(2) adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) adopt, amend, and repeal by the Board such bylaws, rules, and regulations as may be necessary for the conduct of business;

(4) conduct its business, carry on its operations, have offices, and exercise the powers granted by this Act in any State;

(5) lease, purchase, or otherwise acquire, and own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in and for the purposes of the bank;

(7) make arrangements with public or private organizations at the local, regional, State, or National level including credit union organizations and other financing institutions, to act as agents for or otherwise assist the bank in the conduct of its business;

(8) conduct such examinations of shareholders at the bank's expense as the bank shall deem necessary in connection with carrying out the purposes of this Act;

(9) enter into contracts, and do all things which are necessary or incidental to the proper management of its affairs and the proper conduct of the business, including such incidental powers as are generally granted to corporations.

(b) There is authorized to be appropriated and the Secretary of the Treasury is authorized to advance such sums as may be necessary for the purposes of the bank, but in no event more than $500,000,000 for any fiscal year. This advance shall be at a rate of interest to be determined by the Secretary of the Treasury and shall be repaid within one year from the date of any such advance.

(c) To obtain indirect participation by private and other public financial sources, the bank is authorized to issue bonds, debentures, and such other certificates of indebtedness and having such maturities and bearing such interest as the Board may determine. In no event, however, shall the aggregate of such debentures and similar obligations outstanding at any one time exceed twenty times the surplus and paid-in capital of the bank. The obligations of the bank issued under this subsection shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof.

LOANS

SEC. 13. (a) Any shareholder of the bank shall be entitled to apply in writing for loans subject to the borrowing limitations prescribed for Federal credit unions under section 107(10) of the Federal Credit Union Act. Such application shall be in a form prescribed by the bank. The bank may deny any application or may grant it, upon such conditions and terms as may be prescribed by the bank.

(b) The bank is authorized to make secured and unsecured loans to its shareholders. Security for such loans, if required, may include, but not be limited to, obligations of the U.S., obligations fully guaranteed by the U.S., obligations issued in trust by any agency of the U.S. on behalf of any agency of the U.S., or notes by the shareholder in the form of loans to its members.

(c) Loans shall be made upon the note or obligation of the shareholder, bearing such rate of interest as the Bank determine, and the Bank shall have a lien on and shall hold the stock of such shareholder as collateral security for all indebtedness of the shareholder to the Bank.

MONETARY OPERATIONS OF BANK

SEC. 14. The bank shall be authorized to—

(1) purchase notes and other receivables from shareholders on such terms as may be determined by the bank;

(2) make loans to shareholders on such terms and such conditions and rate of interest as may be determined by the bank;

(3) accept deposits from credit unions on a demand or time basis, or both, and to pay interest thereon at such rates and at such times as may be determined by the bank;

(4) make deposits in the form of time accounts or demand accounts or both in shareholder credit unions, in such banks, trust companies, mutual savings banks, and savings and loan associations as are insured with respect to such accounts by the United States or any agency or instrumentality thereof;

(5) develop and enter into agreements with or among credit unions and other financial institutions for the purpose of aiding in the establishment of an efficient interlending system among credit unions and for the purpose of aiding credit unions in establishing concentrated lines of credit with other financial institutions, and to act as a depositor or transmitter of funds for the purpose of carrying out this power;

(6) invest in the shares of a shareholder credit union;

(7) pay dividends on the stock subscriptions of shareholders provided the bank is adequately reserved and to grant patronage refunds of interest paid on loans from the bank by shareholders as authorized by the Board of Directors;

(8) arrange for a commitment of insurance from the Administrator of the National Credit Union Administration of the bank's loans and its purchase of notes of liquidating shareholder credit unions to the extent that member accounts of the liquidating shareholders are insured by the National Credit Union Share Insurance Fund.

MANAGEMENT AND OPERATION

SEC. 15. Special provisions governing National Credit Union Bank as an agency of the United States until conversion of management and operation—

(a) Until the management and operation of the National Credit Union Bank is converted as provided in subsection (b) of this section, the bank shall be an agency of the United States.

(b) At the expiration of ten years from the effective date of this Act or thereafter and provided there are no loans then outstanding to the Treasury made pursuant to section 12(b)—

(1) the management and operation of the bank shall vest in a Board of Directors elected pursuant to section 6(a)(3) and may be exercised and performed through the President of the bank, to be selected by the Board of Directors of the bank, and through such other employees as the Board of Directors may designate;

(2) the three members of the Board of Directors of the bank designated by the President of the United States pursuant to section 6(a) (1) and (2) shall cease to be members;

(3) the National Credit Union Bank shall cease to be an agency of the United States but shall continue in existence in perpetuity as an instrumentality of the United States and as a banking corporation with all of the powers and limitations conferred or imposed by this Act except as shall have lapsed pursuant to the provisions of this section; and

(4) the obligations of the bank issued under section 12(c) shall no longer be fully and unconditionally guaranteed both as to interest and principal by the United States, and the authority of the Secretary of the Treasury to advance sums of money to the bank pursuant to section 12(b) terminates.

RESERVES

SEC. 16. The bank shall at all times have in reserve at least an amount equal to the demand deposits received from its shareholders invested in obligations of the United States, obligations fully guaranteed by the United States, or obligations or participations issued by an agency of the United States in trust for another agency or instrumentality of the United States.

EFFICIENCY

SEC. 17. The bank and the National Credit Union Administration shall provide for such combined reports, examinations, billings, payments, and other such items as the bank and the Administration may prescribe for the purpose of eliminating duplication and to simplify the work of shareholders. In addition, the bank will maximize utilization of reports and examinations of State regulatory agencies and make arrangements with those State agencies to avoid unnecessary expenses and work for State credit unions approved for membership in the bank.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 18. The financial transactions of the bank shall be audited by the General Accounting Office, which for this purpose shall have access to all of its books, records, and accounts.

ANNUAL REPORT

SEC. 19. Not later than one hundred and twenty days after the close of each fiscal year the bank shall prepare and submit to the President and to the Congress a full report of its activities during each year.

TAX EXEMPTION

SEC. 20. The bank, its property, its franchise, capital, reserves, surplus, security holdings, and other funds and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority, except that (1) any real property and tangible personal property of the bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any and all obligations issued by the bank shall be subjected both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

AMENDMENTS TO THE FEDERAL CREDIT UNION ACT

SEC. 21 (a) Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by adding at the end thereof the following new paragraph:

"(16) Notwithstanding any other provisions of law, a Federal credit union shall have the power to subscribe for stock in the National Credit Union Bank, if otherwise eligible to do so under the terms of this Act, and to exercise such other functions as may be necessary to fully participate as a member of the bank."

(b) Paragraph (6) of section 8 of the Federal Credit Union Act (12 U.S.C. 1757) is amended to read as follows:

"(6) to make loans to its own Directors and to members of its own supervisory or credit committee provided that any such loan or aggregate of loans to one Director or committee member which exceeds $2,500 plus pledged shares, must be approved by the Board of Directors and to permit Directors and members of its own supervisory or credit committee to act as guarantor or endorser of loans to other members, except when such a loan standing alone or when added to any outstanding loan or loans of the guarantor exceeds $2,500, approval of the Board of Directors is required;".

A BILL ENTITLED THE NATIONAL CREDIT UNION BANK ACT OF 1973

Sec. 2—Findings and Purpose—The purpose of this Act is to improve and stimulate the ability of credit unions to provide low cost consumer loans by establishing a National Credit Union Bank.

Sec. 3 defines the following terms: "bank", "board", "shareholder", "credit union", "Federal credit union", "State credit union", and "insured credit union".

Sec. 4—Establishment of the Bank—The principal office of the bank will be located in the District of Columbia but the bank may establish district and branch offices throughout the United States.

Sec. 5—Interim Management—(a) The organization and management of the bank shall vest in the Secretary of the Treasury until the President of the United States appoints the President of the bank.

(b) This concerns the election of one permanent member to the board from each of the Federal credit union regions.

Sec. 6—Permanent Board

(a) The selection of the members of the board will be by the President in his appointment of the Secretary of the Treasury and the Administrator of the National Credit Union Administration who will serve as ex officio members of the Board of Directors and the President of the bank who will serve at the pleasure of the President of the United States and one director from each of the Federal credit union regions who will serve for a term of six years. Each member credit union may vote for office holder according to the number of shares of stock as required by Sec. 9 of the Act, with a maximum of 25 votes.

(b) The President of the Bank will be the chief administrative officer.

Sec. 7—Operation of the Board

(a) Deals with the operation of the Board of Directors and the holding of regularly scheduled meetings during the years.

(b) Any member of the Board may be removed from office for cause by the President of the United States.

(c) Each member of the Board will receive the sum of $100 for each day of performance of his official business. However, compensation will not be paid to the Secretary of the Treasury or the Administrator of the National Credit Union Administration or the President of the bank. The President of the bank will be reimbursed for all necessary travel, subsistence, and other reasonable expenses incurred in the discharge of his duties.

(d) The compensation of the President of the bank will be established by the Board of Directors.

(e) The Board will prescribe regulations that will be necessary to carry out this Act.

Sec. 8—The initial expense of organizing and operating the bank will be obtained from the Secretary of the Treasury in an amount no more than $500,000, and it will be repaid within one year of the date of such advance.

Sec. 9—Capitalization of the Bank

(a) The capital stock will be divided into shares of a par value of $100 each, and stock issued after that will not be less than the par value.

(b) The original stock subscription of each credit union shall be in an amount equal to 1% of the subscriber's total assets before the month in which it makes application for membership in the bank.

(c) Retirement of stock of any member will be an amount equal to the par value of the stock.

(d) Stock subscriptions will be paid for in cash.

(e) Stock shall not be transferred or hypothecated except as provided in the Act.

Sec. 10—Newly Organized Credit Unions

(a) Credit unions shall pay $25 in cash for membership, and it will be credited to its purchase of stock. One year after the date of its charter, the newly organized credit union shall subscribe for stock in the bank in an amount equal to 1% of its total assets.

(b) Stock subscriptions of newly organized credit unions shall be paid for in cash within 30 days.

Sec. 11—Every credit union insured by the Administrator of the National Credit Union Administration shall apply for membership three months after the effective date of this Act, and any shareholder may withdraw from membership in the bank six months after filing with the bank written notice of its intention to do so.

Sec. 12—The operations and powers of the bank are outlined and the bank will be able to sue and be sued, adopt and alter, amend, conduct its business by this Act in any State, lease, accept gifts or donations of services, make arrangements with public or private organizations, conduct examinations of shareholders, and enter into contracts.

Sec. 13—Any shareholder shall be entitled to apply in writing for loans subject to the borrowing limitations prescribed for Federal credit unions of the Federal Credit Union Act. The bank is also authorized to make secured and unsecured loans to its shareholders at a rate of interest to be determined by the bank.

Sec. 14—The bank is authorized to purchase notes from shareholders, to make loans to shareholders, to accept deposits from credit unions on demand accounts, and to make deposits and to develop and enter into agreements with or among credit unions for the purpose of aiding the establishment of an efficient interlending system among credit unions, to invest in shares of stock, and to pay dividends.

Sec. 15—The management and operation of the bank shall vest in a Board of Directors.

Sec. 16—The bank shall at all times have in its reserve an amount equal to the demand deposits received from its shareholders invested in obligations of the United States or obligations guaranteed by the United States.

Sec. 17—The bank is required to make reports, to provide for examinations, and to utilize State regulatory agencies.

Sec. 18—The General Accounting Office will have access to the books, records, and accounts of the bank at all times.

Sec. 19—Not later than 120 days after the close of each fiscal year, the bank will prepare a report and submit it to the President and the Congress of its activities during the year.

Sec. 20—The bank's property, its franchise, its capital, its reserves, its surplus, its security holding shall be exempt from all taxation now or hereafter imposed by the United States, except that any real property and tangible personal property of the bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and obligations issued by the bank shall be subjected to the same extent as the obligations of private corporations.

Sec. 21—Amendments to the Federal Credit Union Act are outlined in Sec. 21.

By Mr. HATFIELD (for himself, Mr. BIBLE, Mr. CRANSTON, Mr. CURTIS, Mr. DOMINICK, Mr. MANSFIELD, and Mr. MOSS):

S. 413. A bill to permit American citizens to hold gold in the event of the removal of the requirement that gold reserves be held against currency in circulation. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. HATFIELD. Mr. President, I send to the desk a bill I am introducing today which would allow U.S. citizens to own gold in any form so long as gold reserves are not required by law to be held against currency in circulation. When I first proposed this legislation during the 92d Congress, I noted that some 70 nations, including many of the world's major democracies and our most prolific trading partners already permit their peoples to own gold in coin or in other forms. I asserted then that it was unjust to prohibit Americans from freely participating in the gold market and gave testimony to that effect before the Committee on Banking, Housing and Urban Affairs. To the continuing detriment of our citizens, that injustice remains unrectified.

Furthermore, I would contend that the price of gold should be able to find its own free market value, and that this price should have neither a ceiling nor a floor guaranteed by the U.S. Government. So that the depletion of gold reserves which I propose will be both gradual and controlled, I am contemplating the introduction of additional legislation which would require the Secretary of the Treasury to make not less than $1 billion in gold available for sale at the free market price then extant, annually for the next several years.

Mr. President, the testimony which I gave last year details the historical rationale behind the prohibition against private ownership of gold and responds to arguments commonly made in opposition to a change in that policy. I ask unanimous consent that my testimony as well as pertinent writings by Ralph A. Young, former adviser to the Board of Governors of the Federal Reserve System and Prof. Fritz Machlup of Princeton University be printed in the RECORD at this time.

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

STATEMENT OF MARK O. HATFIELD, U.S. SENATOR FROM THE STATE OF OREGON

Senator HATFIELD. Thank you very much, Mr. Chairman, for the privilege of appearing before your committee this morning to briefly discuss Senate bill 2709, cosponsored by Senator Mansfield, Senator Dominick, Senator Curtis, Senator Cranston, Senator Javits, Senator Buckley, and Senator Stevens.

The focus of these hearings is the administration's proposal to revalue the dollar in terms of gold. I would like to concentrate on the relationship of gold to our monetary system, specifically private ownership of gold by U.S. citizens.

Gold has been used as money for about 25 centuries. The first gold coins date from around the seventh century B.C. Until rather recently, gold was the primary standard of measuring economic value.

While the United States was officially on the gold standard for the 100 years between 1834 and 1934, excepting the period between

1862 and 1879, significant movement was made toward changing the relationship between gold reserves and the dollar prior to President Franklin Roosevelt's initiative in April 1933, and the Gold Reserve Act of 1934.

In 1914, the same year the Federal Reserve Bank was created, the currency in circulation was roughly twice the amount of the Governments gold stock. The rise in the price of gold in the 1930's tripled the U.S. gold stock. The intervention of World War II and its aftermath saw more significant changes.

In 1945, we had $20.1 billion in gold with no debts. Since that time, our gold reserves have decreased by $9.9 billion, and our liabilities increased by an estimated $68 billion. During that same time period, the purchasing power of a dollar has dropped approximately 56 percent.

The United States was the last major industrialized country to go off the gold standard. It was unique because it disallowed speculation in gold by its citizens. When the United States went off the gold standard, our citizens owning gold were paid $20.67 an ounce, when the market price was above that value the U.S. Government then set the price of gold at $35 an ounce, and took a significant paper profit.

Many have compared this action by the Federal Government in the 1930's to those of Premier Castro as well as President Allende in the past two decades. I think these comparisons are valid.

Be that as it may, for roughly four decades, U.S. citizens have not been allowed to own gold. The few exceptions to this rule includes jewelry, collectors' items, and industrial purposes, whereas the citizens of virtually every major trading partner of ours are allowed to privately own gold.

Mr. Chairman, the Library of Congress researched this further, and for the record, I would like to submit at this point a full list of the 1970 Pick's Currency Yearbook, containing a list of the countries which permit their citizens to own gold.

Senator STEVENSON. The document will be entered into the record.

(The information follows:)

[From the Library of Congress—Congressional Research Service]

COUNTRIES WHICH ALLOW FREE OWNERSHIP OF GOLD BY THEIR CITIZENS

Pick's 1970 Currency Yearbook contains a list of countries which permit their citizens to own gold:

Afghanistan [1]	Guatemala
Algeria [1]	Guinea [2]
Argentina	Haiti [2]
Australia [1]	Honduras
Austria	Hong Kong
Belgium-Luembourg	Iceland
Bolivia [1]	Indonesia
Brazil	Iran
Burma	Iraq
Cambodia [1]	Ireland
Canada	Israel
CFA	Italy
Chile [1]	Japan
Colombia [1]	Jordan
Congo, Dem. Rep. [1]	Kenya [2]
Costa Rica [2]	Korea
Cyprus [2]	Kuwait
Czechoslovakia [2]	Laos
Denmark [1]	Lebanon
Dominican Republic [2]	Liberia
Ecuador	Malawi [2]
Egypt [1]	Mexico
El Salvador [2]	Morocco [1]
Ethiopia [2]	Nepal
Finland	Netherlands Antilles [1]
France	New Zealand
German Federal Republic	Nicaragua [2]
Ghana [2]	Nigeria [1]
Greece	Norway [2]
Panama	Pakistan
Paraguay	Syria
Peru	Taiwan
Philippines	Tanzania [3]
Poland	Thailand
Portugal	Tunisia [2]
Portuguese China (Macao)	Turkey
Qatar/Dubai	Uganda [3]
Saudi Arabia	United Kingdom Non-Residents Sterling Area
South Africa [1]	United States [4]
Spain [2]	Uruguay
Sudan [2 3]	Venezuela [1]
Surinam [1]	Vietnam
Sweden	Yugoslavia [1]
Switzerland	Zambia [2]

[1] Coins only.

[2] Coins for numismatic purposes.

[3] "Native" gold only.

[4] Coins, minted before 1934.

Today there are at least 70 countries that allow their citizens to own gold in coin or other forms. Countries in which gold may be owned include Austria, Belgium, France, Italy, Japan, Luxembourg, Netherlands, Portugal, Sweden, Switzerland, and West Germany.

TESTIMONY RESUMED

Senator HATFIELD. On October 19, 1971, I introduced legislation which would allow U.S. citizens to own gold in any form. The bill, S. 2709, also provides for the sale and purchase of gold by the Secretary of the Treasury at a price equal to that being paid to or charged by foreign governments, banks, firms, or individuals, provided gold reserves or gold certificates are not required by law to be held against currency in circulation. There have been objections raised to the proposition of allowing private ownership of gold. I would like to deal briefly with these.

It has been argued that making this move at this time might jeopardize our international negotiations in trade and the par value of the dollar. I cannot help but observe the little movement within countries mentioned earlier, such as Japan, France, and West Germany, to disallow private ownership and speculation in gold on the basis that it is threatening their negotiating position with the United States.

Second, while I have heard this objection raised in general terms. I have yet to hear any of the specific negative consequences anticipated on our negotiating position.

Finally, arguing that this move would somehow jeopardize negotiations is similar to arguing that private ownership of tin, feathers, or steel might also jeopardize our position. This is true since the United States particularly will no longer pay claims against the Government in gold, and there are no reserve requirements on our currency.

A second question is sometimes raised: Who would profit by allowing private ownership of gold? This is a difficult question to answer. At the time gold went off the private market in the United States, one source reports that the California Division of Mines estimated 20,000 gold mines were shut down in that State alone.

A former president of the Western Mining Council has further estimated that at least 50,000 individuals would need to be employed in mines if private ownership were allowed—and this is only in the State of California. But this is speculative.

One projection can be made with some degree of probability, however. Roughly $11.1 billion of gold would be available for purchase by U.S. citizens from the Secretary of the Treasury if revaluation becomes a reality, and S. 2709 were passed in its present form. The U.S. Government now holds over 27 percent of the gold currencies held by free world governments.

This raises another objection often voiced—the potential outflow of dollars from the United States. It is true, as many have pointed out, that gold has sold for as much as $49.27 an ounce on certain foreign markets. Assuming that all $11.1 billion were suddenly thrust on the market, the price of gold would be forced down. The depth to which it would be driven is highly speculative, but it would be significant, nevertheless.

Mr. Chairman, there is a great deal of speculation on this entire question, much of it contradictory. However, there is one central point on which I believe we should focus. That is the injustice to American citizens when they are not allowed to own gold. There is no reason why our citizens should be penalized twice for the fiscal problems and errors of their Government. The first penalty is the price they pay for inflation, the second is not being allowed to enter the gold market.

For 3 days in 1971, a free market in gold was open in California due to a technicality in the regulations. It was called the West Coast Commodity Exchange, Inc., and gold was selling for approximately $58.50 per ounce.

This means that our gold reserves have been depleting, and those outside our country could make a profit of $23.50 per ounce.

Taking this example, at worst, it should be our citizens who should stand to make a profit at their Government's mistakes, rather than foreign interests.

I would like to make one further comment, Mr. Chairman. I have been urged by many individuals, including some of the cosponsors of S. 2709, to amend it to S. 3160, the administration's revaluation bill. I would greatly prefer to see it handled as a separate bill, but I have yet made no final decision. Certainly, a great deal depends on your committee's reactions. Nor am I particularly wedded to the specific provisions of my proposal to the exclusion of measures such as those introduced by the distinguished Senator for Colorado, Mr. Allott.

It may well be that while agreeing on the premise that American citizens should be allowed to own gold, the economic, social, and political implications of directing the Secretary of the Treasury to purchase and sell gold to citizens of this county would be too speculative to occur in 1 year.

I would suggest that it might be accomplished on an incremental basis, perhaps over 5-year period, allowing Government-owned gold to be put on the market each year, while allowing private enterprise to develop our Nation's gold-mining capacities.

From either the perspective of those advocating a return to the gold standard, allowing the dollar's value to vary with the free market price of gold with the Government holding little, if any, gold reserves, to those who would have us leave gold completely, substituting special drawing rights and other credits, there is little room for disagreeing over the question whether American citizens should own gold. The essential question is one of timing, but the burden, in my opinion, is on the shoulders of those who would rather wait.

Mr. Chairman, I have one additional document that I would like to submit for the record, which I think is an excellent treatise on the question of the two-tier foreign concept advocated by some. This is written by Dr. Milton Friedman, of the University of Chicago, entitled "Real or Pseudo Gold Standards," written in 1961. With the exception of a few more percentages of reevaluation, I think the statistics are still valid at this point.

Senator STEVENSON. We will enter that into the record, too.

(The paper is reprinted as follows:)

[From the Journal of Law and Economics, October 1961]

REAL AND PSEUDO GOLD STANDARDS [1]

(By Milton Friedman, University of Chicago)

International monetary arrangements have held a consistently important place among the topics discussed at the meetings of our Society. This is eminently fitting, since there

Footnotes at end of article.

is probably no other major facet of economic policy with respect to which liberals (in the sense of our Society) reach such divergent conclusions from the same underlying principles.

One group, of which Philip Cortney is a distinguished member, favors a continuation of the formal linking of national currencies to gold, rigid exchange rates between different national currencies, a doubling or more than doubling of the official price of gold in terms of national currencies, and an abandonment of governmental measures designed to evade the discipline of gold. This group is apparently indifferent about whether gold circulates as coin; it is satisfied with a gold bullion standard.

A second group, represented by the Economists' National Committee on Monetary Policy, also favors a continuation of the formal linking of national currencies to gold together with rigid exchange rates between different national currencies. But it emphasizes the importance of gold coinage and of a widespread use of gold coin as money in national as well as international payments. Apparently, this group believes there is no need for a change in present official prices of gold, or, at least, in the United States price.

A third group, of which I count myself a member, favors a separation of gold policy from exchange-rate policy. It favors the abandonment of rigid exchange rates between national currencies and the substitution of a system of floating exchange rates determined from day to day by private transactions without government intervention. With respect to gold, there are some differences, but most of us would currently favor the *abandonment of any commitment by governments to buy and sell gold at fixed prices and of any fixed gold reserve requirements for the issue of national currency as well as the repeal of any restrictions on private dealings in gold.*

I have stated and defended my own policy views elsewhere at some length.[2] Hence, I would like to use this occasion instead to explore how it is that liberals can reach such radically different conclusions.

My thesis is that current proposals to link national currencies rigidly to gold whether at present or higher prices arise out of a confusion of two very different things: the use of gold as money, which I shall call a "real" gold standard; government fixing of the price of gold, whether national or international, which I shall call a "pseudo" gold standard. Though these have many surface features in common, they are at bottom fundamentally different—just as the near identity of prices charged by competitive sellers differs basically from the identity of prices charged by members of a price-ring or cartel. A real gold standard is thoroughly consistent with liberal principles, and I, for one, am entirely in favor of measures promoting its development, as, I believe, are most other liberal proponents of floating exchange rates. A pseudo gold standard is in direct conflict with liberal principles, as is suggested by the curious coalition of central bankers and central planners that has formed in support of it.

It is vitally important for the preservation and promotion of a free society that we recognize the difference between a real and pseudo gold standard. War aside, nothing that has occurred in the past half-century has, in my view, done more to weaken and undermine the public's faith in liberal principles than the pseudo gold standard that has intermittently prevailed and the actions that have been taken in its name. I believe that those of us who support it in the belief that it either is or will tend to be a real gold standard are mistakenly fostering trends the outcome of which they will be among the first to deplore.

This is a sweeping charge, so let me document it by a few examples which will incidentally illustrate the difference between a real and a pseudo gold standard before turning to an explicit discussion of the difference. My examples are mostly for the United States, the country whose monetary history I have studied in most detail.

A. EXAMPLES OF EFFECTS OF A PSEUDO GOLD STANDARD

1. U.S. monetary policy after World War I

Nearly half of the monetary expansion in the United States came after the end of the war, thanks to the acquiescence of the Federal Reserve System in the Treasury's desire to avoid a fall in the price of government securities. This expansion, with its accompanying price inflation led to an outflow of gold despite the great demand for United States goods from a war-ravaged world and despite the departure of most countries from any fixed parity between their currencies and either gold or the dollar. The outflow of gold finally overcame Treasury reluctance to see the price of government securities fall. Beginning in late 1919, then more sharply in January 1920 and May 1920, the Federal Reserve System took vigorous deflationary steps that produced first a slackening of the growth in the stock of money and then a sharp decline. These brought in their main a collapse in wholesale prices and a severe economic contraction. The near-halving of wholesale prices in a twelve-month period was by all odds the most rapid price decline ever experienced in the United States before or since. It was not of course confined to the United States but spread to all countries whose money was linked to the dollar either by having a fixed price in terms of gold or by central bank policies directed at maintaining rigid or nearly rigid exchange rates. Only those countries that were to experience hyperinflation escaped the price collapse.

Under a real gold standard, the large inflow of gold up to the entry of the United States into the war would have produced a price rise to the end of the war similar to that actually experienced. But neither the postwar rise nor the subsequent collapse would have occurred. Instead, there would have been an earlier and milder price decline as the belligerent nations returned to a peacetime economy. The postwar increase in the stock of money occurred only because the Reserve System had been given discretionary power to "manager" the stock of money, and the subsequent collapse occurred only because this power to manage the money had been accompanied by gold reserve requirements as one among several masters the System was instructed to serve.

Under a wholly fiduciary currency, with floating exchange rates, the initial postwar expansion might well have occurred much as it did, though the depreciating value of the dollar in terms of other currencies might have been a quicker and a more effective check than slowly declining gold reserves. But the subsequent collapse would almost surely not have occurred. And neither the initial price inflation nor the subsequent price collapse would have been communicated to the rest of the world.

The world-wide inflation and then collapse was at the time a severe blow to a belief in free trade at home and abroad, a blow whose severity we now underrate only because of the later catastrophe that overshadowed it. Either a real gold standard or a thoroughly fiduciary standard would have been preferable in its outcome to the pseudo gold standard.

2. U.S. monetary policy in the 1920's and Britain's return to gold

There is a widespread myth among gold standard advocates that the United States monetary policy during the 1920's paved the way for the Great Depression by being unduly inflationary. For example, Cortney writes, "the Federal Reserve Board succeeded in the 1920's in holding up the price level for a surprising length of time by an abnormal expansion of inflationary credit, but in so doing it helped produce the speculative boom." [3] Nothing could be farther from the truth. The United States monetary policy in the 1920's and especially in the late 1920's, judged in terms of either a real gold standard in the abstract or prior United States experience, was if anything unduly deflationary.

The sharp 1920–21 price decline had brought prices to a level much closer to the prewar level than to the postwar peak though they were still appreciably above the prewar level. Prices rose only moderately in the subsequent cyclical expansion which reached its peak in 1923. From then until 1929, wholesale prices actually fell, at a rate of roughly 1 per cent a year.

As to gold, credit, and money, the Federal Reserve System sterilized much of the gold inflow, preventing the gold from raising the stock of money anything like as much as it would have done under a real gold standard. Far from the Reserve System engaging in an "abnormal expansion of inflationary credit," Federal Reserve credit outstanding in June 1929 was 33 per cent lower than it had been in June 1921 and only 16 per cent higher than in June 1923 although national income was nearly 25 per cent higher in 1929 than in 1923 (in both money and real terms). From 1923 to 1929, to compare only peak years of business cycles and so avoid distortion from cyclical influence, the stock of money, defined to include currency, demand deposits, and commercial bank time deposits, rose at the annual rate of 4 per cent per year, which is roughly the rate required to match expansion of output. On a narrower definition, excluding time deposits, the stock of money rose at the rate of only 2½ per cent per year.[4]

The deflationary pressure was particularly strong during the great bull market in stocks, which happened to coincide with the first few years after Britain returned to gold. During the business cycle expansion from 1927 to 1929, wholesale prices actually fell a trifle. one must go back to 1891–93 to find another expansion during which prices fell and there has been none since. The stock of money was lower at the cyclical peak in August 1929 than it had been 16 months earlier. There is no other occasion from the time our monthly data begin in 1907 to date when so long a period elapsed during a cyclical expansion without a rise in the stock of money. The only other periods of such length which show a decline have an end point in the course of severe contractions (1920–21, 1929–33, 1936–37).

So far as the United States alone was concerned, this monetary policy may have been admirable. I do not myself believe that the 1929–33 contraction was an inevitable result of the monetary policy of the 1920's or even owed much to it. What was wrong was the policy followed from 1929 to 1933, as I shall point out in a moment. But internationally, the policy was little short of catastrophic. Much has been made of Britain's mistake in returning to gold in 1925 at a parity that overvalued the pound. I do not doubt that this was a mistake—but only because the United States was maintaining a pseudo gold standard. Had the United States been maintaining a real gold standard, the stock of money would have risen more in the United States than it did, prices would have been stable or rising instead of declining, the United States would have gained less gold or lost some, and the pressure on the pound would have been enormously eased. As it was, by sterilizing gold, the United States forced the whole burden of adapting to gold movements on other countries. When, in addition, France adopted a pseudo gold standard at a parity that undervalued the franc and proceeded also to follow a gold sterilization policy, the combined effect was

Footnotes at end of article.

to make Britain's position untenable. The adverse consequences for faith in liberal principles of the deflationary policies adopted in Britain from 1925 to 1931 in the vain effort to maintain the re-established parity are no less obvious than they were far-reaching.

3. U.S. policy, 1931 to 1933

United States monetary behavior in 1931 to 1933 is in some ways a repetition of that from 1920 to 1921, but on a more catastrophic scale, in less fortunate circumstances, and with less justification. As we have seen, in 1919 the Reserve System deviated from the policy that would have been dictated by a real gold standard. In 1920, when it saw its gold reserves declining rapidly, it shifted rules, over-reacted to the outflow, and brought on a drastic deflation. Similarly, from 1922 to 1929, the Reserve System sterilized gold and prevented it from exercising the influence on the money stock that it would have had under a real gold standard. And again in 1931, when Britain went off gold and the United States experienced an outflow of gold, the Reserve System shifted rules, over-reacted to the outflow, and catastrophically intensified a deflation already two years old.

The circumstances were less fortunate in 1931 than in 1920 in two different respects, one domestic and the other foreign, and both in some measure the Reserve System's own creation.

The domestic difference was that the deflationary action of 1920 came at the end of a period of expansion which was widely regarded as temporary and exceptional, and served to intensify without necessarily prolonging a recession that would probably have occurred anyway. The deflationary action of 1931 came after two years of severe contraction which had been showing some signs of terminating; probably served to nip in the bud a revival; and both greatly intensified and substantially prolonged the contraction, turning it into the most severe for nearly a century.

This difference was largely the Reserve System's creation because of its inept handling of the banking difficulties that started in the fall of 1930. Until that date, the contraction, while rather severe, had shown no signs of a liquidity crisis. Widespread bank failures culminating in the failure of the Bank of the United States in late 1930 changed the aspect of the contraction. This episode turned out to be the first of a series of liquidity crises, each characterized by bank failures and runs on banks by depositors anxious to convert deposits into currency, and each producing strong downward pressure on the stock of money. The Reserve System had been set up with the primary aim of dealing with precisely such crises. It failed to do so effectively but not because it lacked the power or the knowledge. At all times, it had ample power to provide the liquidity that the public and the banks desperately sought and the provision of which would have cut short the vicious chain reaction of bank failures. The System failed because accidents of personality and shifts of power within the System left it with no dominant personality who could avoid the usual outcome of committee control: the evasion of responsibility by inaction, postponement, and drift. More fundamentally yet, the failure reflected the adoption of a monetary system that gave great power to a small number of men and therefore was vulnerable to such accidents of personality and shifts of power. Had the liquidity crisis been cut short at its onset in 1930 and the Bank of the United States kept from failing (as very likely would have occurred before the Federal Reserve System), the economy would probably have been vigorously expanding by September 1931 instead of being precariously balanced on the verge of another liquidity crisis.

The International difference in circumstances that was less fortunate in 1931 than in 1920 was the monetary situation in other countries. In many countries, monetary arrangements in 1920 were in a state of flux, so they could adapt with some rapidity. By 1931, a new pattern of international monetary arrangements had become established, in considerable measure under the patronage of the Federal Reserve Bank of New York, as well as the Banks of England and France. More serious and more directly to be laid at the Reserve System's door, its gold sterilization policy had, as we have seen, increased the problem of adjustment for many other countries and so left them more vulnerable to new difficulties. In the event the monetary world split in two, one part following Britain to form the sterling area; the other, following the United States, in the gold bloc. The sterling area countries all reached bottom and began to expand in late 1931 or early 1932; most gold bloc countries experienced further deflation and did not reach bottom until 1933 or 1934.

The deflationary monetary actions had less justification in the fall of 1931 than in 1920 for two different reasons. First, in 1920, the Federal Reserve System was still in its infancy, untried and inexperienced. Set up under one set of conditions, it was operating under a drastically different set. It had no background of operation in peace time, no experience on which to base judgments. By 1931, the System had more than a decade of experience and had developed a well-articulated body of doctrine, which underlay the gold sterilization policy and which called for its offsetting an outflow of gold rather than reinforcing its deflationary effect. Second, the gold situation was drastically different. By early 1920, the gold stock was declining rapidly and the Reserve System's gold reserve ratio was approaching its legal minimum. Prior to September 1931, the System had been gaining gold, the monetary gold stock was at an all-time high, and the System's gold reserve ratio was far above its legal minimum—a reflection of course of its not having operated in accordance with a real gold standard. The System had ample reserves to meet the gold outflow without difficulty and without resort to deflationary measures. And both its own earlier policy and the classical gold standard rules as enshrined by Bagehot called for its doing so: the gold outflow was strictly speculative and motivated by fear that the United States would go off gold; the outflow had no basis in any trade imbalance; it would have exhausted itself promptly if all demands had been met.

As it was, of course, the System behaved very differently. It reacted vigorously to the external drain as it had not to the internal drain by raising discount rates within a brief period more sharply than ever before or since. The result was a major intensification of the internal drain, and an unprecedented liquidation of the commercial banking system. Whereas the stock of money had fallen 10 per cent from August 1929 to August 1931, it fell a further 28 per cent from August 1931 to March 1933. Commercial bank deposits had fallen 12 per cent from August 1929 to August 1931; they fell a further 35 per cent from August 1931 to March 1933. Never was there a more unnecessary monetary collapse or one which did more to undermine public acceptance of liberal principles.

Once again, either a real gold standard throughout the 1920's and '30's or a consistent adherence to a fiduciary standard would have been vastly preferable to the actual pseudo gold standard under which gold inflows and minor gold outflows were offset and substantial actual or threatened gold outflows were overreacted to. And this pattern is no outmoded historical curiosity; witness the United States reaction to gold inflows in the early years after World War II and its recent reaction to gold outflows; witness the more recent German sterilization of gold inflows. The pseudo gold standard is very much a living menace.

4. U.S. nationalization of gold

After going off the gold in March 1933, the United States re-established a fixed official price of gold in January 1934, raising the price to $35 an ounce. Many current proponents of a rise in the official price of gold approve this action, regarding it as required to bring the value of the gold stock into line with an allegedly increased fiduciary circulation. Perhaps a rise in the price of gold was desirable in 1934 but it cannot be defended along these lines, at least for the United States itself. In 1933, the ratio of the value of the gold stock to the total stock of money was higher than it had been in 1913 or at any date between. If there be any valid argument for a rise in the price of gold along these lines, it is for 1929, not 1934.

Whatever may be the merits of the rise in the price of gold, there can be little doubt that the associated measures, which were taken in order that the rise in the price of gold should have the effect desired by the Roosevelt administration, represented a fundamental departure from liberal principles and established precedents that have returned to plague the free world. I refer, of course, to the nationalization of the gold stock, the prohibition of private possession of gold for monetary purposes, and, the abrogation of gold clauses in public and private contracts.

In 1933 and early 1934, private holders of gold were required by law to turn over their gold to the federal government and were compensated at a price equal to the prior legal price, which was at the time very decidedly below the market price. To make this requirement effective, private ownership of gold within the United States was made illegal except for use in the arts. One can hardly imagine a measure more destructive of the principles of private property on which a free enterprise society rests. There is no difference in principle between this nationalization of gold at an artificially low price and Fidel Castro's nationalization of land and factories at an artificially low price. On what grounds of principle can the United States object to the one after having itself engaged in the other? Yet so great is the blindness of some supporters of free enterprise with respect to anything touching on gold that as recently as last year Henry Alexander, head of the Morgan Guaranty Trust Company, successor to J. P. Morgan and Co., proposed that the prohibition against the private ownership of gold by United States citizens be extended to cover gold abroad! And his proposal was adopted by President Eisenhower with hardly a protest from the banking community.

Though rationalized in terms of "conserving" gold for monetary use, prohibition of private ownership of gold was not enacted for any such monetary purpose, whether itself good or bad. The circulation of gold and gold certificates had raised no monetary problems either in the 1920's or during the monetary collapse from 1930 to 1933. Except for the final weeks just preceding the banking panic, the internal drain had not been for gold but for currency of any kind in preference to deposits. And the final gold drain was the consequence of the rumors, which proved correct, that Roosevelt planned to devalue. The nationalization of gold was enacted to enable the government to reap the whole of the "paper" profits from the rise in the price of gold—or perhaps, to prevent private individuals benefiting from the rise.

The abrogation of the gold clauses had a similar purpose. And this too was a measure destructive of the basic principles of free enterprise. Contracts entered into in good faith and with full knowledge on the part of both parties to them were declared invalid for the benefit of one of the parties.

This collection of measures constituted a

further step away from a real gold standard to a pseudo gold standard. Gold became even more clearly a commodity whose price was fixed by governmental purchase and sale and rationing rather than money or even a form of money.

5. International monetary fund and postwar exchange policy

I agree fully with Professor Rist's criticisms of the International Monetary Fund and the arrangements it embodied.[5] These arrangements are precisely those of a pseudo gold standard: each country is required to specify a formal price of gold in terms of its own currency and hence, by implication, to specify official exchange rates between its currency and other currencies. It is forbidden to change these prices outside narrow limits except with permission. It commits itself to maintaining these exchange rates. But there is no requirement that gold serve as money; on the contrary, many of the IMF provisions are designed to prevent it from doing so.

The results have been anything but happy from a liberal viewpoint: widespread controls over exchange transactions, restrictions on international trade in the forms of quotas and direct controls as well as tariffs; yet repeated exchange crises and numerous changes in official exchange rates. No doubt, conditions are now far better than shortly after the war, but clearly in spite of the IMF and not because of it. And the danger of foreign exchange crises and accompanying interferences and trade is hardly over. In the past year, the United States moved toward direct interferences with trade to cope with a balance of payments problem; Germany appreciated; and Britain is now in difficulties.

B. THE DISTINCTION BETWEEN A REAL AND A PSEUDO GOLD STANDARD

Because of its succintness and explicitness, Cortney's numbered list of prerequisites for the restoration of "monetary order by returning to an international gold standard" forms an excellent point of departure for exploring the difference between a real and a pseudo gold standard. His point number (6) concludes "the price of gold will have to be raised to at least $70 an ounce." His point number (7) is "Free markets for gold should be established in all the important countries, and trading in gold, its export and import should be absolutely free."[6] Here is the issue in a nutshell. Can one conceive of saying in one breath that worldwide free markets should be established in, say, tin, and in the next, that the price of tin should "be raised" to some specified figure? The essence of a free market is precisely that no one can "raise" or "fix" price. Price is at whatever level will clear the market and it varies from day to day as market conditions change. If we take Cortney's point (7) seriously, we cannot simultaneously take his point (6) seriously and conversely.

Suppose we follow the logic of his point (7) and suppose a free market to prevail in gold. There might then develop, as there has in the past, a real gold standard. People might voluntarily choose to use gold as money, which is to say, to express prices in units of gold, and to hold gold as a temporary abode of purchasing power permitting them to separate an act of barter into a sale of goods or services for money and the purchase of goods or services with money. The gold used as money might be called different things in different languages: "*or*" in French, "gold" in English; it might be measured in different units: say, in grams in France and ounces in the United States; special terms such as "napoleon" or "eagle" might develop to designate convenient amounts of gold for use in transactions, and these might differ in different countries. We might even have governments certifying to weight and fineness, as they now inspect scales in meat markets, or even coining "eagles," "double-eagles," and the like. Changes in nomenclature or in units of measure, say, the shift from ounces to grams, might be made by legislation, but these would clearly have no monetary or income or redistributive effects; they would be like changing the standard units for measuring gasoline from gallons to liters; not comparable to changing the price of gold from $35 an ounce to $70 an ounce.

If such a real gold standard developed, the price of commodities in terms of gold would of course vary from place to place according to transportation costs of both the commodities and of gold. Insofar as different countries used gold, and used different units, or coins of different size, the price of one kind of gold in terms of another would be free to vary in accordance with preferences by each country's citizens for the one kind or the other. The range of variations would of course be limited by the cost of converting one kind of gold into another, just as the relative price of commodities is similarly limited.

Under such a real gold standard, private persons or government might go into the business of offering storage facilities, and warehouse receipts might be found more convenient than the gold itself for transactions. Finally, private persons or governments might issue promises to pay gold either on demand or after a specific interval which were not warehouse receipts but nonetheless were widely acceptable because of confidence that the promises would be redeemed. Such promises to pay would still not alter the basic character of the gold standard so long as the obligors were not retroactively relieved from fulfilling their promises, and this would be true even if such promises were not fulfilled from time to time, just as the default of dollar bond issues does not alter the monetary standard. But, of course, promises to pay that were in default or that were expected to be defaulted would not sell at face value, just as bonds in default trade at a discount. And of course this is what has happened when a system like that outlined has prevailed in practice (e.g., in much of the pre-Civil War period in the United States).

Such a system might and I believe would present grave social problems and foster pressure for governmental prohibition of, or control over, the issue of promises to pay gold on demand.[7]

But that is beside my present point, which is that it would be a real gold standard, that under it there might be different national names for the money but there would not be in any meaningful sense either national currencies or any possibility of a government legislating a change in the price of gold.

Side by side with such a standard, there could, of course, exist strictly national currencies. For example, in the United States from 1862–1879, greenbacks were such a national currency which circulated side by side with gold. Since there was a free market in gold, the price of gold in terms of greenbacks varied from day to day, i.e., in modern terminology, there was a floating rate of exchange between the two currencies. Since gold was in use as money in Britain and some other countries, its main use in the United States was for foreign transactions. Most prices in the United States were quoted in greenbacks but could be paid in gold valued at the market rate. However, the situation was reversed in California, where most prices were quoted in gold but could be paid in greenbacks at the market rate. No doubt, in this historical episode, the expectation that greenbacks would some day be made promises to pay gold had an effect on their value by expanding the demand for them. But this was not essential to the simultaneous coexistence of the two currencies, so long as their relative price was freely determined in the market, just as silver and gold, or copper and silver, have often simultaneously circulated at floating rates of exchange.

If a government abjured a national currency, it might still borrow from the community in the form of securities expressed in gold (or bearing gold clauses), some of which might be demand obligations and might be non-interest bearing. But it would thereby surrender everything that we now call monetary policy. The resources it could acquire by borrowing would depend on the interest it was willing to pay on interest-bearing securities and on the amount of non-interest bearing demand securities the public was willing to acquire. It could not arbitrarily issue any amount of non-interest bearing securities it wished without courting inability to meet its promises to pay gold and hence seeing its securities sing to a discount relative to gold. Of course, this limitation in governmental power is precisely what recommends a real gold standard to a liberal, but we must not make the mistake of supposing that we can get the substance by the mere adoption of the form of a nominal obeisance to gold.

The kind of gold standard we have just been describing is not the kind we have had since at least 1913 and certainly not since 1934. If the essence of a free market is that no one can "raise the price," the essence of a controlled market is that it involves restrictions of one kind or another on trade. When the government fixes the price of wheat at a level above the market price, it inevitably both accumulates stocks and is driven to control output—i.e., to ration output among producers eager to produce more than the public is willing to buy at the controlled price. When the government fixes the price of housing space at a level below the market price, it inevitably is driven to control occupancy—i.e., to ration space among purchasers eager to buy more than sellers are willing to make available at the controlled price. The controls on gold, like the related controls on foreign exchange, are a sure sign that the price is being pegged; that dollar, pound, etc., are not simply different names for different sized units of gold, but are national currencies. Insofar as the price of gold in these currencies and the price of one currency in terms of another are stable over considerable periods, it is not because of the ease of converting one quantity of gold into another and not because conditions of demand and supply make for stable prices, but because they are pegged prices in rigged markets.

The price of $35 an ounce at which gold was supported by the United States after January 1934 was initially well above the market price—like the price at which wheat is currently being supported. The evidence is in both cases the same: a rapid expansion of output and the accumulation of enormous stockpiles. From 1933 to 1940, production in the United States rose from less than 2.6 million ounces to 6 million ounces; in the world, from 25 million ounces to 41 million ounces; the gold stock in the Treasury rose from 200 million ounces to 630 million, or by 1¾ times as much as the total of world output during the intervening period. Had this pace of increase in output and stock continued, the gold purchase program might well have been limited in scope; perhaps, as the United States silver purchase program finally was, to domestic output alone.

But the war intervened, which stopped the inflow of gold and brought a major rise in the stock of money. The resultant rise in other prices with no change in the price of gold has altered the character of the fixed United States price. It is now probably below the market price (given the present monetary use of gold), like rents under rent control. The evidence is again in both cases the same; a reduction in production, a decline in stocks, and a problem of rationing demanders. The United States gold output is now less than in 1933 though world output still exceeds the

Footnotes at end of article.

level of that year. The United States gold stock has declined to roughly 500 million ounces, well below its wartime peak but still 2½ times its level when the present price for gold was established. The restriction on the ownership of gold abroad by United States citizens is a first, and feeble, step toward still tighter rationing of demanders. The gentlemen's agreement among central banks not to press for conversion of dollar balances into gold is a more far-reaching if still rather weak additional step. The history of every attempt at government price fixing suggests that if the pegged price is far below the market price for long, such attempts are doomed to fail.

Doubling the price of gold would no doubt reverse the situation and raise the pegged price again above the market price. Gold production and United States gold stocks would no doubt rise. But to what avail? Gold would still be simply a commodity whose price is supported; countries would continue with their separate monetary policies; fixed exchange rates would freeze the only market mechanism available under such circumstances to adjust international payments; foreign exchange crises would continue to succeed one another; and direct controls of one kind or another would remain the last resort, and one often appealed to, for resolving them.

This kind of pseudo gold standard violates fundamental liberal principles in two major respects. First, it involves price fixing by government. It has always been a mystery to me how so many who oppose on principle government price fixing of all other commodities can yet approve it for this one. Second, and no less important, it involves granting discretionary authority to a small number of men over matters of the greatest importance; to the central bankers or Treasury officials who must manage the pseudo gold standard. This means the rule of men instead of law, violating one of our fundamental political tenets. Here again. I have been amazed how so many who oppose on principle the grant of wide discretionary authority to governmental officials are anxious to see such authority granted to central bankers. True, central bankers have on the whole been "sound money" men with great sympathy for private enterprise. But since when have we liberals tempered our fear of concentrated power by trust in the particular men who happen at a particular moment to exercise it? Surely our cry has been very different—that benevolent or not, tyranny is tyranny and the only sure defense of freedom is the dispersal of power.

C. CONCLUSION

Let me close by offering a proposal, not for reconciling our views, but at least for possible agreement among us on one part of the gold problem. Can we not all agree with Mr. Cortney's point (7): the establishment of a thoroughly free market in gold, with no restrictions on the ownership, purchase, sale, import, or export of gold by private individuals? This means in particular, no restrictions on the price at which gold can be bought or sold in terms of any other commodity or financial instrument, including national currencies. It means, therefore, an end to governmental price fixing of gold in terms of national currencies.

The major problem in achieving such a reform is, as for the United States wheat program, the transitional one of what to do with accumulated government stocks. In both cases, my own view is that the government should immediately restore a free market, and should ultimately dispose of all of its stocks. However, it would probably be desirable for the government to dispose of its stocks only gradually. For wheat, five years has always seemed to me a long enough period so I have favored the government committing itself to dispose of 1/5 of its stock in each of five years. This period seems reasonably satisfactory for gold as well, and hence my own proposal for the United States, and also other countries, would be that the government should sell off its gold in the free market over the next five years. Perhaps the greater ratio of the accumulated stock to annual production for gold than for wheat makes a longer transitional period appropriate. This seems to me a matter of expediency not of principle.

A worldwide free market in gold might mean that the use of gold as money would become far more widespread than it is now. If so, governments might need to hold some gold as working cash balances. Beyond this, I see no reason why governments or international agencies should hold any gold. If individuals find warehouse certificates for gold more useful than literal gold, private enterprise can certainly provide the service of storing the gold. Why should gold storage and the issuance of warehouse certificates be a nationalized industry?

FOOTNOTES

[1] Paper written for the Mont Pelerin Society meetings in September 1961.

[2] See, in particular, "The Case for Flexible Exchange Rates" and "Commodity Reserve Currency," in my Essays in Positive Economics, pp. 157–203, 204–50 (1953), and A Program for Monetary Policy, pp. 77–84 (1959).

[3] In Introduction to Charles Ries, The Triumph of Gold, p. 8 (1961).

[4] These statements are based on estimates of the stock of money from 1867 to date constructed by Anna J. Schwartz and me in connection with a study for the National Bureau of Economic Research. Hereafter, I will use the term "stock of money" as referring to the first of these two definitions.

[5] See Charles Rist, op. cit. supra note 3, pp. 188–93.

[6] Ibid, p. 37.

[7] See my A Program for Monetary Stability, pp. 4–9 (1959).

TESTIMONY RESUMED

Senator STEVENSON. Does your bill provide for the sale by the Treasury of gold on an incremental basis?

Senator HATFIELD. No, it does not. In fact, in section 2, subparagraph 2, page 2, "The Secretary of the Treasury may purchase from any citizen in the United States any gold tendered at a price equal to that then being paid to foreign governments, banks, firms, and individuals for gold being purchased by the U.S. Treasury."

We have not set forth in this a timing, but rather have implied in subsection 2, that the market price of the gold would be a floating price and would be decided by administrative discretion.

I would have no objection to setting a specific time. As Dr. Friedman has said, at other times when the Government has found itself holding commodities in surplus, such as wheat, a 5-year period for disposal purposes has been used for disposal of certain surpluses.

Senator STEVENSON. Are you familiar with the practices of other governments? Are the treasuries of other governments selling gold from their reserves to their citizens or in world commercial markets? If so, how do they do it?

Senator HATFIELD. Mr. Chairman, the United States is in a rather unique situation, in which our Government has deprived its citizens of gold ownership. It has, particularly up until 1946, accumulated gold as almost a monopoly. There are the few exceptions which I cited: Industrial purposes, jewelry, and other such matters.

Therefore, when you look at the Library of Congress list of other countries, we are most unique. I do not know of a country, frankly, which has gone through the same procedure that we have in this monopoly of gold. So I don't know that there is any precedent to which we can turn.

Senator STEVENSON. Have you considered at all the possibility of holding off on U.S. sales of gold until such time as we have worked out some agreements on major long-term monetary reform? I am thinking of such possibilities as International Monetary Fund purchases of gold against issuance of SDR's, and tying such a reform in with Treasury sales of gold.

Senator HATFIELD. Mr. Chairman, that is the basic thesis of the two-tier advocates. They want to, in effect, place an official price on gold in the United States. The United States would price gold at a certain level for official purposes and for international agreements. It would then have a floating price or, a general world market price, for citizens' ownership. I would prefer to see the total freedom of gold, for both governments and private citizens. I think gold will ultimately return and remain the solid basis behind credits or services on the free market. I don't see any problem here.

In the Civil War period the United States had a period where a dual situation existed with the greenbacks and the gold. The amount the greenbacks would buy in gold each day varied on the market. But we still had the national currency on one hand, and we had gold paralleling the greenbacks as well.

I would subscribe to the Friedman school of thought, turning loose gold completely in order to protect the people against inflation. I think it is artificial when the two-tier approach is used. The Government is still permitted to manipulate beyond and outside of a market value, and when this is done, problems develop, as we are in today.

I think this is an example of the kinds of deficits we face today, both in the balance of payments and trade, the manipulation, the artificial markets, the artificial prices created by government.

As I say, I think inflation, most of all, is the penalty we are paying for the kind of gold monopoly this Government is holding.

Senator STEVENSON, I want to thank you again, Senator Hatfield.

You mention in your testimony the possibility of offering your bill as an amendment to S. 3106. I am not sure, but wouldn't it encounter a little opposition in this committee to that proposition? We started the hearings yesterday, and there was a pretty strong feeling, both on the part of the witnesses we heard and the committee, to the effect that we ought to report out a clean or almost a clean bill. However, that wouldn't be necessarily inconsistent with your approach.

Senator HATFIELD. No. Mr. Chairman, my initial reaction, as I indicated in my testimony, is to maintain the independence, the separate status, of this. I would like to see the committee act upon the bill if it were not used as an amendment.

Some of the cosponsors of the bill have made this a suggestion only. But I still would like to see some committee response to the proposal. Whether it is Senator Allott's or my bill makes little difference, but I think the question is very important for a committee to at least give us a reading as to its attitude and reaction to gold ownership.

Senator STEVENSON. I am obviously not in a position to speak for the chairman of this committee. But I personally see no reason why the committee's action on S. 3160 would in any way interfere with its action in consideration of your bill; speaking as one member of this committee, I think we could go ahead and give it serious and careful consideration.

Senator HATFIELD. I am grateful to the committee for the hearing on this bill, and will be watching carefully the testimony that will be offered on this whole subject. There is a lot of public interest today on this.

I have found in my own mail and correspondence a tremendous outpouring of questions I haven't been able to answer regarding the Government maintenance of this particular policy. I think it would be well for the

Government, the executive agencies, to respond to some of these questions we raise in this bill, too. Thank you.

MAKING PEACE WITH GOLD

While gold has played a role in monetary organization throughout the entire history of civilization, it was not until after the discovery of the New World that gold coinage acquired a parity with silver among the economic elite, i.e., merchants, traders, goldsmiths, bankers, and rulers. Even more recent was the use of gold as the basis for a money system. Great Britain was the innovator when, in a series of actions between 1816 and 1821, it adopted a weight of gold as its primary monetary unit; gave existing Bank of England notes full and ready convertibility into gold coin; and undertook to limit the supply of nongold money in order to assure that its ready convertibility into gold would be indefinitely maintained.

For 50 years thereafter, Great Britain stood alone in adhering to a relatively "pure" gold money system. In the 1870's, however, a gold money system also was established by Germany and France. By 1900, the system had been adopted by most countries of importance in the trading world, including the United States. Thus, it was not until the turn of the 20th century that an international gold-standard monetary system was fully launched and set on course.

This point is made to emphasize that what is known as an international gold standard is not a mechanism long imbedded in world monetary organization, as is widely believed. The notion of the sanctity of gold as an impersonal and nonfiduciary monetary standard is largely a product of recent times.

Moreover, the era of the international gold standard proper was short—barely 50 years. The disruptions of World War I gave it a shattering blow from which it was never to recover. Probably its life would have ended in a few decades in any case, for nongold money in the form of paper currency and bank checks was gradually displacing gold in domestic monetary usage. Gold was coming to serve primarily as a reserve base—and an increasingly slender base at that.

Why did the international gold standard hold undisputed region for even as long as half a century? Why and how did the gold standard work? It worked because national governments accepted three necessary conditions. First, the unit of national money was defined as a weight of gold, i.e., gold was given a fixed price in national money. Second, ready convertibility of nongold national money into gold was provided. Third, the price of gold in national money was so related to domestic price and interest levels that there was no incentive to convert nongold money into gold and to export it for profit.

The first condition called for a higher price of gold on world markets that would be fixed by the free play of market forces without a monetary demand—a price that would serve as an incentive to gold production and assure a continually growing supply of gold for monetary usage. Through most of the 19th and early 20th centuries this condition was sufficiently satisfied to keep prospectors searching for new gold fields, and capital quickly flowed to develop new finds. As a result, gold output was maintained well enough to permit a growth in monetary gold stock averaging just under 3% a year from 1850 to 1914—about a fifth lower than the rate of growth in real gross national product.

Meeting the second condition of a gold-standard money system—namely, the requirement of convertibility for nongold money—furnished a basis for confidence in that money. Anyone who preferred the commodity to nongold money—mainly paper, check money, or silver coin—could, if he wished, convert; and gold could readily be obtained for payment in international transactions. Furthermore, the convertibility requirement had two further consequences. It acted to set a limit—to be sure, a very broad limit—on the creeping creation of nongold money for whatever purposes national governments deemed expedient or tolerated. Equally important, it effectively reduced the responsibility of the monetary authorities—in most cases, central banks—to a simple matter of providing a mechanism of convertibility. An aura of nonpolitical objectivity in governmental administration of the monetary system was thus created. In the then prevalent view that the sovereign should provide a good money but not meddle with its usage of value, this consequence was both congenial and acceptable.

De facto debasement of the international gold standard by the faster creation of nongold money was so gradual during that standard's heyday as to be ignored for all practical purposes by the vast majority of people and, accordingly by governments. In fact, this faster growth of money in relation to the growth of tangible wealth and services is what kept the variation of the price level under the gold-standard reign within tolerable limits. And so long as international convertibility of money could be counted on as a matter of high probability, confidence in the gold standard was maintained.

The third condition of a gold-standard monetary system—national gold prices equated internationally with what money could buy or earn domestically—had broad implications for world trade. It yielded a system of stable exchange rates for the continuing interconvertibility of national currencies and reduced money costs and risks in trade and investment among countries. It also furnished the world with an integrated price system as a guide to international output and commerce and fostered the development of specialization in accordance with the comparative advantages of regional resources.

During the ascendancy of the gold standard, world trade flourished; world markets for new national products emerged; industrial production was progressively concentrated in ever larger units at lowered cost; and the fruits of industrial revolution became widely distributed over the face of the globe, and most widely over its gold-standard area.

This is not to say that the international gold standard was never threatened, economically and politically. On three occasions in the mid-19th century the Bank of England temporarily suspended the Bank Act of 1844 (thereby producing de facto inconvertibility of its notes), and a fourth suspension was narrowly avoided at the time of the Baring crisis in 1890. Likewise, the dominance of gold in U.S. monetary affairs was threatened severely by the populist wave culminating in William Jennings Bryan's grave warning that the people were in danger of being crucified on "a cross of gold."

But the domestic convertibility of gold and nongold money into goods and services varied little enough in any relatively short period that public indignation never reached a boiling point which could bring the standard's downfall. And always where the threats were most grievous, the bounty of nature came to the rescue. As one gold field became exhausted, another took its place: California, Australia, the Yukon, Western Canada, the Transvaal Rand, and (most recently) the Orange Free State. Gold output was enough, after satisfying industrial and hoarding demands, to sustain an increment in monetary stocks sufficient to frustrate the severest critics of the international gold standard.

Disruptions and devastations of World War I, together with the creation of money by governmental fiat to finance that war and economic reconstruction after it, spelled the doom of the international gold standard in its pristine form. The financial world was in a state of confusion as to what next to do. Future uncertainties and the pressure of events made action both necessary and inevitable.

MODIFYING THE GOLD STANDARD

Monetary beliefs, like other forms of social belief, tend to rest on a mixture of accepted tradition, experience, and myth. Hence it is not surprising that the responsible leaders in the monetary area finally reached a consensus after World War I favoring some kind of reconstructed gold standard. This consensus was not reached suddenly upon the termination of hostilities, but only in the face of widespread monetary disorder in Europe and dependent areas. It did not find formal expression until the International Economic Conference held at Genoa in 1922.

What governments were then advised to do was, first, to revalue their money realistically in terms of gold according to its current ability to purchase goods and services domestically. But in revaluing domestic money in terms of gold and in beginning once again to demand gold for monetary purposes, countries were further advised to reduce sharply the volume of gold coin in circulation and otherwise to economize on the use of gold by holding foreign exchange along with gold as monetary reserves to provide assured international convertibility. Thus, a subtle and critical change in the character of the traditional gold standard was to be introduced.

Lastly, governments were advised that their central banks—to whom responsibility for maintaining convertibility had previously been entrusted—might need henceforth to keep a closer eye on domestic money creation. The point also was made that central banks would find it desirable to cooperate actively with each other in keeping domestic monetary expansion in closer harmony among countries with a view to the over-all as well as the domestic stability of money purchasing power. This advice gave recognition to a likelihood that the link between domestic money and monetary gold stocks might become looser than it had been.

By about the mid-1920's, a fixed exchange rate system had been largely re-established among major trading countries, under the guise that it represented a legitimate and practicable return to an international gold standard. Countries did make every effort, and with success, to add to monetary reserves by reducing gold-coin circulation. And they did experiment fairly widely with the accumulation and use of foreign exchange—partly in sterling and partly in dollars—as a supplement to gold in maintaining external money convertibility, thus converting the gold standard into what came to be called a gold-exchange standard.

For a time, the reconstructed gold-exchange standard seemed to work commendably. World trade revived and grew; the output of goods expanded everywhere—with one ironic exception: gold itself. At the higher level of costs of exploration and costs of mining compared with prewar years, gold production languished.

That the world of that period should quite suddenly have become sucked into a maelstrom of industrial and commercial equity speculation, centering in New York, and that simultaneously a visible erosion of ethical standards and accounting practices in domestic banking and finance in major countries should have taken place, was more than a piece of very bad luck, for political and financial leadership should have been more alert and responsive. But it was not, and the world was plunged into a state of extreme distress by a catastrophic decline in equity prices, followed by an appalling collapse of urban and farm real estate value and a precipitous drop in prices of currently produced goods and services—in short, a near universal deflation without precedent in the history of capitalism.

The world was soon caught up in a vicious circle of money devaluations, including one for the U.S. dollar. This was followed by monetary reorganization in major countries

that completed the banishment of gold coin from service as national money. The world's post-World War I gold standard—reconstructed as a gold-exchange standard—was in full collapse. In retrospect, that such disruption was permitted to happen seems incredible.

By the mid-1930's, world deflation bottomed out, but at very low levels. Thereafter national—and clearly nationalistic—recovery policies gradually began to take hold, accompanied by a slow commencement of world recovery. However, the shock of world recession, of widespread monetary devaluations, and of rampant nationalistic "begger-thy-neighbor" policies was too much politically and economically, and soon forces threatening an outbreak of international conflict were in full control. International disorganization had gone so far as to defy any efforts by the leadership of major powers to re-establish world economic order. With the Far East in turmoil and with growing threats of conflict within Europe, the United States became the world's haven for refugee money and for gold. By the close of 1939, U.S. official vaults held more than three-fifths of the then existing monetary gold stock of the whole world.

BRETTON WOODS

This time wartime disruption and disorganization of production, trade, and finance, plus accompanying disintegration of the monetary mechanisms of many participants, was more than a repeat of World War I and its aftermath; it was much worse. But at least while the hostilities of World War II were going on, the best brains, monetary and financial, on the Allied side were concerning themselves profoundly and deeply with the problem of monetary reconstruction that seemed certain to present itself immediately after the war. Readers will recall the dramatic monetary conference held at Bretton Woods, New Hampshire, in July 1944, which negotiated a charter—known as the Articles of Agreement—for establishing the International Monetary Fund.

The concept underlying the Articles of Agreement of the International Monetary Fund represented radical innovation. For the first time in world history, all countries accepting and ratifying the Fund Agreement were called upon to surrender a measure of their independent monetary authority, in short, to share their monetary sovereignty. This they were to do by ceding to an international body the right to participate in determining the value of their respective national moneys in relation to the value of money in other countries and in relation to gold. Put more simply, all countries accepting the Fund Agreement consented to the fixing of a value for their money in consultation with the Fund, which, in turn, would have a responsibility for protecting the interests of other participating countries.

The Fund Articles of Agreement included critical supporting provisions, as well as a workable apparatus for cooperative monetary decision-making among members and for sustaining the viability of the new arrangement. Thus, each consenting country obligated itself: first, to maintain a monetary reserve position in gold or foreign exchange sufficient to support its spot exchange rate vis-a-vis the money of each other member within a range of 1% of parity; second, to advise the Fund should any change in parity become necessary for reasons of fundamental disequilibrium in payments; and, third, not to change its parity for corrective purposes by more than 10% without Fund concurrence.

To support the system of fixed exchange rates that was to be established upon the advent of peace, each Fund member was to contribute to a pool of resources, partly in gold (25%) and more largely in its own currency with gold-value guarantee (75%), in accordance with an assigned quota related to its production and trade importance in the world economy. With the Fund's consent, this pool could be drawn upon by individual members to cope with temporary imbalances in foreign payments. Ordinarily, such drawings were to be limited to 25% of quota in any year and a total of 200% of quota. But these limits might be waived by the Fund in the light of special circumstances and proper safeguards of the Fund's interest. Any drawing became subject to a charge graduated by the length of time outstanding. And each drawing was to be repayable in accordance with terms set by the Fund itself—presumably related to the payments problem occasioning the drawing.

The Fund Agreement contemplated that national policies regarding the expansion of domestic money supplies would be left to national determination. But they were to be subject to review and criticism by the Fund should they depart too far from requirements for sustained maintenance of external convertibility. Finally, to achieve good standing as full-fledged Fund members, nations electing to participate were to dismantle as rapidly as feasible all restrictions or controls or international payments that were a legacy of prewar nationalism or wartime needs.

Beyond these arrangements for the orderly administration of world monetary development, the Fund Agreement included one further radical innovation in international authority. It contemplated that Fund members as a group at different points in the future might want to make uniform changes in the par values of their currencies—in other words, to effect an increase or a decrease in the monetary price of gold by international fiat. With this provision, the framers of the Article of Agreement presented what proved to be an almost insuperable roadblock to U.S. acceptance of membership.

A MANAGED FIDUCIARY STANDARD

At the time, the International Monetary Fund was thought of as a vehicle for re-establishing a form of international gold standard, or more accurately a form of gold-exchange standard. Such a conception, however, did less than justice to the revolutionary character of the accomplishment. For the new monetary arrangement was to be one in which:

1. The full faith and credit of member nations transcended gold in governing monetary relations between them;

2. National monetary management was "good" if it took reasonable account of the interests of other nations, and transgressions of "good behavior" might be subject to monetary sanctions.

3. National monetary authority was to be elevated from a bureaucratic role of maintaining convertibility to a policy-making role within government establishments;

4. The interconvertibility of currencies was to be both a national responsibility and an international task to be worked on in cooperation with the Fund's membership;

5. Conditionally available monetary reserves—drawing on the Fund—were to be as legitimately usable in maintaining external convertibility as owned reserves.

If we need to type this new international arrangement in some short-hand way we should probably call it a "managed fiduciary standard."

One year after the signing of the Bretton Woods Agreement and just a month and a half before the Japanese surrender, the United States Congress passed the Bretton Woods act authorizing the President to accept membership in the International Monetary Fund, but with two highly important reservations. First, the act made it mandatory for the U.S. to advise the Fund that it would continue the existing gold parity of the dollar. Second, it prohibited the President or any person or agency on behalf of the United States to "propose or agree to any change in the par value of the . . . dollar . . ." or to "approve any general change in par values" under the Fund Agreement "unless Congress by law" should authorize such action.

Thus, in asserting its authority over the dollar price of gold via a general change in par values of money internationally, the United States Congress in effect indefinitely froze the monetary price of gold. For what change could there be if the U.S. could not go along without Congressional initiative? And if Congress were to debate at length the world price of gold, the whole international monetary system could disintegrate from uncertainty while the debate was going on. The world's monetary authorities could only tremble at the thought.

These reservations, however, were not as unacceptable as one might have thought to U.S. administration officials. Apparently they had concluded from the evidence at hand as to known gold resources, advances in the technology of gold extraction, and trends in gold-mining costs that the existing dollar price of gold of $35 an ounce was high enough to permit postwar gold mining and output to prosper and for ample supplies of new gold to become available for the world's monetary uses. And in addition, U.S. administration officials had to take into account other considerations that underlay the reservations of Congress.

For one thing, the 1934 devaluation of the dollar in terms of gold had come to be looked upon by many as a breach of faith with the domestic and foreign public, and as a serious blow to U.S. international prestige—an action not to be repeated again solely on Executive initiative and responsibility.

And a special fact making the reservations desirable to Congress and acceptable to U.S. officials was that existing U.S. gold reserves were much more than ample by modern standards of a sufficiency of monetary reserves. In addition, under the new arrangement, it would be possible and profitable for other monetary authorities to rely on dollar balances as a supplement to gold in monetary reserve usage.

Finally, the view that the future evolution of the world monetary system should be managed by the community of nations was gaining acceptance. Hence, should gold and dollar supplies prove inadequate for world reserve needs, the new institution—the International Monetary Fund—would provide a mechanism through which cooperative international effort might find a practicable remedy.

Whatever the real truth may have been about the U.S. reservations to the Bretton Woods charter for an International Monetary Fund, they were not so vital as to prevent the Fund's establishment. By late 1945, in fact, enough nations had accepted the Agreement's main provisions to make possible the Fund's establishment. A decade later, it had achieved a membership of 67 nations, including the principal industrial nations of the free world. Switzerland declined membership, preferring the role of neutral in economic as well as political matters. By the late 1960's Fund membership totaled 107 nations in actual number. Of these, 31 were recognized as having attained full interconvertibility of their national money with other currencies at agreed parities.

PROBLEMS FOR THE NEW STANDARD

What was to be the outcome of this new monetary arrangement? Could it and would it be sustainable and durable? Would it realize the vision of its conceivers? And what would be its effects on gold?

Actually, the new monetary arrangements met with remarkable success, and Fund members twice (in 1959 and 1966) joined in enlarging the Fund's resources appreciably. But its functioning was, for an extended period, greatly aided by the largesse of the

American people in allowing their government to extend huge amounts of postwar aid, economic and military, first to governments in areas devastated and disrupted by war and later to developing and less developed countries.

Within a decade following World War II the "miracle" of European and Far Eastern recovery was there for the world to see. Production and trade flourished as never before; economic growth generally achieved unprecedented rates; and a new era of human enlightenment and welfare seemed to have opened up. If the new monetary system was not the cause of this almost unbelievable development, it palpably served to facilitate it.

Why then, by the closing years of the 1960's, was the free world faced with a fresh breakdown of its monetary arrangements?

Obviously, the cause of the new threats were complex—political as well as economic and financial. A critical legacy of World War II was an unsteady balance of world political and military power, with a continuing chill of Cold War. And a succession of localized conflicts at the margin of the power balance gave danger of spreading into wider conflict. In such an atmosphere, a pervasive undercurrent of inquietude could hardly help finding expression in widespread public unease—even distrust of ultimate power balance.

Economically, the recovery in Europe and the Far East had considerably altered the free world's economic power base. In the case of Europe, however, further strides in economic power had come to hinge heavily on further strides towards economic integration, and these further strides seemed temporarily blocked by insurmountable political obstacles. As for the Far East, its economic base of power rested too heavily on U.S. power and, further, continued to show vibrant strength partly in consequence of U.S. procurement there on behalf of the Vietnamese War. Naturally, observers hoping for steady progress toward a better or firmer distribution of world economic power viewed the overall situation with misgivings which were contagious.

Financially, the free world's monetary-reserve growth had taken too largely the form of dollar and sterling balances and too little the form of gold, at least in the sight of private financial communities. Moreover, when reserve growth took the form of gold, it was too largely drawn from the monetary-reserve stocks of the two countries whose money had been earlier regarded as satisfactory foreign exchange for the monetary reserves of other countries. And when the growth of monetary reserves took the form of foreign-exchange balances in dollars or sterling, the dollars or sterling largely constituted payments deficits of the parent countries.

At long last, the monetary authorities of major European countries reached a consensus that the quantity of dollars and sterling in the world's monetary-reserve base had attained, if not exceeded, a desirable ceiling, and that the U.S. and the U.K. should take decisive steps to correct their excessive international-payments deficits. These views were formally communicated to the representatives of these two countries through the facilities of various agencies of international economic cooperation, including the International Monetary Fund. In due course, the substance of the confidential discussions among officials inevitably became known to the private financial communities and subsequently to the world public.

In this moment of embarrassment, Soviet Russia saw fit to discontinue sales of gold on world markets. Concurrently, growing public concern found expression in a spreading purchase of gold coin, fractional gold bars, gold wafers, and gold leaf. And those who could afford it began to acquire standard gold bars, while the more speculative saw in the gold market an opportunity seldom presented—a one-sided speculation, at some cost to be sure, but with no risk of substantial loss. Before long, private demands far exceeded new gold supplies available for purchase. A worldwide run on gold was in the making.

What was happening in the meantime to the world's output of and demand for gold? In the years just preceding World War II, gold output had spurted, reflecting in part the increase in its real value during world deflation and in part the stimulus of the 1934 increase in its dollar price from $20.67 to $35.00 an ounce. For a decade after World War II gold output was well below immediate prewar levels. By the late 1950's, however, it had regained these levels and then exceeded them. At about this stage, Soviet Russia began to release to the market part of its rising gold production.

All told, from 1950 through the early months of 1968, some $23.8 billion in additional gold became available from output and from Russian sales. Of this large sum, industrial uses, objects of adornment, and the arts took only an estimated $5 billion and net additions to official monetary gold stocks roughly an equal sum. Thus the amount going into private hoards and speculative holdings aggregated something like $13.8 billion, of which as much as $3 billion apparently vanished into private holdings during 1967 and the early months of 1968.

Clearly, if this amount of hoarded gold had been available for monetary-reserve uses, along with the amount actually added to monetary-gold stocks, the world's monetary system would have had quite enough, perhaps more than enough to "make peace with gold." The aggregate of new gold for monetary-reserve uses, however, was not that abundant, and there is little point now in deploring that fact.

RESPONSE TO DISTURBANCES

But it would have been deplorable if the world's monetary authorities had not become sharply aware of developing threats to its monetary arrangements. Actually, every government received due warning at the turn of the 1960's by four events. One, occurring just before President Kennedy's election, was a sudden surge of demand for gold on the London gold market which raised its price there from $35.20 (its normal limit) to $40.00 an ounce. Only the joint efforts of U.S. and U.K. monetary authorities brought this splurge under control. But the traumatic impact on the newly elected President Kennedy was such that, shortly after his inauguration, he pledged the entire U.S. gold stock to defense of the dollar.

The second event was the 5% upward revaluation in terms of gold of the German mark and the Dutch guilder in the early spring of 1961 to correct their presumed undervaluation vis-a-vis sterling and the dollar.

The third event was a heavy run against sterling in the spring of 1961, which gave rise to a sizable package of emergency credits from European central banks and the U.S. authorities to help the Bank of England until it could arrange an International Monetary Fund drawing adequate to defend sterling.

The fourth was not strictly an event but the succession of three large and alarming deficits in U.S. international payments. Their occurrence prompted the International Monetary Fund, under U.S. urging, to negotiate an agreement with its ten leading members (the so-called Group-of-Ten countries) establishing special borrowing facilities that would complement the regular facilities that then existed. Under the agreement—formally known as the General Arrangements to Borrow—participants committed themselves to provide enough of their respective currencies, upon due consultation, to finance concurrently, if necessary, maximum permissible drawings from the Fund by the U S. and the U.K.

With these portentous warnings of rough international financial waters ahead, three further developments of major import took place. The monetary authorities of the U.S. and the U.K., together with those of six other major trading nations, organized a pool to support the London gold price within the market's parity with the U.S. Treasury's gold price.

Next, the U.S. Federal Reserve System launched a program of foreign-currency operations for the defense of the external convertibility of the dollar. And to facilitate the execution of any such operations, it established a network of stand-by credit (currency-swap) arrangements with the principal central banks abroad.

Lastly, the ministers of finance of the principal trading nations that were members of the International Monetary Fund plus Switzerland joined in authorizing their deputies to engage in a study of the world's future needs for monetary reserves and of ways to assure their steady growth. Significantly, the finance ministers instructed their deputies to proceed with the study on the premise that a world price of gold of $35 an ounce would be indefinitely adhered to.

Of these three developments, the first, the gold-pool arrangement, was brought to an end by the "gold rush" of 1967 and early 1968. The second, the central-bank reciprocal credit network, continues to prove useful and has indeed expanded from a modest beginning in 1962 of $700 million of potential temporary credits between participating central banks (including the Bank for International Settlements) and the Federal Reserve System to today's impressive today of more than $9 billion. This expanded sum bears testimony to the concern among monetary authorities that resources in ample supply be promptly available to cushion large temporary flows of funds internationally and thus to help assure the maintenance of orderly exchange-market conditions. The third development—the product of four years of arduous international study, debate, and negotiation—was a concrete proposal for the creation of a new international asset to supplement gold in meeting the world's future needs for growth in national monetary reserves.

A NEW KIND OF RESERVE ASSET

Of these three revolutionary developments, the third is the most far-reaching in its implications for future world prosperity and deserves the thoughtful consideration of informed citizens. In Rio de Janeiro last September the plan was put before the Board of Governors of the International Monetary Fund. That body approved the plan and instructed the Fund's Executive Directors to incorporate it in a proposed formal amendment to the Fund's Articles of Agreement. That task has now been accomplished, and review of the proposed amendment by representatives of the Fund's leading members (the Group of Ten) has recently taken place at a meeting in Stockholm. The Fund Governors also have approved the proposed amendment. There now remains only legislative acceptance by member governments. What political obstacles may handicap or delay this process may only be guessed.

The new plan provides for a quantum of Special Drawing Rights in the International Monetary Fund to become available to participating member governments as decided by the Fund. But the units making up this quantum are to differ from units making up ordinary drawing rights; they will have a continuing international life of their own, unless and until extinguished by Fund decision. The decision-making process to create or extinguish units will be formal, with the safeguard against excessive action resting in the requirement of approval by 85% of the Fund's accredited voting power.

The creation and allocation of the new Special Drawing Rights, when agreed upon, is to be for a stipulated period, normally five years, with annual allocations on a quota basis among participating countries. Members will be free to use these Rights without condition as to their own monetary and fiscal policies, but the expected use will be to meet balance-of-payments problems. When transfers of ownership occur, they are to be effected through the Fund's facilities.

The value of the Special Drawing Rights will rest on the obligation of every participant to accept them when transferred through the Fund, subject only to the qualification that no member will be required to hold Rights in excess of 300% of its cumulative allocation. To provide continuity with present monetary arrangements, the Special Drawing Rights are to have a unit value expressed in terms of a weight of gold.

Each participant country will be obligated to maintain holdings of Special Drawing Rights equal on the average to at least 30% of its cumulative allocation. This will mean that if use of Special Drawing Rights causes a member's holding to fall below 30% it will be obligated to reconstitute its holding to equal a moving average of that percentage within a specified time span. Reliance on transfer of ownership through Fund facilities has the purpose of assuring other member countries that a member's average minimum holding will be met, and that member monetary systems as a group will be able to maintain a reasonable balance between holdings of Special Drawings Rights and other forms of monetary reserves.

These specifications all look reasonable enough. In fact, they represent a sensible compound of current financial wisdom. In press reports, the proposed new asset has often been called "paper gold". But clearly this description does less than justice to the innovation. For the asset is to be an international fiduciary money unit backed by the full faith and credit of all the national governments that voluntarily join together in its creation.

TERMINATION OF THE GOLD POOL

Let us next shift our focus to the dissolution over a mid-March weekend if this year of the international gold pool and the decision made on that occasion to allow the market price of gold to fend for itself, while continuing to have gold transactions among central banks themselves at the official price of $35 an ounce.

This decision by the central bankers of the seven major trading nations then participating in the gold pool was in effect one made "looking down the barrel of a shotgun." It had to be taken for the all-important reason that the world public's gold buying fever had to be allayed. And as the principal monetary officials of leading governments—charged with carrying out a public trust to keep solid the interconvertibility of their respective money units—these central bankers simply had to buy time for deliberation and decision as to further steps.

Was it, however, just a case of buying time? The gold panic had been months in forming. The participating central bankers must surely have discussed among themselves the possibility of an ultimate contingency and considered strategy alternatives for dealing with it. But one can only speculate about what transpired before the action and about its implications for the future.

As for the two-tier scheme for the price of gold—a market price independent of an official price—one might surmise that the central bankers concerned went through a planning process somewhat as follows. With the help of their experts, they individually looked at the long-term record of new-gold availability, at the best private and governmental estimates of gold taking for industrial purposes, and at the record of annual increments in the world's monetary gold stock. Simple subtraction of the latter two sources of gold absorption from gold availability would have provided them a reasonable record of private gold taking for hoarding, temporary investment and speculation. If the central bankers had then weighed the private takings of gold in the past eighteen months, they could have arrived at the inference that world gold markets faced a large overhang of gold in private hands which might, in the face of gold-price uncertainty, become actual market supply. From this conclusion, it would follow that the risk was minimal that the "free market price" for gold would soar to the skies while the chance that the price would settle at a level close to or possibly somewhat below the official price was good.

But the action taken by these important central bankers on that fateful mid-March weekend seemed to go much further than mere technical consideration of what might happen to the market price of gold. In their published communique, they stated: ". . . The Governors believe that henceforth officially held gold should be used only to effect transfers among monetary authorities, and, therefore, they decided no longer to supply gold to the London gold market or any other gold market. Moreover, as the existing stock of monetary gold is sufficient in view of the prospective establishment of the facility for Special Drawing Rights, they no longer feel it necessary to buy gold from the market. Finally, they agreed that henceforth they will not sell gold to monetary authorities to replace gold sold in private markets . . ."

Such a communique wording suggested decision of far-reaching portent. It implied that monetary demand for gold might be permanently withdrawn from the market. It further intimated a potential severance of national monetary systems from any further dependence on an ever expanding supply of new gold. And it also hinted that the central bankers present might be willing to accept the proposed new international money unit as a displacement of future available gold in monetary-reserve usage. These interpretations may be stretching the intent of the communique, but, if legitimate, dethronement of gold was possibly an accomplished fact.

POLITICAL LEAVENING

Central bankers are experts in the techniques of money management but not necessarily in politics. When, a fortnight after their action, they accompanied their ministers of finance to the Group-of-Ten meeting in Stockholm to discuss the proposed amendment to the Fund's Articles of Agreement that would authorize the creation of Special Drawing Rights literally by the stroke of a pen, they found their superiors in a mood to compromise with political realities. While the ministers were prepared ". . . to cooperate in the maintenance of exchange arrangements of the world based on the present official price of gold . . ." , they considered only that the Special Drawing Rights would ". . . make a very substantial contribution to strengthening the monetary system . . .", but ". . . not provide a solution to all international monetary problems . . ."

Thus we are led to the judgment that "making peace with gold" remains an objective for the future. If so, the private financial community as well as the managers of national monetary systems must determine whether they are prepared to live indefinitely with a two-tier pricing of gold. And if they are not so prepared, they must decide upon an arrangement that will reconcile prevailing psychology about gold with practical necessities in a setting in which the community of nations may no longer be willing to leave the expansion of its combined monetary reserves to the vagaries either of gold production or of the public's caprice in hoarding gold. In addition to this adjustment, the two giants of international finance must prove that they can at least approach an equilibrium in their international payment flows, if not a firmly lasting balance. Perhaps, if each of these important steps can be accomplished, the way to "peace with gold" will simply be one of leaving gold alone—some of it to repose comfortably in private vaults and mattresses.

And, we may further infer that, as long as the community of nations has it within its power to supplement new-gold availability for monetary uses by creating, when needed, a supplementary reserve asset voluntarily acceptable in settlement of world commerce, the international monetary system can get along with present gold holdings and with whatever additional gold authorities choose to acquire. Perhaps a logical next step in extending the temporary truce with gold would be a pooling of the free world's monetary gold stock in an international agency. But probably for our time, it would be unduly opitimistic to expect the modern state's reliance on gold as a symbol of independent sovereignty entirely to "wither away."

In closing, one may conclude that the thinking of leading monetary authorities has now reached a stage where the trappings of the gold standard are largely irrelevant. From such a standpoint, the sooner the international monetary mechanism is rid of the remaining vestiges of the traditional ties with gold the better.

At the same time, the world's statesmen in the monetary area—that is, its finance ministers—know that the myths surrounding gold remain a political reality with which they must deal. Persistence of lip service to a gold standard and retention of its symbols has merit to them for it provides continuity with society's past. Indeed, with the world yet to establish firmly a monetary system rooted in the full faith and credit of the community of nations acting jointly, the ministers would appear to find unconvincing an argument that respectful deference to the symbolism of gold as a monetary heritage is harmful.

It can be agreed that democracies today are trying, perhaps in a cumbersome way, to recognize their ever closer monetary interdependence through a variety of procedures, intergovernmental arrangements, and ingenious institutional innovations such as the International Monetary Fund. The urgent incentive to these innovations has grown out of the long struggle to accommodate the use of a commodity—as unreliable in monetary supply as gold—as the base for an international monetary system in an ever-shrinking planet. As a matter of survival, world economic society is having to conclude: "It we can't make do with it, we'll have to learn to make do with as little reliance on it as we can."

As far as the general public is concerned, most of this struggle has had a very low visibility as compared with more obvious diplomatic and political activity; it is too complex, and too remote from everyday concerns. In this respect, it resembles international cooperation in scientific fields. Compared with these scientific fields, however, the area of money and finance is closed to politics and diplomacy, even if its visibility is low. Because of this, and because the social utility of money is so palpably relevant to human progress, cooperation in the monetary field is of immense and urgent importance.

The monetary authorities have been trying to "make their peace with gold" by persistently challenging its indispensability—and as time has passed, with mounting success. Eventually—perhaps none now living will see it—the world's statesmen will be found following in their wake.

THE ROLE OF GOLD IN THE INTERNATIONAL MONETARY SYSTEM

(By Fritz Machlup)

Jacques Rueff and I share many views on a large variety of subjects: in the philosophy of science, in political philosophy, in economic theory, in economic policy, and on many monetary questions. It happens that we disagree on what in my opinion is a trivial matter, namely, the future role of gold in the monetary system. Yet, just this is the subject of this morning's discussion. So it happens that I speak now as an opponent of a man whom I admire, whom I respect as a gentleman and as a scholar, and whom I have considered a warm friend of mine for many years. He is most generous and I know he will forgive me even if I attack some of his statements.

Let me also note that Rueff and I have been united in our prognosis regarding the gold-exchange standard. His record and mine are quite clear on this issue; and this is not just a matter of the recent past—we published our views in the nineteen twenties. Thus it may seem surprising that we should disagree on public policy about gold. Three years ago it looked as if we could make peace even on that issue. According to Le Monde of the 29th of November 1969, Rueff made the pronouncement: "The question of raising the price of gold is obsolete, it has become uninteresting." Alas, Rueff has disinterred the bones of contention and he resounds the plea for raising the official valuation of monetary gold.

THE GOLD MARKET 1969–1972

This change of heart can be understood. In November 1969 the price of gold in the free markets was down to the official valuation and threatened to fall below $35 an ounce. The International Monetary Fund came to its rescue by buying in the first three months of 1970 from South Africa as much as the three-month output of new gold. I had correctly predicted in December 1968 that the free-market price would drop below the official valuation "if the entire production of gold had to be sold in the free market," but that the price would "soar to higher levels" if the new output were withheld from the market and that "a good rise might be reinforced by a resumption of speculative purchases."

I think it is a realistic assumption that world consumption of gold will soon rise to the rate of world production of gold, but the price in the free markets will, as long as finance ministers and central bankers debate the "right" valuation for monetary gold, be determined by accumulations and decumulations of speculative gold holdings. I shall later return to the question of the economics and politics of the market price of gold. At this point I merely want to say that the rise in the last twelve months and the resulting wide gap between the market price of privately traded gold and the official valuation of monetary gold have caused the renewed fervor of the calls for a radical revaluation of monetary gold.

GOLD REVALUATION AND INFLATION

The strongest argument against such a revaluation has been the probability of its inflationary consequences. If, by a decision to double the official exchange value of gold, governments can change 40 billion dollars over night into 80 billion dollars, the inflationary potential is great indeed. Rueff, however, proposes an antitoxin; the new 40 billions obtained through the write-up of the gold reserves should be offset by mopping up an equal amount of dollar reserves. The U.S. can use its own paper profit of 10 billion to buy back dollars from other countries, and the other gold-holding countries should give long-term loans to the U.S. in the amount of their paper profits of 30 billion dollars, so that the U.S. can buy another 30 billion of the dollar reserves held abroad. If these loans are made and used to retire so-called liquid dollar holdings, the gain of 40 billion dollars through the write-up of the gold reserves will be exactly offset by a reduction in dollar reserves. To be sure, the governments of other countries will have, in addition, long-term securities of the United States in the amount of 30 billion dollars, but if one does not call them reserve assets they may not be regarded as a basis for domestic money creation. Thus, total monetary reserves are not increased by the revaluation a la Rueff, and the "normal" inflationary consequences are prevented.

GOLD MAGIC

Rueff's ingenuity as a financial magician is stupendous. Change the book values of unchanged quantities of gold, change the maturities of unchanged amounts of dollar securities, and by these applications of ink on paper the world will have returned to an orthodox gold standard, with governments feeling bound to obey the golden rules of the golden age of the gold standard, submitting to the discipline of gold outflows, and no longer trying to create employment and accelerate growth by means of expansionary credit policies. Does Rueff really believe that such magic can work?

I do not believe it. I do not even believe that one could persuade all governments that hold gold reserves to use all profits from an official write-up for making long-term loans to the United States; they might be more inclined to accept an alternative plan of using some modest part of their profits for aid to poor nations, to finance economic development. The main point, however, is that the purpose of the whole magic performance is illusory. The world will not return to any scheme that includes automatic or semi-automatic controls of the supply of domestic money and credit, and the hope that convertibility into gold would restore "discipline" in national monetary management is in vain, at least for large industrialized countries.

If governments were willing to submit to the discipline supposedly imposed by international settlements exclusively in gold, they could have the same mechanism and the same discipline by agreeing on any other reserve asset—SDRs, IMF deposits, any piece of paper, tin, or plastic. The difference between gold and any "artificial" reserve asset is, in the minds of chrysophiles, that the existing quantity of gold cannot be increased at will while all other assets can. Well, the proposals to increase the official value of monetary gold refute and destroy this notion, for it is not the physical quantity that matters, but only the price tag or book value that is placed on it. It is as easy to double the monetary gold reserves by arbitrary decision as it is to double any monetary paper reserves. Whenever the management so decides, the gold reserves can be written-up. And if the diviners of the Chamber of Mines are right about the growth rate of private demand of gold, the official valuation of gold would have to be adjusted upward every few years, each adjustment creating expectations for the next one and, by thus increasing the speculative demand for gold, bringing on the need for the next revaluation. It is difficult to imagine a worse system. And I cannot believe that many monetary experts would vote for such a system. I seriously doubt that more than one or two of the members of the Committee of Twenty would favor any large or frequent increases in the official price of monetary gold.

THE "REALITIES," THE PEOPLE, AND GOVERNMENTS

Under these circumstances I am puzzled by the statement made not long ago by a very well-informed and intelligent central banker to the effect that we must go "Back to the Realities" and that this would mean a return to the gold standard with gold at a realistic price. Let me quote from his speech, delivered in October 1971:

"Though it is true that some hundreds of outstanding economists from various parts of the world share the view that gold should be demonetized, the three and a half billion inhabitants of the globe would rather hoard gold than dollar banknotes. To achieve the demonetization of gold, it would be necessary that the hundreds of economists whom I have just mentioned convince these hundreds of millions of the soundness of their theory."[1]

This quotation is from Janos Fekete, Deputy President of the Hungarian National Bank, a real master-mind in central banking. He has concluded that "It is unrealistic to assume . . . that gold could be demonetized." If he derives this conclusion from the gold-boarding habits of the masses, he evidently assumes that private gold hoards are money. They are not, if money is defined as "general medium of exchange" or "general means of payment." There may be millions or hundreds of millions of people who possess gold hoards, but they do not use them for payments or exchanges. Moreover, Fekete somehow must assume that the preference of millions of people regarding their private hoards have much to do with the wisdom or unwisdom of twenty or 125 ministers of finance or central bankers determining how the international monetary system ought to be reformed. I have not noticed that the National Bank of Hungary has made the Hungarian forint convertible into gold or that the preferences of the citizens of any countries, East or West, for hoarding gold rather than dollars or their own currencies have led to the restoration of a gold-coin standard anywhere.

THE END OF MONETIZATION OF GOLD

I have quoted a statement about demonetization. This term stands in need of clarification, which is easiest if we think first of the meaning of monetization. Monetization of an asset means that any amount of it either can become a means of payment, circulating as currency from hand to hand, or is freely purchased by the issuer of currency at a fixed price in unlimited quantities so that any amount of the asset supplied to the money-creating agency will be brought by that agency with newly created money.

Silver was such an esset in most countries until the last decades of the 19th Century; in the United States it was "demonetized"—in the sense of its monetization being terminated—in 1873 by an Act of Congress. Gold was such an asset until 1968 (though that time only in the United States), when its monetization was stopped by an agreement among the governments of the most important countries not to purchase additional quantities of gold, from private sources.

Much of the debate these days about the monetary role of gold focuses on the desirability or undesirability of a remonetization of gold.

Whether gold will continue to be held among the official reserves of monetary authorities is not an unimportant but also not a terribly grave issue. The United States held silver stocks for 99 years after the legal demonetization of silver. The Treasury sold its stock only gradually; indeed, when political pressures (which silver producers applied through some influential members of Congress) became too hard to resist, the Treasury actually bought some additional quantities in order to support the market price of silver. Whether the monetary authorities will hold on to their gold reserves equally long, that is, until the year 2067, is impossible to predict. I cannot make myself believe that they will, but I must admit that,

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[1] Janos Fekete, Deputy President, National Bank of Hungary, "Back to the Realities," Vienna, October 11, 1971 (typescript).

had I been around in 1873, I would hardly have had the foresight to prophesy that it would take 99 years to dispose of the silver. Nor would such foresight have helped anybody, not even the silver-mining companies.

Many of the misunderstandings and confusions in the debates these days are due to the ambiguous use of words. If some mean by demonetization the refusal to purchase all the gold that is offered to the monetary authorities, while others mean by demonetization the decision to sell the gold now held in monetry reserves, it is not possible for even perfectly true statements to appear consistent. Perhaps we ought to do without the ambiguous term. But we should not fail to distinguish several positions on what governments might do about gold. Before I attempt this, I should state the official position of the United States as formulated by the highest officials in charge of monetary affairs.

THE POSITION OF THE UNITED STATES

Under Secretary Paul Volcker: "With respect to gold, the United States has repeatedly expressed the view that the role of that metal in the international monetary system *should and must continue to diminish"* (September 11, 1972)

Chairman Arthur F. Burns, Board of Governors, Federal Reserve System: ". . . about the future monetary role of gold . . . on which Under Secretary Volcker testified earlier this week. . . . In general, I agree with the views that he has expressed. More specifically, I believe that the monetary role of gold will continue to diminish in the years ahead . . ." (September 15, 1972)

Secretary George Shultz: "The suggested provisions for central values and convertibility do not imply restoration of a gold-based system. The rigidities of such a system, subject to the uncertainties of gold production, speculation, and demand for industrial uses, cannot meet the needs of today.

"I do not expect governmental holdings of gold to disappear overnight. I do believe orderly procedures are available to facilitate a diminishing role of gold in international monetary affairs in the future." (September 26, 1972)

GOLD RESERVES: RELATIVE SHARE AND LIQUIDITY

To give an idea of the past rate of decline in the share of gold in the countries' official reserves, let me note that this share diminished from about 90 per cent in the 1930's to 72.7 per cent in December 1949 and to 26.2 per cent in July 1972.

I should add that the gold reserves have also lost the essential quality of liquidity: they are no longer used for international settlements, they have become frozen. An asset is liquid only if the owner need not fear that he will lose by using it; that is to say, he does not fear either that his attempt to use it for settling a debt will reduce its price or that his use may deprive him of a gain through an appreciation expected or probable in the future.

This freezing of the monetary holdings affects also SDRs and reserve positions with the Fund. Gresham's Law has shown it can still work with a vengeance. "Bad money drives out good money," or "cheaper substitutes win over dearer ones," or if different assets are linked in fixed price relations and their relative scarcities change, then the more abundant ones will be used and the scarcer ones are relegated to the deep-freeze compartment. I am sure that among the large variety of plans for reform of the system those will finally be chosen that end a scheme of price or value linkages that disregard the operation of Gresham's Law.

THE OFFICIAL VALUATION OF GOLD

Regarding the official exchange value of gold, four different actions are conceivable: to raise it, to reduce it, to leave it unchanged, or to abolish it. We can forget about reduction and thus are left with three possible actions. But only if one states precisely to what transactions the official valuation is to apply does one make real sense. Thus, if the official value of gold is raised—be it to $50, 70, 100, and be it by the same or a different percentage in terms of other currencies—this may mean several different things: will the monetary authorities at the price (a) buy from and sell to private parties in unlimited quantities, (b) buy from private parties but not sell, (c) sell to private parties but not buy; (d) neither buy from nor sell to private parties, but receive and deliver gold in settlements with all other monetary authorities, or (e) receive and deliver gold in settlements with a specified group of countries (such as the European Community)? There are, moreover, several different possibilities regarding the use of the profits, realized or on paper, from the sale or revaluation of existing stocks. The profits may be sterilized or added to reserves or lent to the United States or given to poor countries, etc.

If the official value of gold reserves is left unchanged, monetary authorities may be allowed to buy and/or sell in the free gold market or from and to selected private parties either at the authorities' discretion, or only such quantities as are approved by the IMF and judged not to affect (boost or depress) the market price of gold too drastically.

The last of the three options is to abolish the official exchange value of monetary gold—as well as the link between gold and SDRs—and to leave each country free to buy and sell gold in the open market, either at its discretion or after consultation with the IMF. Again there would be several possibilities regarding the use of any profits and there could also be various arrangements concerning collective selling through the IMF, BIS or some other international agency. I should like to refer in this context to recent statements by Fred Hirsch, who has recently moved from the Fund to Nuffield College, and by Xenophon Zolotas, former Governor of the Bank of Greece. Both these experts favor abolition of the official price tag for monetary gold. I find their arguments convincing. In the words of Zolotas, "the only lasting solution is to isolate the international monetary system from developments in the gold market." Zolotas adds "Besides, this is also the surest way of restoring calm to the gold market itself." Of this addendum I am less certain, since we have observed rather extreme price fluctuations in other commodity markets, and especially metals. The price of copper, lead, zinc, and tin have repeatedly doubled and more than doubled, or been cut in half or to less than half, within a few months. Such is the habit of commodity markets in which stocks are alternately piled up and run down by producers, processors, traders, and other operators. To believe that a monetary system can be stabilized by linking it with a commodity traded and manipulated in a speculative market presupposes blind faith in an unretrievable past and gross credulity regarding an uncertain future.

AN INTERIM MAKESHIFT

The definitive abolition of an official exchange value of monetary gold has to be negotiated along with many other provisions for a reformed international monetary system. This may take two, three or more years. Can nothing be done in the meantime to prevent perilous shocks to our shaky system? Again, I find Fred Hirsch's suggestion most sensible: he wants the IMF to reduce its gold holdings by about 1 billion dollars through direct or indirect sales in the free market. I take it that he means these sales to be spaced over a period of about a year. As a result, the present gap between the official value and the free-market price of gold would thereby be narrowed and might completely disappear.

Such a result might restore the liquidity of official gold reserves. Total official holdings—Countries' plus international organizations'—are now valued at about 45 billion dollars. If a sale of about 1 billion dollars from these reserves can unfreeze them and make them into usable assets in international settlements, some of the present problems during the period of negotiations would become easier.

THE FUTURE OF THE MARKET PRICE OF GOLD

Now to the last point in my exposition: the economics and politics of the gold price in the free market. Is it possible to speak of a real, realistic, or genuine value of a commodity such as gold? Does the average cost or marginal cost of production have anything to do with the determination of a normal supply price? Does the rate of growth in the consumption of gold have anything to do with a normal demand price? The answers are "no." The official and private stocks of gold are now between $75 and $80 billion at the previous official valuation of $35 an ounce. Thus the accumulated stocks are more than 50 times present annual new production and something like 75 times present annual consumption. There is no marginal cost and no marginal utility where existing stocks can cover 50 or more years of consumption even if all new production ceased. The market price under such conditions depends on the quantities released from stocks and, since the bulk of the stocks is owned by governments and public institutions, the releases depend on political decisions. All talk about a real value of gold and a genuine price determined by anonymous market forces is mere humbug. The future role of gold in the monetary system will surely diminish, but the role of official gold holdings in the determination of its market price will remain paramount.

By Mr. PERCY (for himself, Mr. COOK, Mr. CRANSTON, Mr. DOLE, Mr. HART, Mr. KENNEDY, Mr. MCGOVERN, and Mr. SCHWEIKER):

S.J. Res. 19. A joint resolution to authorize the President to designate the period from March 4, 1973, through March 10, 1973, as "National Nutrition Week." Referred to the Committee on the Judiciary.

Mr. PERCY. Mr. President, I am pleased to introduce today a joint resolution authorizing President Nixon to designate March 4 through March 10, 1973, as National Nutrition Week.

During the months since I first introduced this measure before the 92d Congress, public interest in the subject and awareness of the importance of good nutrition have become more and more evident. Time magazine recently featured as its cover story an article on American eating habits and the current enthusiasm for so-called organic and natural foods. Del Monte Corp., one of the Nation's leading suppliers of canned foods, has undertaken an extensive program to label many of its products with their nutritional contents. Also, when the Select Committee on Nutrition and Human Needs, of which I am the ranking Republican member, held hearings last month on the subject of nutrition education, press coverage and public response reached impressive levels.

Not long ago, the subject of nutrition aroused negligible interest in all but a small group of professionals within this once esoteric field. Now, however, the public is voicing a demand to be given up-to-date information about the nutritional requirements of the human body

and the nutritious elements of the food products available.

In an effort to keep the current public concern with good nutrition from becoming just another food fad that might quickly ebb, I feel that the Congress and the administration should take advantage of the growing awareness of the subject and focus the attention of all Americans on the importance of and means of achieving proper nutrition through the proclamation of National Nutrition Week.

Gains in public nutrition education have obviously been made, but much effort still needs to be devoted to providing our citizens with adequate information in the field of personal and family nutrition. Many people stlil do not realize how vitally necessary good nutrition is to basic good health, and only a minority among us fully understands that a balanced diet not only helps to prevent illness but is conducive to vitality of mind and spirit as well.

The dates of March 4 through March 10 have been selected in order to maximize the impact of Nutrition Weeks that have already been designated by a number of individual States for that period. The American Dietetic Association and a number of other concerned groups and organizations wish at that time to pursue activities especially intended to make known to all Americans the importance and the necessary components of good nutrition. Further, it is my hope that with this national observance individual Americans will take the opportunity to educate themselves and their families regarding good nutrition. I urge my colleagues to join me and my cosponsors in striving for rapid and positive action in favor of National Nutrition Week.

Mr. President, I ask unanimous consent that the text of our joint resolution be printed in the RECORD.

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

S.J. RES. 19

Whereas good nutrition is of vital importance to the health and well-being of this Nation's citizens; and

Whereas many Americans are not yet aware of the importance of good nutrition; and

Whereas most Americans are not entirely familiar with the necessary composition of a nutritious diet: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the period from March 4, 1973, through March 10, 1973, as "National Nutrition Week," and calling upon the people of the United States and interested groups and organizations to observe that week with appropriate ceremonies and activities.

Mr. COOK. Mr. President, I am delighted to join with the distinguished senior Senator from Illinois (Mr. PERCY) in the introduction of this joint resolution, which would establish the week of March 4, as National Nutrition Week.

In the past, Congress has approved several national weeks honoring specific groups and causes, but I believe that the observance of nutrition is one of the worthiest and most important recognitions.

Unfortunately, many Americans today either lack knowledge or wish not to acknowledge the vital role which proper nutrition plays in the sound health of each human being. This was not the case, however, in the 1940's when good nutrition was a national concern. In one sense this country had regressed during the 1950's and the early 1960's in heeding the importance of proper nutrition.

Speaking before the Select Committee on Nutrition and Human Needs in 1968, Dr. Margaret Mead stated:

Uneasy under the accusation that Americans were, in fact, overfed, when such a large part of the world's population was starving, American attention (in the 1950's) turned resolutely away from the question of malnutrition in the United States. Almost the entire elaborate apparatus of research, education and monitoring of health and home practices disappeared.

Since Dr. Mead's statement and during the late 1960's, both public and private interest in good nutrition experienced a rebirth and has gained a significant momentum. America realized at that time that being a wealthy country did not automatically mean that the citizenry was experiencing adequate nutrition.

This joint resolution represents an effort to recognize, to support, and to futher develop this growing national interest in a very vital issue. Therefore, Mr. President, I urge Congress to consider speedy passage of this resolution.

By Mr. BROOKE (for himself, Mr. BENNETT, Mr. CASE, Mr. CRANSTON, Mr. GRAVEL, Mr. HANSEN, Mr. HARTKE, Mr. HATFIELD, Mr. HUMPHREY, Mr. KENNEDY, Mr. MAGNUSON, Mr. MONDALE, Mr. MONTOYA, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. SCOTT of Pennsylvania, Mr. STEVENS, Mr. STEVENSON, Mr. SYMINGTON, Mr. TUNNEY, and Mr. WILLIAMS):

S.J. Res. 20. A joint resolution designating January 15, of each year, as "Martin Luther King Day." Referred to the Committee on the Judiciary.

Mr. BROOKE. Mr. President, in our Nation's history few men stand out so prominently as Dr. Martin Luther King, Jr. This week, as we observe the anniversary of his birthday, let us once again recognize what this man means to America and to the world.

Dr. King dedicated his life to achieving the dream he so often spoke of, the dream of universal brotherhood among men. Though struck down by an assassin's bullet while still a young man, Martin Luther King made tremendous gains in his herculean effort to make this dream a reality. Today he remains a symbol of our hopes and our ideals, the ideals of equality, freedom, and peace.

It is certainly important to recognize what Dr. King accomplished, but it is equally important to remember the manner in which he accomplished it. Martin Luther King was our country's foremost advocate of achieving social progress through a policy of nonviolence. He understood that lasting social change could only be realized through the cooperation of all races, not through the separatist policies advocated by racial extremists. Martin Luther King stressed racial reconciliation, not raical hatred and the violence which can accompany it.

Today, Mr. President, as one way of insuring renewed dedication to the goals of freedom and equality that he strove for, I would like to introduce, as I did in 1968, 1969, and 1971, a resolution making the birthday of Martin Luther King, Jr., January 15, a national day of commemoration. This day of commemoration will always remind us of how we must respect and understand one another if we are ever to realize the principles upon which this Nation was established. I ask unanimous consent that the text of this resolution be printed at this point in the RECORD.

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

S.J. RES. 20

Whereas the United States of America was deeply grieved by the vicious and senseless act which ended the life of the Reverend Martin Luther King, Junior, this country's apostle of nonviolence;

Whereas the United States of America, and its Senators and Representatives in Congress, recognize and appreciate the immense contribution and sacrifice of this dedicated American;

Whereas the American people are determined that the life and works of this great man shall not be obscured by violence and anger, but rather that they shall remain a shining symbol of the Nation's nonviolent struggle for social progress;

Whereas it is incumbent upon us to recognize that violence, hatred, and national division do no honor to the man who has been taken from us;

Whereas mutual respect and a firm commitment to the ideals of nonviolence for which he labored will be the most lasting memorial to the life of the Reverend Doctor Martin Luther King, Junior;

Whereas it is fervently hoped that his death may serve to reconcile those among us who have harbored hatred and resentment for their fellow Americans, to the end that our country may at last realize the ideal of equality set forth in our Constitution: Therefore, it is hereby

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in honor of the Reverend Doctor Martin Luther King, Junior, who was born on January 15, 1929, January 15 of each year is hereby designated as "Martin Luther King Day". The President is authorized and requested to issue a proclamation each year calling upon the people of the United States to commemorate the life and the service to his country and its citizens of the Reverend Doctor Martin Luther King, Junior, and to observe that day with appropriate honors, ceremonies, and prayers.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

At the request of Mr. WILLIAMS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 6, the Education for All Handicapped Children Act.

S. 7

At the request of Mr. ROBERT C. BYRD (for Mr. RANDOLPH) the Senator from Maine (Mr. MUSKIE) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 7, a bill to amend the Vocational Rehabilitation Act

to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes.

S. 12

At the request of Mr. WILLIAMS, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 12, the Urban Parkland Heritage Act.

S. 20

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of the distinguished Senator from Wisconsin (Mr. PROXMIRE), that the names of the Senator from Missouri (Mr. SYMINGTON), the junior Senator from West Virginia (Mr. ROBERT C. BYRD), and the Senator from Minnesota (Mr. HUMPHREY) be added as cosponsors of S. 20, a bill to provide that the Director of the Office of Management and Budget be confirmed by the Senate.

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON). Without objection, it is so ordered.

S. 37

At the request of Mr. METCALF, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 37, which would require Senate confirmation of the Director and Deputy Director of the Office of Management and Budget.

S. 48

At the request of Mr. BROOKE, the Senator from North Dakota (Mr. BURDICK) and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 48, the Vietnam Disengagement Act of 1973.

S. 176

Mr. THURMOND. Mr. President, on January 4, 1973, I introduced S. 176, the World War I Pension Act of 1973. At that time, Senator HARTKE joined as a cosponsor.

Since that time, many Senators have expressed their interest to join as cosponsors.

Mr. President, I ask unanimous consent that at the next printing of S. 176, the following Senators be added as cosponsors: Mr. MCGEE, Mr. BURDICK, Mr. YOUNG, Mr. PASTORE, Mr. HOLLINGS, Mr. CHILES, Mr. RIBICOFF, Mr. RANDOLPH, Mr. ALLEN, Mr. HELMS, Mr. GRAVEL, Mr. HANSEN, Mr. CANNON, Mr. BROCK, Mr. HATFIELD, Mr. ABOUREZK, Mr. BIBLE, Mr. DOMENICI, and Mr. GOLDWATER.

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

S. 260

At the request of Mr. CHILES, the Senator from Missouri (Mr. SYMINGTON) was added as a cosponsor of S. 260, a bill to provide that meetings of Government agencies and of congressional committees shall be open to the public.

S. 262

Mr. ALLEN. Mr. President, I ask unanimous consent that the name of the distinguished senior Senator from Colorado (Mr. DOMINICK) be added as a cosponsor of S. 262, a bill to provide for the establishment of the Tuskegee Institute National Historical Park.

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON). Without objection, it is so ordered.

S. 295

At the request of Mr. HUMPHREY, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 295, to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation to handicapped persons and persons who are 65 years of age or older, and to amend the Interstate Commerce Act to authorize free or reduced rate transportation for persons who are 65 years of age or older.

S. 310

At the request of Mr. YOUNG, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 310, to authorize the Secretary of the Army to convey certain lands originally acquired for the Garrison Dam and Reservoir project in the State of North Dakota to the Montrail County Park Commission, Montrail County, N. Dak.

S. 316

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON), I ask unanimous consent that at the next printing of S. 316, a bill to further the purposes of the Wilderness Act of 1964, the names of the junior Senator from Oregon (Mr. PACKWOOD) and the Senator from Colorado (Mr. DOMINICK) be added as cosponsors.

S.J. RES. 10

At the request of Mr. SCHWEIKER, the Senator from Mississippi (Mr. EASTLAND), the Senator from Alabama (Mr. ALLEN), the Senator from North Dakota (Mr. YOUNG), the Senator from Arizona (Mr. GOLDWATER), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Joint Resolution 10, the school prayer amendment.

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

SENATE CONCURRENT RESOLUTION 2—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF SENATE HEARINGS ENTITLED "RUNAWAY YOUTH"

(Referred to the Committee on Rules and Administration.)

Mr. MANSFIELD (for Mr. BAYH) submitted the following concurrent resolution:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary three thousand additional copies of the hearings of its Subcommittee to Investigate Juvenile Delinquency during the Ninety-Third Congress, first session, entitled "Runaway Youth".

SENATE CONCURRENT RESOLUTION 3—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF SENATE HEARINGS ENTITLED "SATURDAY NIGHT SPECIAL HANDGUNS, S. 2507"

(Referred to the Committee on Rules and Administration.)

Mr. MANSFIELD (for Mr. BAYH) submitted the following concurrent resolution:

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary three thousand additional copies of the hearings of its Subcommittee to Investigate Juvenile Delinquency during the Ninety-Third Congress, first session, entitled "Saturday Night Special Handguns, S. 2507".

SENATE CONCURRENT RESOLUTION 4—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF SENATE HEARINGS ENTITLED "JUVENILE CONFINEMENT INSTITUTIONS AND CORRECTIONAL SYSTEMS"

(Referred to the Committee on Rules and Administration.)

Mr. MANSFIELD (for Mr. BAYH) submitted the following concurrent resolution:

S. CON. RES. 4

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary two thousand additional copies of the hearings of its Subcommittee to Investigate Juvenile Delinquency during the Ninety-Third Congress, first session, entitled "Juvenile Confinement Institutions and Correctional Systems".

SENATE RESOLUTION 18—SUBMISSION OF A RESOLUTION TO AMEND RULE XXII

(Referred to the Committee on Rules and Administration.)

Mr. HART. Mr. President, with the senior Senator from New York (Mr. JAVITS), I submit a resolution which we believe represents a responsible effort, and we hope an effective device, to amend rule XXII, the filibuster rule, the cloture rule. We are joined by 16 of our colleagues in this resolution to change rule XXII. Several other reforms that have been proposed on Senate procedure, which will be before the Rules and Administration Committee of the Senate. We very much hope that this proposal or amendment of rule XXII will be considered together, in a sense, promptly, and that we will have the judgment of that committee, because there are many in this body who share our feeling that the time runs very fast, that the Founding Fathers knew what they were doing when they provided that the majority should decide questions except as the Constitution explicitly requires more than a majority decision.

This resolution expresses clearly the need for full and adequate development in debate and discussion of any issue that comes before us. The Senator from New York (Mr. JAVITS) and I continue to believe that a constitutional majority has the right to establish our rules and that that majority has the ultimate right and responsibility to enable us to act. We have incorporated in this resolution, drawing from earlier proposals, a several-step procedure, a procedure that reserves the right of the most determined minority among us effectively to present whatever view they have, but reserves to the majority of us the opportunity ultimately to act.

As we all know, the current rule requires two-thirds of those present and voting to shut off debate. In the past two Congresses, efforts were made to substitute a three-fifths requirement as the test from the outset of debate on a matter. Each time there was extensive floor debate and an inconclusive effort to obtain an up-and-down vote on the proposed new rule. The Senator from New York and I supported these efforts as the best vehicle for accomplishing some reform of the rule at that time. However, we also introduced a proposal which sought to insure the right of a constitutional majority of the Senate, at some point, to vote.

As I indicated on the opening day of this Congress, the Senator from New York and I still believe in the ultimate principle of Senate action by majority rule.

Our proposal is designed to meet the concern of those who believe the Senate should not be deadlocked on important legislation, but who are also concerned that there be assurance of adequate debate to prevent hasty action. Three separate alternatives are provided for obtaining cloture, depending upon the length of time that the matter has been before the Senate.

First. During the first 2 weeks after the matter is raised, cloture could be obtained by the two-thirds vote presently required in rule XXII, section 2.

Second. After the matter had been before the Senate for 2 weeks, cloture could be obtained by a three-fifths vote. The standard would thus be eased but would still require a substantial majority to end debate.

Third. Four working weeks after the matter had been raised, cloture could be obtained by a constitutional majority of the full Senate.

This approach for a phased reduction in the requirement for cloture is far from novel. It has been proposed in past Congresses by those who believe in majority cloture as a reasonable balance between the twin dangers of precipitous action and tyranny by the majority.

Specifically, our proposal would work as follows: The present rule would be retained as is. For 10 session days after the Senate first proceeded to consider either the matter or a motion to consider the matter, that rule would govern cloture.

A petition could also be filed at any time requesting a three-fifths cloture test after those 10 session days. In other words, the 10 days would run from the time the matter first came before the Senate, not from the date that the petition was filed. In this way, it would be possible to obtain a three-fifths test after the matter was 2 weeks old, without necessarily filing the petition on the very first day the matter was raised.

However, an intervening day's notice would be assured prior to any cloture vote, as it is under the present rule. Therefore, if the petition had not been filed until the ninth session day, then the cloture vote would not come until the 11th day. If the petition were not filed until the 10th day, then the cloture vote would be deferred until the 12th day.

If cloture were voted under this subsection by a three-fifths majority, the procedures currently applicable for the final hundred hours of debate under cloture now provided by rule XXII would apply.

A third subsection of the expanded rule would operate in the same manner as the second to permit cloture by a constitutional majority 20 days—the equivalent of 4 normal working weeks—after the Senate first proceeded either to the consideration of the matter or a motion for its consideration.

We feel that this proposal can balance the right of Senators to vote and the right of Senators to debate, and have the benefit of their colleague's debate, before they vote. Nevertheless, as we indicated at the opening of this session, we are aware that some of our colleagues who have previously supported a change in the rule now wish to reconsider their position. They have expressed equal concern about legislation being rammed through without even minimum consideration by the full Senate—a prospect they find particularly disturbing at a time of serious imbalance between the exercise of executive and legislative powers.

We think our proposal meets those concerns insofar as they are directed toward assuring substantial debate. But we have concluded that it would be useful to have thorough hearings on the filibuster problem at which these concerns and other viewpoints could be explored before a report is made for action by the Senate. Accordingly we do not seek immediate consideration of the resolution and intend that it be referred to the Rules Committee for prompt hearings.

Today, let me briefly review the perennial positions of proponents and opponents of changing rule XXII, and indicate why I still believe the majority principle is valid.

Debate in past Congresses has explored these positions in detail time and again. They need not be rehearsed here at length. Some concern the parliamentary thickets in which we find ourselves when the resolution is offered for immediate consideration during the organization of a new Senate. I continue to hold the view that the Constitution gives a majority of Senators, at the start of a new Congress, the power to adopt their own rules, which power cannot be blocked by filibuster under rules of a prior Congress. But that question is not before us now.

As for the desirability of changing the rule, our opponents place great reliance upon the desire of the Founding Fathers for a government of checks and balances. That, of course, is true. But those men implemented their plan of protecting minority interests and insuring deliberation by writing the Constitution of the United States. A bicameral Congress, an independent Supreme Court, Presidential veto, 6-year terms for Senators, and, above all, the Bill of Rights, all provide safeguards against hasty action and majority pressures.

True, the Senate was particularly envisaged as a body to provide careful scrutiny of legislation. But those who framed our Constitution made clear that when they thought this role required more than a majority to take action, they knew how to provide that requirement expressly. A two-thirds vote is specified for ratifying treaties, for overriding vetoes, and for proposing constitutional amendments.

Indeed, the Constitutional Convention considered and rejected proposals to require a two-thirds vote for Senate approval of general categories of legislation such as commerce on interstate waterways. And for the first several decades, Senate rules did permit cloture by a majority on the motion for the previous question; this was the period in which the Senate Members included men who were involved in framing our Constitution.

In short, the Senate may have been intended as a "saucer" in which to "cool" legislation passed in the heat of the moment. But it was not meant to be a deepfreeze where a determined minority could put a measure they opposed on ice.

Sure, careful deliberation is always preferable to undue haste, particularly in times of national stress or turmoil. But is not one reason for the strains we face today the procedural roadblocks of action on the Nation's problems which Congress has faced for decades? Will the disaffection be diminished and confidence in Government restored if the people continue to see us unable to act on major problems, because a small group of Members bar a vote on the merits even after the measure has been thoroughly explored?

The prerogative of debate is not taken lightly by any Member of this body. Cloture is not voted before substantial debate; there is a strong presumption that a Member genuinely interested in developing an issue, and not merely in protracted delay, will be accommodated. Our proposal would continue that tradition.

Our opponents argue that the filibuster has not really thwarted legislation, citing the civil rights laws finally passed during the 1960's. That is a rather casual dismissal of years of frustration and bloodshed for those who sought to exercise their rights and waited for us to do our duty. Those laws came after decades of delay, of measures diluted, key provisions eliminated, or not even offered, because the present rule exacted legislation by exhaustion. Perhaps some of the dif-

ficulties we face today would not be as acute if we had acted 5 or 10 years earlier. What seed of despair and conflict might we sow today by delaying for another 2 years, or 4, or 10, effective action on the Nation's agenda?

Sometimes proponents of changing rule XXII are accused of offering a "gag rule" for the Senate. It is not a "gag rule" if a majority of this body cannot cast their votes until the Senate has had an issue before it for 4 weeks. And even after cloture there could be further debate by the bill's opponents. In the case of a bare majority favoring a measure there could be up to 49 hours additional debate.

Even in the unusual situation we faced last fall of a major measure whose most controversial provisions had not been reviewed by a Senate committee, that period should suffice to explore the implications and take a case to the country. The issue is not one of "full debate"; the issue is one of minority veto.

What about the concern of some that Congress may be in danger of giving up ground, rather than advancing in the most critical struggles we face: that without more national leadership, the people's frustrations or fears will exert great pressure for legislation which infringes constitutional rights? Or the fear that the executive will push measures which threaten our fundamental values?

Mr. President, those of us who support this resolution believe we are not indifferent to the causes of racial justice or civil liberties. This system of government rests on a permanent tension between majority rule and minority rights. But, ultimately, the delineation of permissible interference with those rights is defined by the Constitution. After a thorough opportunity for our colleagues and the people to explore the implication of proposed action, we can vote against a measure we deem unconstitutional—or simply unwise—but we should not block the process of government. The majority is not omniscient or infallible, but certainly neither is a small mniority. If the present rule is needed to permit a small minority of Senators to stop at all costs measures they strongly oppose, then why not grant 10 Senators that power—or three—or one?

The Leadership Conference on Civil Rights has done just what its name suggests: it has led us in the fight for civil rights. That organization is strenuously opposed to the administration's so-called Equal Educational Opportunity Act. Yet it continues to seek abolition of the filibuster. The same is true of other groups who have fought repressive or retrogressive measures, such as the American Civil Liberties Union.

In the field of foreign affairs, the Nation and the world despair at our inability to end the carnage in Vietnam. Some see the filibuster as the best weapon for a weak Congress to check or amend the executive's military policies. But here, too, the filibuster is a two-edged sword. Surely, the tragic events of this holiday season taught us there will be times when Congress must act to check Presidential excesses abroad, rather than defeating an executive request for congressional enactment.

Mr. President, put simply, the fundamental question is whether one-third of the Senate was intended to, or should have an absolute veto over all legislation, even after more than a month to consider a measure. I remain convinced that the answer to both questions is "No."

Mr. President, I ask unanimous consent that the complete list of cosponsors of the resolution be printed at this point in the RECORD.

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

COSPONSORS OF SENATE RESOLUTION 18

Mr. HART and Mr. JAVITS, for themselves, Mr. ABOUREZK, Mr. BAYH, Mr. BIDEN, Mr. BROOKE, Mr. CASE, Mr. HATFIELD, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. MONTOYA, Mr. MOSS, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. STAFFORD, and Mr. WILLIAMS.

The ACTING PRESIDENT pro tempore. The resolution will be received and appropriately referred.

Mr. JAVITS. Mr. President, I ask unanimous consent that the text of the resolution on the amendment of rule XXII may be made a part of these remarks.

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

S. RES. 18

Resolved, That section 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

"2. Notwithstanding the provisions of rule III or Rule VI or any other rule of the Senate, cloture may be obtained pursuant to any of the alternative procedures provided in subsection (a), (b), or (c) of this section.

(a) If at any time, a motion, signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate pursuant to this subsection, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

" 'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by a two-thirds vote of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

(b) If at any time, a motion signed by sixteen Senators, to bring to a close debate upon any measure, motion or other matter pending before the Senate, or the unfinished business, is presented to the Senate pursuant to this subsection, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the tenth session day for which the matter, or a motion to consider the matter, has been the pending or unfinished business, but in no event sooner than the second calendar day following the reading of the petition, he shall lay the motion before the Senate and direct that the Secretary call the roll. Upon ascertainment that a quorum is present, the Presiding Officer shall, without further debate, submit to the Senate by a yea-and-nay vote the question:

" 'Is it the sense of the Senate that the debate shall be brought to a close?' " And if the question shall be answered in the affirmative by a three-fifths vote of the Senators present and voting, then said measure, motion or other matter pending before the Senate or the unfinished business shall be the unfinished business to the exclusion of all other business until disposed of.

(c) If at any time a motion, signed by sixteen Senators, to bring to a close debate upon any measure, motion or other matter pending before the Senate, or the unfinished business, is presented to the Senate pursuant to this subsection, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the twentieth session day for which the matter, or a motion to consider the matter, has been the pending, or unfinished business, but in no event sooner than the second calendar day following the filing of the petition, he shall lay the motion before the Senate and direct that the Secretary call the roll. Upon ascertainment that a quorum is present, the Presiding Officer shall, without further debate, submit to the Senate by a yea-and-nay vote the question:

" 'Is it the sense of the Senate that the debate shall be brought to a close?' " And if the question shall be answered in the affirmative by a majority vote of the Senators duly chosen and sworn, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

(d) Once cloture has been invoked pursuant to subsection (a), (b) or (c), then thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment, not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

Mr. JAVITS. Mr. President, the Senator from Michigan (Mr. HART) and I, who have been in this fight for a long time—a struggle in which I was associated, several years ago, with Senator Douglas of Illinois, a great Member of this body—had a tactical question to decide and that is, should we proceed to debate on the opening day on the constitutional ground, as he said, that both of us are convinced is sound, which is that the Senate has the constitutional authority to amend its rule through the act of a majority at the beginning of each new Congress, or should we simply accept what for a very long time—my recollection is 12 or 14 years—this effort had produced, which is that practically we just cannot do it? Either the Chair rules against us or the Senate does not support us, even though, without any question, there is a majority in this Chamber which supports a change of the rule. We came to the conclusion that we should try to bring about an amendment through the normal deliberative process of the committee and action on the floor, in the hope that this might cut off the likelihood, or reduce the likelihood, that any rules change actually recommended by the Committee on Rules and Administration would be filibustered.

Mr. President, a new element has been introduced into the situation. It was also

thought that the filibuster was the special property of those who were against civil rights legislation, where it had been used in the main. We now find that in the 92d Congress, according to our count, about half the time in which there was extended debate, which is what a filibuster is euphemistically called, was taken by those of us who are in some measure generally identified with liberals, rather than those who were against civil rights legislation. Nevertheless, it is interesting that the main support for amendment of the rule comes from our liberal colleagues. I think that is an earnest sign of our good faith that we are anxious to have free and full debate, even though this tool may have some identification with those who, for one reason or another, may feel the need to oppose certain measures at a given time.

So, I hope in the same spirit in which we have acted, those who have heretofore blocked rules reform, though a minority, will now accord, with the basic fairness and decency, quite apart from the constitutional question, which I think falls otherwise, us the opportunity to have a different result, to have the rule considered quickly by the Rules Committee, have its recommendation made, and have this matter fought out on the floor of the Senate.

I would like to say at this time that, though he does not appear at this moment as a cosponsor of our resolution, I look forward to the great opportunity and cooperation which we can get from the deputy minority leader, who has previously expressed himself as being very profoundly interested in the disposition of this question.

Mr. President, during the same week in which I became a U.S. Senator—in January 1957—this body began its proceedings by debating changes in rule XXII. Thereafter, in every succeeding Congress since the 85th, we have debated this issue.

As most of us know, section 2 of rule XXII is the rule which provides that debate cannot be limited in the Senate except on the vote of two-thirds of those Members present and voting. Many of us believe that this is a blatantly unconstitutional restriction on the powers of this body, since the drafters of the Constitution were most specific about which votes would be decided by two-thirds, leaving us with the presumption that all others were to be decided by a majority.

In the past however, the problem faced by the Senate has not been whether or not rule XXII is per se unconstitutional, but whether we are bound, at the start of a new Congress to comply with that rule in attempting to change rule XXII. Proponents of change have been stymied for decades on just that point, and the parliamentary maneuvers, proposed rulings by the chair and the variety of advisory rulings which have been devised in an effort to cut this Gordian knot would stagger a logician.

This year, Senator HART and I and our cosponsors have decided to send our resolution to committee for legislative handling. Frankly, the State of the Nation and the world presents us with such an array of problems that I believe it would be a disservice to the Senate and to the Nation to tie up this body in new rules making debate for any period of time which would then prove fruitless. They may indeed be a majority of Senators who wish to change the rule, but we are fairly certain that we do not have 67 votes on this issue. We do not think we need 67 votes—and the then Vice President Nixon agreed with us in 1957 when he gave his advisory opinion that the constitutional right of a majority of the Senate to adopt new rules at the beginning of a new Congress could not be inhibited by the two-thirds requirement of rule XXII regarding cloture. But we do not intend to take weeks of the Senate's valuable time on this rather arcane question in the absence of some assurance from our opponents—and none is available—that we will be permitted to vote.

This year, we have devised a resolution which combines the approach of those who favor three-fifth, limitation of debate and those of us who want a constitutional majority of the Senate to be able to act. Under the provisions of our proposal, during the first 2 weeks of debate, cloture can be obtained by two-thirds of those present and voting; during the third and fourth week of debate, cloture can be invoked by a three-fifth vote and, thereafter, by a constitutional majority. We believe this proposal is reasonable and fair, and hope that it will receive serious consideration by the Rules Committee to which it will be referred. We hope that their deliberation, and hopefully hearings on reforms of this type will be persuasive with those of our colleagues who now oppose us, and we reserve our rights to vote on this rule change at any time during the year when the committee may report.

Finally, I wish to recall to my colleagues, what I said during debate on this issue at the beginning of the last Congress. After outlining the issues on which the liberals might want to filibuster during the 92d Congress I asked particularly my southern colleagues to consider whether they really wanted to leave this tool in the hands of the liberals. I warned that "some day soon—and I say this very seriously—we will begin to use them."

Perhaps our opponents should have heeded this warning, for during the 92d Congress more than half the cloture petitions were filed to stop "extended debate" by liberals—on the extension of the draft, the Lockheed loan guarantee bill, the Rehnquist nomination, and the antibusing bill. There is now not a single Member of this body—barring new Members—who has never voted for cloture.

Notwithstanding the possibility that liberals may be drawn increasingly to the tactic of preventing votes by talking, most of us would gladly sacrifice this practice to establish the right of majority rule. I sincerely hope that recent changes in cloture votes on specific issues can be translated into support for a realistic reform of the cloture rule in general.

SENATE RESOLUTION 19—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "UNITED STATES GOVERNMENT POLICY AND SUPPORTING POSITIONS"

(Referred to the Committee on Rules and Administration.)

Mr. ROBERT C. BYRD for Mr. MCGEE submitted the following resolution.

S. RES. 19

Resolved, That there be printed for the use of the Committee on Post Office and Civil Service one thousand seven hundred additional copies of its committee print of the current Congress entitled "United States Government Policy and Supporting Positions."

NOTICE OF HEARINGS ON NEWSMEN'S PRIVILEGE

Mr. ERVIN. Mr. President, I announce today that the Subcommittee on Constitutional Rights has scheduled hearings for February 20, 21, 22, 27, and 28, and March 1 to consider those bills and resolutions introduced to establish a so-called newsmen's privilege. At present, three such bills and one resolution have been referred to the subcommittee. S. 36, introduced by Senator SCHWEIKER; S. 158, introduced on request by Senator CRANSTON; S. 318, introduced by Senator WEICKER; and Senate Joint Resolution 8, introduced by Senator HARTKE. Other bills dealing with this subject are to be introduced by Senators HATFIELD, MONDALE, and PEARSON. These and any other bills on this subject which are introduced prior to the initiation of hearings will be considered.

The Subcommittee on Constitutional Rights received considerable testimony on this subject in the course of its hearings on "Free Press" held in the fall of 1971 and winter of 1972. Since these deliberations, however, there have been important developments which necessitate prompt and diligent legislative reexaminations of the problem.

On June 29, 1972, the Supreme Court in a controversial 5–4 decision in the Caldwell and Branzburg cases ruled that the first amendment's guarantee of a free press did not entitle a newsman to refuse to reveal confidential information or the sources of that information to a grand jury.

I criticized that opinion on the grounds that it did not take into account the practical effect of its holding on newsmen and the public's right to be informed. The threat that an informant's statements may one day be elicited from a newsman under threat of jail sentence by a court may well make that informant reluctant to confide in a member of the press.

The ultimate loser, of course, is the public which is denied information which may be critical to improving its social and political processes. Whatever short-term benefits may flow from government's reliance upon newsmen for evidence in governmental proceedings, the

long-term threat to the public's right to be informed about the controversial as well as the routine is too great a risk to take in a free society.

Since the Caldwell and Branzburg decisions, we have witnessed the spectacle of several members of the press and broadcast media being incarcerated because they refused to reveal to governmental bodies information obtained in confidence. It is rather ironic that the end result in these cases has not been the discovery of evidence, which has led to the jailing of a criminal, but rather the incarceration of newsmen whose reporting was responsible for bringing the misconduct to the attention of the public in the first place. The fact that numerous cases have arisen on both the State and Federal level since the Branzburg decision indicates that prosecutors and judges now assume great latitude in their capacity to subpena representatives of the media.

This situation thus requires a reexamination by the Congress as to the wisdom of a testimonial privilege for newsmen. The Supreme Court in its Branzburg opinion did, in fact, explicitly point out that Congress has the authority to legislate such a privilege if it decided that one was necessary and desirable.

Our inquiry must begin, then, with the matter of whether a statutory newsmen's privilege is a desirable innovation. Beyond that, and assuming the privilege is desirable, we must decide what sort of privilege should be granted by the statue. The hearings which I am announcing today will concern itself with these broad questions as they are addressed by the pending bills.

More specifically, they will concern, first, the desirability of such legislation; second, whether the privilege should be an absolute or qualified one; third, whether the privilege should apply to Federal proceedings only or whether State proceedings should be included; fourth, who should be entitled to claim such a privilege; fifth, if some qualified privilege is deemed desirable, what should be the qualifications; and sixth, what should be the procedural mechanism through which the privilege is claimed.

These are the essential questions posed by the so-called newsmen's privilege. The answers must be weighed not only in terms of the public's right to know, which would be protected by such a privilege, but also by society's interest in uncovering the truth in a courtroom, which any testimonial privilege must necessarily impede to a degree.

Hearings have been scheduled for February 20 in room 1202 of the Dirksen Senate Office Building; for February 21 and 22 in room 318 of the Russell Senate Office Building; for February 27 and 28 in room 1202, Dirksen Senate Office Building; and for March 1 in room 318, Russell Senate Office Building. All sessions are scheduled to begin at 10 a.m.

Further information may be obtained from the Subcommittee on Constitutional Rights, room 102–B, Russell Senate Office Building, telephone 225–8191.

Finally, Mr. President, I ask unanimous consent that the text of the bills and resolutions thus far introduced be printed in the RECORD.

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

S. 36

A bill to provide certain protection against disclosure of information and the sources of information obtained by newsmen

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 "Protection of News Sources and News Information Act of 1973".

SEC. 2. No person shall be required by any grand jury, agency, department, or commission of the United States or by either House of or any committee of Congress to disclose any information or communication or the source of any information or communication received, obtained, or procured by that person in his or her capacity as a reporter, editor, commentator, journalist, writer, correspondent, announcer, or other person directly engaged in the gathering or presentation of news for any newspaper, periodical, press association, newspaper syndicate, wire service, radio or television station or network, or cable television system.

SEC. 3. Except as provided in section 4, no person shall be required by any court of the United States to disclose any information or communication or the source of any information or communication received, obtained, or procured by that person in his or her capacity as a reporter, editor, commentator, journalist, writer, correspondent, announcer, or other person directly engaged in the gathering or presentation of news for any newspaper, periodical, press association, newspaper syndicate, wire service, radio or television station or network, or cable television system.

SEC. 4. Any person seeking information or the source thereof protected under section 3 of this Act may apply to the United States district court for an order divesting such protection. Such application shall be made to the district court in the district wherein the hearing, action, or other proceeding in which the information is sought is pending. The application shall be granted only if the court after hearing the parties determines that the person seeking the information has shown by clear and convincing evidence that (1) there is probable cause to believe that the person from whom the information is sought has information which is clearly relevant to a specific probable violation of law; (2) has demonstrated that the information sought cannot be obtained by alternative means less injurious to the gathering and dissemination of information to the public; and (3) has demonstrated a compelling and overriding national interest in the information.

S.J. RES. 8

Joint resolution to protect nondisclosure of information and sources of information coming into the possession of the news media

Whereas it is vital to the health of a democratic society that the press remain free of governmental restraints; and

Whereas recent court decisions have jeopardized the ability of the press to collect information from confidential sources; and

Whereas the inability of the press to hold confidential information or sources of information is a single threat to the continued functioning of a free and great Republic: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That any person employed by or otherwise associated with any newspaper, periodical, press association, newspaper syndicate, wire service, or radio or television station, or who is independently engaged in gathering information intended for publication or broadcast cannot be required by a court, the legislature, or any administrative body, to disclose before the Congress or any other Federal court or agency, any information or the source of any information procured for publication or broadcast.

S. 158

A bill to insure the free flow of information to the public

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 "Free Flow of Information Act".

SEC. 2. The Congress finds and declares that—

(1) the purpose of this Act is to insure the free flow of news and other information to the public; those who gather, write, or edit information for the public or disseminate information to the public can perform these vital functions only in a free and unfettered atmosphere;

(2) such persons must not be inhibited, directly or indirectly, by governmental restraint or sanction imposed by governmental process; rather they must be encouraged to gather, write, edit, or disseminate news or other information vigorously so that the public can be fully informed;

(3) compelling such persons to disclose a source of information or disclose unpublished information is contrary to the public interest and inhibits the free flow of information to the public;

(4) there is an urgent need to provide effective measures to halt and prevent this inhibition;

(5) the obstruction of the free flow of information through any medium of communication to the public affects interstate commerce;

(6) this Act is necessary to insure the free flow of information and to implement the first and fourteenth amendments and article I, section 8 of the Constitution.

SEC. 3. No person shall be required to disclose in any Federal or State proceeding—

(1) the source of any published or unpublished information obtained in the gathering, receiving, or processing of information for any medium of communication to the public, or

(2) any unpublished information obtained or prepared in gathering, receiving, or processing of information for any medium of communication to the public.

SEC. 4. For the purpose of this Act, the term—

(1) "Federal or State proceeding" includes any proceeding or investigation before or by any Federal or State judicial, legislative, executive, or administrative body;

(2) "medium of communication" includes, but is not limited to, any newspaper, magazine, other periodical, book, pamphlet, news service, wire service, news or feature syndicate broadcast station or network, or cable television system;

(3) "information" includes any written, oral or pictorial news, or other material;

(4) "published information" means any information disseminated to the public by the person from whom disclosure is sought;

(5) "unpublished information" includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes, or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated;

(6) "processing" includes compiling, storing, and editing of information; and

(7) "person" means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

S. 318

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 "News Media Source Protection Act."

STATEMENT OF POLICY AND FINDINGS

SEC. 2. (a)(1) It is the policy of the United States to permit the flow of information from individuals through the media to the public with reasonable freedom from governmental intrusion, so that constitutional protection of a free flow of news is divested only when a compelling and overriding interest in the source of such information can be demonstrated.

(2) It is further the policy of the United States that the news media not serve as an investigative arm of the government.

(3) It is at the same time the policy of the United States that its tradition of maintaining the "right to everyman's testimony" in courts of law shall not be casually disturbed. This tradition, which safeguards the integrity of our judicial processes, shall be outweighed by interests in a free flow of news only when legitimate, substantial, and ongoing professional news media operations are at stake. In addition, the balancing of such fundamental interests must be evaluated at a responsible level of judicial competence, guided by complete standards and procedures to insure uniformity of enforcement and permit substantial predictability for those who seek to operate within the law.

(b)(1) The Congress finds that to protect such constitutional and common law principles, as well as to prevent the use of news media for investigative purposes, two procedural safeguards are needed, as threshold determinations, prior to any consideration of compulsory disclosure of news media sources. First, it must be demonstrated that there is probable cause to believe a crime has been committed, and that the testimony sought is directly relevant to a central issue in that criminal allegation, thereby limiting so-called "fishing expeditions." Second, it must be demonstrated that no reasonable alternative for obtaining the testimony is available, assuring that constitutional protection of the free flow of news shall not be divested while reasonable alternatives exist. The nature and interests of Federal grand juries, Federal congressional committees, as well as agencies, departments, or commissions of the Federal Government do not, within the safeguards of strict judicial processes, make a threshold legal determination of probable cause that a crime has been committed or that testimony is of direct relevance to such a crime. In addition, such bodies can normally fulfill their functions by alternative means less destructive of first amendment protection than by compulsory testimony as to news media sources. The Congress therefore finds that absolute testimonial protection as to news sources shall be granted with respect to all Federal bodies, excepting only Federal district courts, Federal circuit courts, and the Supreme Court.

(2) The Congress finds that in keeping with stated policies there shall be qualified testimonial protection, based on the two procedural safeguards, as well as three substantive safeguards, before all such Federal courts. Such qualifications shall be interpreted according to specific standards as to the relevance and weight of the evidence sought, alternative available evidence, the person seeking to invoke protection, the sources or material to be protected, and the specific crime at issue. The Congress finds that any order thus compelling testimony, while an order other than a final judgment, is nevertheless an interlocutory decision having a final and irreparable effect on the rights of parties, thus necessitating that courts of appeals have jurisdiction over immediate appeals from such orders. The Congress further finds that due to the nature of certain defamation proceedings, testimonial protection shall be generally divested in such cases, and that to preserve the flow of information as to abuses of power by public officials testimonial protection shall not be divested in such cases.

LEGITIMATE MEMBER OF THE PROFESSIONAL NEWS MEDIA

SEC. 3. (a) As used in sections 5 and 6 of this Act, a legitimate member of the professional news media shall include any bona fide "newsman", such as an individual regularly engaged in earning his or her principal income, or regularly engaged as a principal vocation, in gathering, collecting, photographing, filming, writing, editing, interpreting, announcing, or broadcasting local, national, or worldwide events or other matters of public concern, or public interest, or affecting the public welfare, for publication or transmission through a news medium.

(b) Such news medium shall include any individual, partnership, corporation or other association engaged in the business of—

(1) publishing any newspaper that is printed and distributed ordinarily not less frequently than once a week, and has done so for at least one year, or has a paid general circulation and has been entered at a United States post office as second-class matter, and that contains news, or articles of opinion (as editorials), or features, or advertising, or other matter regarded as of current interest; or

(2) publishing any periodical containing news or advertising, or other matter regarded as of current interest which is published and distributed at regular intervals, and has done so for at least one year, or has a paid general circulation and has been entered at a United States post office as second-class matter; or

(3) collecting and supplying news, as a "news agency," for subscribing newspapers, and/or periodicals, and/or newsbroadcasting facilities; or

(4) sending out syndicated news copy by wire, as a "wire service," to subscribing newspapers, and/or periodicals, and/or news broadcasting facilities; or

(5) gathering and distributing news as a "press association" to its members as an association of newspapers, and/or periodicals, and/or news broadcasting facilities; or

(6) broadcasting as a commercially licensed radio station; or

(7) broadcasting as a commercially licensed television station; or

(8) broadcasting as a community antenna television service; or

(9) regularly making newsreels or other motion picture news for paid general public showing.

(c) Any protections granted pursuant to sections 5 and 6 of this Act shall extend only to activities conducted by a legitimate member of the professional news media while specifically acting as a bona fide "newsman", such as while acting as a reporter, photographer, journalist, writer, correspondent, commentator, editor or owner.

NEWS MEDIA SOURCES

SEC. 4. (a) Any protections granted under sections 5 and 6 of this Act shall extend only to sources of written, oral, or pictorial information or communication, as well as such of its content that affects sources, whether published or not published, concerning local, national, or worldwide events, or other matters of public concern or public interest, or affecting the public interest, obtained by a person acting in the status of a legitimate member of the professional news media.

(b) Source of written, oral, or pictorial information or communication shall include the identity of the author, means, agency, or person from or through whom information or communication was procured, obtained, supplied, furnished, or delivered. Any protection of such sources shall also include written, oral, or pictorial information or communication that could directly or indirectly be used to identify its sources, or any information or communication withheld from publication pursuant to an agreement or understanding with the source or in reasonable belief that publication would adversely affect the source. Such information or communication shall specifically include written notes, tapes, "outtakes," and news film. Information or communication used for blackmail, or for illegal purposes not related to publication of such information or communication, is specifically not protected under the provisions of this Act.

ABSOLUTE TESTIMONIAL PROTECTION

SEC. 6. Notwithstanding the provisions of any law to the contrary, no legitimate member of the professional news media, as set forth in section 3 of this Act, shall be held in contempt or adversely prejudiced, before any grand jury, agency, department, or commission of the United States or by either House of or any committee of Congress for refusing to disclose information or communication as to news media sources, as set forth in section 4 of this Act.

QUALIFIED TESTIMONIAL PROTECTION

SEC. 6. (a) Notwithstanding the provisions of any law to the contrary, where a person seeks disclosure of any news media information or communication from a person who may be or have been a legitimate member of the professional news media and who refuses to make such disclosure in a proceeding before any Federal court of the United States, such person seeking disclosure may apply to a United States District Court for an order providing such disclosure. Such application shall be made to the district court in the district wherein there is then pending the proceeding in which the information or communication is sought. The application shall be granted only if the court, after hearing the parties, determines that the person seeking the information or communication, by clear and convincing evidence, has satisfied the requirements set forth in section 7 of this Act.

(b) In any application for the compulsory disclosure of news media information or communication, the person or party, body or officer, seeking disclosure must state in writing—

(1) the name of any specific individual from whom such disclosure is sought, if such individual may have been acting as a legitimate member of the professional news media at the time the source disclosed its information or communication; and

(2) the name of any news medium with which such person may have been connected at the time the source disclosed its information or communication; and

(3) the specific nature of the source, or content of information or communication, that is sought to be disclosed; and

(4) the direct relevance and essential nature of such evidence as to a central issue of the action which is the subject of the court proceeding; and,

(5) any information demonstrating that evidence to be gained by compulsory disclosure is not reasonably available by alternative means, and that reasonable diligence has been exercised in seeking such evidence otherwise.

(c) Any order entered pursuant to an application made according to the provisions of this Act shall be appealable as a matter

of right under Rule 4 of the Federal Rules of Appellate Procedure (1968), and is subject to being stayed. In case of an appeal, the protections available according to the provisions of this Act, were such application denied, will remain in full force and effect during the pendency of such appeal. Section 1292 of Title 28, United States Code, is therefore amended by inserting after subsection (4), the following:

"(5) Interlocutory orders in civil or criminal actions granting, modifying, or refusing an application for compulsory disclosure or news media sources, or information or communication affecting news media sources."

STANDARDS FOR QUALIFIED TESTIMONIAL PROTECTION

SEC. 7. (a) An application for disclosure, as provided for under section 6 of this Act, shall be granted, so long as it is in accordance with any other applicable general or specific law or rule, when the applicant has established that the person seeking protection of a source is not a legitimate member of the professional news media, as set forth in section 3 of this Act.

(b) Such application for disclosure shall be granted, so long as it is in accordance with any other applicable general or specific law or rule, when the applicant has established that the information or communication sought is not a news media information source, or information or communication affecting a news media source, as set forth in section 4 of this Act. Determination of whether the contents of information or communication could directly or indirectly be used to identify its source, or whether information or communication was withheld from publication pursuant to an agreement or understanding with the source or in reasonable belief that publication would adversely affect the source shall be made in camera, out of the presence of the applicant on the basis of the court being informed of some of the underlying circumstances supporting the person seeking protection from disclosure, with a presumption in favor of the person seeking protection from disclosure.

(c) Such application for disclosure shall be granted, should the applicant be unable to meet the requirements of subsections (a) or (b) of this section, only when—

(1) the applicant has established by means of independent evidence that the source to be disclosed is of substantial and direct relevance to a central issue of the action, and is essential to a fair determination of the action, which is the subject of the court proceeding; and

(2) the applicant is able to demonstrate that the source is not reasonably available by alternative means, or would not have been available if reasonable diligence had been exercised in seeking the source otherwise; and

(3) the action which is the subject of the court proceeding is murder, forcible rape, aggravated assault, kidnapping, airline hijacking, or when a breach of national security has been established, involving classified national security documents or details ordered to be kept secret, such classification or order having been made pursuant to a Federal statute protecting national security matters. In no case, however, shall the application be granted where the crime at issue is corruption or malfeasance in office, except according to the provisions of subsection (d) of this section.

(d) Notwithstanding the provisions of subsections (c)(1), (c)(2), and (c)(3) of this section, an application for disclosure shall be granted in any case where the defendant, in a civil action for defamation, asserts a defense based on the source of his or her information or communication.

(e) A complete and public disclosure, with knowledge of the available protections, of the specific identity of a source or content of information or communication protected by the provisions in sections 5 and 6 of this Act shall constitute a waiver of rights available as to such identity or such contents according to the provisions of this Act. A person likewise waives the protections of section 5 and 6 of this Act, if, without coercion and with knowledge of the available protections, such person consents to complete and public disclosure of the specific identity of a source or content of information or communication by another person. The failure of a witness to claim the protections of this Act with respect to one question shall not operate as a waiver with respect to any other question in a proceeding before a Federal court.

NOTICE OF HEARINGS RELATING TO PAPERWORK BURDEN

Mr. MCINTYRE. Mr. President, I wish to announce that on February 6 and 7, 1973, at 10 a.m. in room 5302 of the Dirksen Senate Office Building, the Subcommittee on Government Regulation of the Senate Select Committee on Small Business, will continue its hearings begun last year into the Federal paperwork burden.

The purpose of these hearings is to examine into the adverse effects of Federal reporting requirements on the broadcasting industry, especially burdensome to the smaller stations. Witnesses from the broadcasting industry and the Federal Communications Commission have been invited to testify at these hearings.

Further information may be obtained from the Subcommittee on Government Regulation, room 424, telephone 225–5175.

NOTICE OF HEARINGS ON FIRE SAFETY IN HIGH-RISE BUILDINGS FOR THE ELDERLY

Mr. WILLIAMS. Mr. President, as chairman of the Subcommittee on Housing for the Elderly of the Senate Special Committee on Aging, I announce that the subcommittee will hold hearings on the issue of fire safety in high-rise buildings for the elderly on January 25 and 26, 1973, in room 1224 of the New Senate Office Building, beginning at 10 a.m.

These hearings will explore the issues raised by the recent tragic fire in the Baptist Towers apartment building in Atlanta, Ga. If we are to continue urging special housing programs for senior citizens, we must not neglect the vital question: What is the best fire safety system for buildings that house only older people? It is my hope that these hearings will help to answer that question.

NOTICE OF HEARINGS ON RECOMMENDED JUDGESHIPS

Mr. BURDICK. Mr. President, I wish to announce that public hearings have been scheduled before the Subcommittee on Improvements in Judicial Machinery relating to the recommendations recently made by the Judicial Conference of the United States that an additional 51 judgeships be created in selected judicial districts in the United States. These recommendations involve 33 of the 93 judicial districts in the United States and a minimum of 12 days of subcommittee hearings will be required. Hearings will be initiated on January 23, 1973, and will continue on January 24 and thereafter on dates ordered by the subcommittee. On January 23, 1973, the hearing will be held, commencing at 10 a.m., in room 2228, Dirksen Office Building. The witnesses scheduled for that date will be Rowland Kirks, Director of the Administrative Office of the U.S. Courts, and other representatives of his office and of the Judicial Conference. On January 24, the chief Judges from the Minnesota, Wisconsin (Western), and Missouri (Western) Districts will appear.

Communications relative to this series of hearings should be directed to the subcommittee staff, 6306 Dirksen Office Building, extension 5–3618.

NOTICE OF HEARINGS ON ECONOMIC STABILIZATION

Mr. SPARKMAN. Mr. President, the Committee on Banking, Housing and Urban Affairs will commence hearings on legislation to extend and amend the Economic Stabilization Act of 1970 at 10 a.m. each morning commencing January 29 through February 7, 1973, in room 5302, New Senate Office Building.

Those wishing to appear before the committee in regard to this legislation should contact Mr. Reginald W. Barnes on extension 225–7391.

NOTICE OF HEARING ON NOMINATION OF JAMES T. LYNN

Mr. SPARKMAN. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold a hearing on Wednesday, January 16, 1973, on the nomination of James T. Lynn, of Ohio, to be Secretary of the Department of Housing and Urban Development.

The hearing will commence at 10 a.m. in room 5302, New Senate Office Building.

All persons wishing to testify should contact Miss Dorrie Thomas, room 5226, New Senate Office Building; telephone 225–6348.

ENERGY CONSERVATION HEARINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to insert in the RECORD a statement for the Senator from Washington (Mr. JACKSON) entitled "Energy Conservation Hearings."

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

ENERGY CONSERVATION HEARINGS

I wish to announce for the benefit of interested Members that the Senate Interior and Insular Affairs Committee will conduct hearings on the subject of energy conservation next month. These hearings will be held as part of the Committee's study of National Fuels and Energy Policy, pursuant to S. Res. 45.

It is increasingly clear, Mr. President, that energy conservation must become an integral part of future energy policy. While the Committee has devoted many hours of hearings and study to the *supply* side of

our energy problems, these hearings will provide us with an opportunity to look at the ways and means of reducing energy *demand*.

As background for these conservation hearings, the Committee has published a survey of energy conservation issues and opportunities prepared by Mr. Harry Perry while a senior specialist in the Environmental Policy Division of the Congressional Research Service. The introduction to this report follows:

CONSERVATION OF ENERGY

(Prepared by Harry Perry, senior specialist, Environmental Policy Division, Congressional Research Service, Library of Congress)

INTRODUCTION

This country's tremendous and growing appetite for fuels has in recent months stimulated a major dialog on the merits of energy conservation. Many questions have been raised about the adequacy of reserves of various fuels, the rate of depletion against the rate of discovery and recovery, and the general efficiency of both fuels development and energy conversion techniques. The dramatically increasing consumption of electricity,[1] which is straining the capability of our electric power industries to meet current needs on a fully reliable basis, also has called into question existing government and industry policies which tend to heighten demand.

The following questions are important aspects of this significant debate:

1. Are we becoming excessively dependent on foreign supplies of oil and gas, and if so, to what extent can energy conservation help to provide greater national security of supply through reduction of imports?

2. Is it both economically and technically feasible to stretch the use of available fuel reserves over a longer period of time through more efficient methods of production and end use controls?

3. What would be the practical consequences of a comprehensive Federal program for energy conservation, considering the fact that existing policy is primarily based on the premise that Federal and State regulations should encourage industry to meet whatever demand is created in the marketplace?

4. Will rapid advances in finding new energy sources (e.g., solar, breeder or controlled thermonuclear) serve to lessen the need for energy conservation?

Any broad new program of energy conservation would have to consider numerous approaches for altering consumption patterns, improving the recovery of fuels from mines and wells, eliminating energy waste, and developing improved methods of upgrading, transportation and conversion of energy resources. If it is eventually decided by the Congress that energy conservation requires a major revamping of existing policy, a variety of options for each of these approaches should be explored in order to chart a proper course. New or modified policies including taxation to restrain consumption, bans on certain uses, more rapid internalization of environmental costs associated with energy consumption, subsidies to encourage the use of certain plentiful fuels, increased funding of R. & D. efforts to develop more efficient energy systems, and support of educational and other hortatory programs could be authorized by law.

[1] During the period 1960–68, use of electrical energy grew at a rate of 7.2 percent per year. In the same period, overall national energy use grew at a rate of 4.5 percent per year; population increased in the United States by 1.3 percent per year and the gross national product (GNP) per capita by 3.2 percent per year.

The broader concept of conservation, of course, has been a part of progressive American thought since the turn of the century. In the early period conservation was defined as the wise use of our natural resources, which, to the layman, generally meant that to waste is wrong and to produce and use resources in the most profitable manner is right. Actually, at the operational level physical conservation of fuels has frequently played a secondary role to financial considerations: When it was less costly to waste a fuel than to conserve it, the less costly way has been chosen. For example, electric generation plants with higher efficiency of conversion—more kilowatt hours per unit of fuel consumed—have proved to be more costly—higher investment costs and more difficulties with operation and maintenance—than less efficient plants. Consequently, the electric utility industry chose to minimize overall costs rather than to maximize the efficiency of energy conversion; a tradeoff has been made between high capital costs and less efficient use of fuels.

The maximum efficiency of coal and gas burning generating plants was reached in 1967 and for oil burning plants in 1968. Since that time the efficiencies have either stayed constant or have been reduced. As the price of fuel increases for generating plants renewed interest may be stimulated in greater efficiency for new plants, but this will depend on the relative cost changes of fuels, capital, labor, operations and maintenance.

The principal theme of this report is that energy conservation and increased energy efficiency are important issues in resolving present and future energy needs and worthy of special attention in the formulation of national energy policy. An effort has been made to develop statistical data on these subjects and to outline some of the relevant arguments which have appeared in recent literature, hearings, and contractual studies. The report is organized into five major sections, as follows:

Part I draws on recent writings which discuss energy as a scarce commodity and suggest policies that would influence future supply and demand of energy.

Part II focuses on the opportunities for increasing the efficiency of energy development on all production levels, ranging from extraction through utilization processes.

Part III outlines a number of innovative experiments designed to improve efficiency by broader application of known technologies and systems approaches.

Part IV briefly discusses some examples of the energy implications involved in meeting our national goals of environmental protection.

Part V outlines some of the technological prospects for achieving energy savings and developing different energy sources as a means of broadening our resource base.

A summary of an interagency staff study on the Potential for Energy Conservation, issued last October by the Office of Emergency Preparedness, is printed in the RECORD following my statement. This study suggested that various energy conservation measures could reduce energy demand by 1980 by as much as the equivalent of 7.3 million barrels of oil a day.

Mr. President, the consumption of energy in the United States doubled between 1940 and 1965. The 5.1 percent increase in consumption between 1968 and 1969 would, if it continued, cause additional doublings of U.S. energy consumption every fourteen years. And if the average rate of growth of consumption of electricity that prevailed between 1965 and 1969 persists, consumption will increase by 2.4 times between 1968 and 1980 and by 9.8 times between 1968 and 2000.

Frankly, Mr. President, I do not think we can afford to accept these extraordinary increases as inevitable. The impact on our environment and the depletion of resources resulting from such consumption could be intolerable. We can no longer accept our traditional waste of energy resources, nor can we ignore the potential conservation as a means of reducing total energy demand.

The 93rd Congress must do more than worry about electric swizzle sticks: we must develop a national strategy to achieve major savings on energy consumption within the next five to ten years. Obvious areas for conservation include gasoline consumption, the use of electricity for home cooling and heating, and better use of energy resources in electric power production. But we must also look at the possibilities for limiting demand itself through changes in tax and regulatory policies and the adoption of end use controls which reflect energy conservation and environmental concerns.

Aside from examining specific areas with high conservation potential, the Congress must seek ways to inject the concept of conservation into the decision-making process of both public and private sectors as a matter of national policy. As it is now, major regulatory decisions are made by government without considering the impact on energy use itself. Business and industry have been equally free to manufacture products without regard for the energy resources involved in their end use. This is a luxury we can no longer afford.

As a principal consumer of energy, the Federal government must take the lead in the application of conservation practices to the construction of public buildings and the financing of construction in other sectors of the economy; in the generation and marketing of electricity; in the management of its own transportation system; in the management of energy resources on the public lands; and in the regulation of energy activities both in the public and private sectors.

An integral part of any such conservation effort must be a major new national research and development program by both industry and government to create more efficient energy systems and to develop alternate energy sources.

THE POTENTIAL FOR ENERGY CONSERVATION: A STAFF STUDY, OCTOBER 1972

(By the Executive Office of the President, Office of Emergency Preparedness)

ABSTRACT

This study suggests that energy conservation measures can reduce U.S. energy demand by 1980 by as much as the equivalent of 7.3 million b/d of oil (equal to about two-thirds projected oil imports for that year).

The most significant realizable measures to effect conservation are: a) improved insulation in homes, b) adoption of more efficient air conditioning systems, c) shift to intercity freight from highway to rail, intercity passengers from air to ground travel and urban passengers from automobiles to mass transit and freight consolidation in urban freight movement and, d) introduction of more efficient industrial processes and equipment.

SUMMARY

This study on energy conservation deliberately reaches beyond the grasp of the analysis possible in the time available for the study effort. A deliberate decision was made to include a maximum of information concerning the study topic and of measures suitable for furthering energy conservation—leaving to possible further analyses such matters as the complete resolution of controversial data and the detailed exploration of suggested measures for conserving energy while attaining our desired quality of life.

The considerable number of projections, both private and governmental, are in substantial agreement as to energy demand for

the next 15–20 years. There is a greater variation in projections as to how the demand can be met by supply—the principal differences having to do with timing of availability of nuclear power expansion, the extent to which coal will contribute and the extent to which domestic gas will contribute as well as associated environmental impacts. The latter source depends on the price of well head gas and the related uncertainty about the supply elasticity of gas.

There is substantial agreement that the shortfall in domestic fuel supply will be provided almost entirely by imported oil. While imported liquid natural gas (LNG) and synthetic natural gas (SNG) made from imported petroleum will contribute to the energy fuel supply, that contribution will be minor compared to total energy demand.

One current creditable estimate [1] of required foreign oil in million b/d is:

1971	3.7
1975	6.5–8.4
1980	9.2–11.6
1985	13.8–16.5

The estimates of energy consumption [2] in equivalent barrels of oil in million b/d are:

1971	32.6
1975	37.9
1980	45.4
1985	55.1

Studies are underway examining how this estimated demand for foreign oil can be reduced through increasing currently estimated U.S. supply of fuels. The same ultimate objective as sought by increasing supply can be achieved by measures to reduce demand—energy conservation. In addition, such a program should generally, although not always, contribute both to environmental objectives and to consumer objectives.

In summary, the additional energy conservation measures suggested in this study can reduce currently estimated energy demand in 1980 by as much as the equivalent of 7.3 million b/d of oil at an estimated annual value of $10.7 billion.[3] This estimate is to be compared with projected 1980 oil imports of 0.2–11.6 million b/d.)

The saving in energy consumption is based on the assumption that the conservation measures suggested in this study are implemented. No in-depth analysis of feasibility or consumer acceptance has been undertaken. Recognizing that the study analysis is not complete and that many of the conservation measures suggested may not be acceptable, it is pertinent to stress that a half or even a third of the 7.3 million b/d is a very significant input to programming a manageable solution to the energy crisis.

The most significant additional energy conservation measures are the installation of improved insulation in both new and old homes and the use of more efficient air conditioners; a shift of intercity freight from trucks to rail, intercity passengers from air to rail and bus, and urban passengers from automobiles to motorized mass transit; and the introduction of more efficient industrial processes and equipment. By 1980, all suggested measures could reduce demand by the equivalent of 2.4 million b/d in the residential/commercial sector, 2.3 million b/d in the transportation sector, and 2.6 million b/d in the industrial sector.

The following charts summarize those conservation measures which could have high payoffs over the short-term (1972–1975), mid-term (1976–1980), and long-term (beyond 1980) either in terms of large BTU savings or in terms of public awareness and support of energy conservation. The economic, environmental, and socio-political impact of these measures will vary, as will the likelihood of their being implemented. Designations High, Medium, Low to describe these impacts are of course subjective but hopefully reflect a general consensus of opinion. The title "High Payoff Conservation Measures" does not necessarily indicate high payoff in terms of BTU savings but also high payoff in the sense of feasibility, public awareness and the potential for implementation. Note should be taken that the column indicating "Annual Savings-Quadrillion BTU" will necessarily be smaller than the total BTU savings by sector indicated on pages 56–57, since not all measures considered on these latter pages are considered on pages viii-xiii.

As Figure S–1 illustrates, the suggested measures can have a significant effect on future energy consumption. While the conservation measures proposed in this report will not, taken alone, eliminate the need for increased oil imports, they can substantially reduce this need. For example, if the long-term measures were adopted the currently estimated required oil imports could be cut in half 1990.[4] Energy conservation can also delay the attainment of a given level of consumption and thus postpone requirements for increases in imports, thereby giving more time for desirable adjustments in energy supply which might contribute further to closing the currently estimated "energy gap." For example, projected 1980 petroleum consumption in the absence of conservation measures could be delayed until 1982 with the suggested short-term measures, until 1986 with the suggested mid-term measures, or until 1991 with the long-term measures.

[1] Based on Bureau of Mines projections. There are other projections which are generally greater.

[2] Based on Bureau of Mines projections. There are other projections which are generally greater. These estimates are based on the assumed implementation of certain energy conservation measures (improved heat rate for fossil fuel plants, improved insulation in new homes, increased use of the basic oxygen furnace).

[3] 1972 dollars. Based on assumed value of $4 per barrel in 1980.

[4] Required oil imports could be decreased even further if some of the projected savings in natural gas and/or coal could be converted into oil savings. (Projected gas and coal savings are each approximately half of projected oil savings.)

HIGH PAYOFF CONSERVATION MEASURES

Conservation measures	Direct payoff: Annual savings quadrillion B.t.u by 1975	Direct payoff: Public: Awareness	Direct payoff: Public: Acceptability	Other effects: Economic impact	Other effects: Benefit to enviroment	Other effects: Social/ political impact	Likelihood of implementation	Lead agencies
SHORT-TERM (1972–75)								
Transportation: [1]								
1. Accelerate improvement of motorized mass transit including measures to improve traffic flow.	0.4	Low	Medium	Medium-high	High	High	Medium	DOT.
2. Improve automobile energy efficiency through use of low-loss tires, improved engine tuning.	0.9	High	High	do	do	do	do	DOT.
3. Inject energy issue into appropriate national programs (environmental, health, urban reform, etc.). Initiate special conservation programs.		do	do	Medium	Low	High		Executive Office.
4. Promulgate energy efficiency standards for transportation		do	do		do	do	Medium	DOT.
Residential/commercial:								
1. Tax incentives for adding insulation and storm windows in existing homes.	0.1	do	do	Medium	High	High	do	IRS, HUD, Executive Office.
2. Educational program to encourage good energy conservation practices in the home.	0.05	do	do	Low	do	do	High	OCA.
Industry:								
1. Raise energy prices by tax and/or regulation	1.6	Medium	Low	do	do	Medium	Medium	Treasury, FPC Executive Office.
2. Increase recycling and reuse of materials and products	0.2	High	High	Medium	do	do	High	EPA, Bureau of Mines.
Electric utilities: [2]								
1. Alleviate construction delays [3]	0.5	Low	Medium	Low	Medium	Low	Medium	FPC, AEC, EPA, Department of Labor, Executive Office.
2. Smooth out daily demand cycle by shifting some loads to off-peak hours	0.5	Medium	Low	do	do	Medium	Low	FPC.
Environment:								
1. Review regulations and programs with objective of meeting environmental standards while using least energy and avoiding scarce fuels.								

Footnotes at end of table.

Conservation measures	Direct payoff: Annual savings quadrillion B.t.u. by 1975	Direct payoff: Public: Awareness	Direct payoff: Public: Acceptability	Other effects: Economic impact	Other effects: Benefit to enviroment	Other effects: Social/ political impact	Likelihood of implementation	Lead agencies
MIDTERM (1976–80)								
Transportation: [1]								
1. Expand intercity surface transportation service	0.9	Low	Medium	Medium-high	High	High	Medium	DOT.
2 Expand high speed and motorized mass transit service. Implement feeder service (e.g., "dial-a-bus").	0.3	Low	do	do	do	do	do	DOT.
3. Improve freight handling systems through freight consolidation and containerization.	0.9	Low	High	Low	Medium	Low	do	DOT.
4. Emphasize transportation issue in urban development (pedestrian oriented clusters).	0.2	High	do	Medium-high	High	High	Low	DOT, HUD, Executive Office.
5. Improve automobile energy efficiency through improved engines and drive trains, improved traffic flow, use of low loss tires and improved engine tuning.	0.3	High	Medium	High	do	Medium	Medium	DOT.
Residential/commercial:								
1. Further upgrade FHA minimum property standard for new single and multi-family dwellings to require more insulation.	0.9	Medium	do	Medium	do	do	do	FHA.
2. Increase price of fuel by tax levied at the point of production.	Large	High	Low	High	do		do	IRS.
3. Utilize above revenues for R&D to increase efficiency of energy utilization in the residential/commercial sector.	Large	Medium	High	Low	do	High	do	HUD, GSA, DOC, EPA, Executive Officer.
4. Establish minimum efficiency standards for furnaces, air conditioners, and appliances.	0.6	Low	do	Medium	Medium	do	High	GSA, DOC, HUD Executive Office.
5. Require energy consumption of all appliances to be stated on nameplate, price tag, and in any advertisement that quotes a price.	0.6	High	do	Low	do	Medium	do	DOC.
Industry:								
1. Raise energy prices by tax and/or regulation	3.8	Medium	Low	do	High	do	Medium	FPC.
2. Increase recycling and reuse of materials and products	0.4	High	High	Medium	do	do	High	EPA, Bureau of Mines, Executive Office.
Electric utilities: [2]								
1. Alleviate construction delays [3]	0.5	Low	Medium	Low	Medium	Low	Medium	FPC, AEC, EPA, Department of Labor, Executive Office, FPC.
2. Smooth out daily demand cycle by shifting some loads to off-peak hours.	0.5	Medium	Low	do	do	Medium	Low	
3. Increase research and development efforts	Large	do	High	do	High	High	High	FPC, AEC, NSF, OST, EPA, Electric Research Council (Industry Council), Executive Office.
Environment:								
1. Review regulations and programs with objective of meeting environmental standards while using least energy and avoiding scarce fuels.								
LONG-TERM (BEYOND 1980)								
Transportation: [1]								
1. New freight handling systems	2.0	Low	do	Medium	do	do	Medium	DOT.
2. New mass transit systems	2.0	do	Medium	Medium-high	do	do	do	Do.
3. Improved urban design	2.0	do	High	High	do	do	do	DOT, HUD, Executive Office.
4. New engines (hybrid, non-petroleum)	1.0	do	High	Low-medium	do	do	High	DOT.
Residential/commercial: 1. Develop non-fuel energy sources (solar and wind energy).	Large	High	High	High	do	do	Medium	AEC, NASA, DOC, Executive Office.
Industry:								
1. Raise energy prices by tax and/or regulation	5.5	Medium	Low	Low	do	Medium	do	Treasury/FPC, Executive Office.
2. Increase recycling and reuse of materials and products	1.1	High	High	Medium	do	do	High	EPA, Bureau of Mines, Executive Office.
Electric Utilities: [2] 1. Increase research and development efforts	Large	Medium	High	Low	do	High	do	FPC, AEC, NSF, OST, EPA.
Environment: 1. Review regulations and programs with objective of meeting environmental standards while using least energy and avoiding scarce fuels.								Electric Research Council (Industry Council, Executive Office).

[1] Transportation savings based on projections developed by Hirst, "Energy Consumption of Transportation" in the U.S. Oak Ridge National Laboratory ORNL-NSF-EP Mar. 14, 1972. (Modified to reflect changes in energy efficiency.)

[2] The savings in the electric utility sector have already been assumed in the basic projections of energy consumption in this report. (See sec. II.)

[3] New plants can be brought on line faster to replace older, less efficient plants. (See appendix F for further explanation.)

EXTENSION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. All time for the transaction of routine morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an extension of the time for the transaction of routine morning business of not to exceed 9 minutes, with statements of Senators therein limited to 3 minutes.

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

ARMS CONTROL MUST REMAIN A TOP PRIORITY

Mr. HUMPHREY. Mr. President, Mr. Chalmers Roberts recently wrote a column in the Washington Post which faulted the Nixon administration on the low priority it seems to have given the problem of controlling the arms race.

As he says, "The American arms control establishment is in disarray." This is a tragic state of affairs.

Arms control must be a Presidential priority—when it is not, valuable time is lost in efforts to reach further arms limitations.

Recent developments indicate that President Nixon seems all too willing to turn an issue which was a priority matter for his predecessors into a rather routine issue. He has yet to appoint a successor to Gerard Smith at the Arms Control and Disarmament Agency even though he has named U. Alexis Johnson to succeed Mr. Smith at the Salt III negotiations. And we are well aware of Mr. Kissinger's necessary preoccupation with Vietnam which prevents him from providing White House leadership on these upcoming negotiations.

The great challenge in the next stage

of strategic arms limitations talks will be to deal with the issue of MIRV. Roberts relates the Russian interest in this issue. And with the recent Pentagon recommendation that our force of MIRV'ed missiles be expanded, I believe that we must attempt to reach an accord which would contain an agreement on MIRV.

Mr. President, I ask unanimous consent that the Chalmers Roberts' article be inserted at this point in the RECORD.

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

[From the Washington Post, Jan. 13, 1973]

ARMS CONTROL: A BAD TIME FOR DISARRAY

(By Chalmers M. Roberts)

It now has been nearly 17 years since President Eisenhower appointed Harold Stassen to the post of Special Assistant to the President for Disarmament, with Cabinet status. In 1961 the job was institutionalized with congressional creation, at President Kennedy's request, of the Arms Control and Disarmament Agency. William C. Foster became head of ACDA and the chief negotiator, as well, on arms control measures. In 1969 President Nixon chose Gerard C. Smith to head ACDA and later to be the chief negotiator for the Strategic Arms Limitation Talks (SALT). Now, as the second Nixon term begins, Smith has departed by his own choice and the President has tapped U. Alexis Johnson to be the negotiator. No one has been announced as Smith's successor to head ACDA, a quasi-independent agency housed and supported by the State Department but with its own congressionally approved budget.

It is evident, in retrospect, that all the major decisions in the arms control field since the initial Baruch Plan in 1946 have been presidential decisions, but it also is evident that presidential choices have been circumscribed by the quality and extent of the bureaucratic machinery which has examined the problems and possibilities and thus, through various layers of the government, served up the options. Stassen, Foster and Smith all were effective, or ineffective, to the degree that they could establish an independent input from an office or an agency that was beholden neither to the diplomatic views of State, the military views of Defense, nor the views of the White House staff.

It is for such reasons as these that the appointment of Alex Johnson has done more than raise eyebrows among those in and out of government, who concern themselves with arms control, above all with the SALT II negotiations which resume in Geneva for a second session on Feb. 27. Johnson is widely viewed as a temporary appointment. He suffered a heart attack a while back and his doctors have warned him against excessive work. For that reason, it appears, he turned down a Nixon offer to succeed Ambassador Bunker in Saigon. The top career man at State, Johnson is now 64. He has had only minimal acquaintance with the complex arms control issues.

The issues at SALT II are going to be very tough to resolve. Henry Kissinger, the generalissimo of SALT I here in Washington, has had no time for the problem because of Indochina and now his own continuation in the White House is uncertain. By all accounts, then, the U.S. is in a holding pattern on arms control and this is likely to last for some time. President Nixon's separation of the two posts of ACDA head and top negotiator adds an additional uncertainty.

It was widely believed when SALT II began that there would be no pressure from either Washington or Moscow for speedy new agreements. The interim pact on offensive weapons runs for five years and most people felt that not until about the fourth year would negotiations become intensive. But from what is now learned about the first go-round of SALT II this may not be necessarily true; indeed, a major opportunity for a key new phase in arms control just might be present, if the U.S. is prepared to grasp it.

This is because at the recent Geneva talks, all behind closed doors, the Soviet delegation expressed an interest in the control of multiple warheads, MIRVs. This came as a surprise to Smith and his delegation but there is no doubt that Moscow did indicate such an interest. It is true, however, that the other anticipated problems, notably the Moscow demand for limits on the American forward based systems (FBS) in any new agreement, were put forward by the Soviet side. But the Soviet talk of MIRV control added a new dimension to the meetings. At this first session neither side laid down any formal proposals.

Quite obviously the Kremlin interest in MIRV control must spring from the enormous American lead in such warheads though the Soviets are ahead in numbers of missile launchers and in throw weight of warheads. It would take some very difficult trade-offs to reach any form of MIRV agreement, and monitoring of such an agreement, beyond monitoring a ban on further tests, would be equally hard to achieve. But if there is no agreement, multiple warheads will be a major element in both arsenals.

Thus it appears this is a very bad moment for the American arms control establishment to be in such a state of disarray as the Johnson appointment, and the Kissinger situation, indicate it to be. Only President Nixon can change this state of affairs, although the Senate disarmament subcommittee of Foreign Relations could do some prodding.

The opportunity to control MIRVs is judged, at best, to be a long shot. But so were many other opportunities in past years that finally reached fruition through the perseverance of such men as Stassen, Foster and Smith. The U.S. can do no less than try—and there is currently no sign it is ready to do that.

Mr. HUMPHREY. Mr. President, I wrote President Nixon last week voicing my concern that he plans to reduce the Arms Control and Disarmament budget for fiscal 1974 and urging him to appoint a successor to Gerard Smith at ACDA. I feel strongly that the failure to appoint a new chief of the Arms Control and Disarmament Agency, as well as the proposed budget reductions for arms control efforts indicate a slackening of presidential initiatives in this area. I hope this is not the case. We must not turn back in our work to halt the arms race.

Mr. President, I ask unanimous consent that the text of my letter to President Nixon be printed in the RECORD.

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

DEAR MR. PRESIDENT: I have read news reports, confirmed by some reliable sources, that it is your intention to reduce sharply the Arms Control and Disarmament budget request for fiscal year 1974.

At the same time, it has been confirmed that Ambassador U. Alexis Johnson will replace Ambassador Smith as head of the U.S. Delegation to the SALT Talks. Although Ambassador Smith has announced his resignation, there has not, to the best of my knowledge, been any formal announcement of a replacement for the directorship of the Agency.

I view these developments with special concern because of the importance of ACDA to prudent and successful negotiations. ACDA did a most commendable job in the SALT I agreements, and was, in my opinion, largely responsible for their successful conclusion. The Agency has kept its staffing to a minimum and maintained only the highest standard of professionalism.

As passed in 1961, the Arms Control and Disarmament Act set up the Agency with the following principal 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.

This Act still stands, and with due justification. ACDA's performance has been commendable. If, in an effort to reform our government's bureaucracy and reduce expenditures, the Agency is hamstrung, I am certain that this matter would warrant Congress' immediate attention and corrective action.

I would appreciate receiving a clarification of your plans.

Sincerely,

HUBERT H. HUMPHREY.

LET FREEDOM RING

Mr. HARRY F. BYRD, JR. Mr. President, I invite the attention of the Senate to a proposal for an American Revolution Bicentennial theme, which has more merit than any I have heard to date. The theme, which has been suggested by the Cultural Laureate Foundation, Inc., is "Let Freedom Ring.'"

This phrase captures the essence of our Nation. It applies to all Americans—in all walks of life, in all stations, high and low. It touches the pulse of our society.

I commend the Cultural Laureate Foundation for its perception.

This nonprofit, charitable organization, recently formed in Arlington, Va., is dedicated to the encouragement and stimulation of cultural achievements of mankind by establishing cultural laureate awards. These awards, accompanied by honorariums, will be issued initially on July 4, 1976, and annually thereafter on the 4th of July.

The funding of the foundation will be accomplished through private grants and donations.

I commend the initiative and spirit of this organization and its principal officers, Allen E. Turner, Harold S. Harrison, and James D. Nida, and I am pleased that this organization, with its national patriotic and cultural scope, is located in Virginia.

As I have said, the theme "Let Freedom Ring" appeals to me. It may not be the theme the Commission finally adopts, but it sounds better than any I have heard to date. At this point, I ask unanimous consent to have printed in the RECORD a copy of the acknowledgment of the ARBC for this suggestion.

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

AMERICAN REVOLUTION BICENTENNIAL COMMISSION,
Washington, D.C., January 10, 1972.

Mr. HAROLD S. HARRISON,
ICTC Foundation, Inc.,
Washington, D.C.

DEAR MR. HARRISON: Thank you for your suggestion that "Let Freedom Ring" be adopted as the official theme for the Bicentennial celebration. As you may know, the Commission has not selected an overall theme but has instead been developing the national program around three themes: Heritage '76, Horizons '76 and Open House USA.

We will give your suggestion serious consideration, along with others that have been submitted to the Commission, in the selection of an appropriate theme. Your interest in the Bicentennial is appreciated.

Sincerely,

WILLIAM P. BUTLER,
For R. Lynn Carroll.
Deputy Executive Director for Program Development and Coordination.

Mr. HARRY F. BYRD, JR. It seems to me that the theme "Let Freedom Ring" captures all of the advantages of the three bicentennial themes—"Heritage '76," "Horizons '76," and "Festival USA," formerly called "Open House USA." Reunited around the central theme "Let Freedom Ring" I would hope that the ARBC would be able to accomplish in the next 6 months far more than its spotty record has shown for the last 6 years. The Commission would do well to adopt not only the theme offered by Cultural Laureate Foundation, Inc., but also its ingenuity, clear thinking and single-mindedness of purpose.

The time is short. Let us delay no longer to move toward an inspired bicentennial celebration. Let Freedom Ring.

FINANCIAL STATEMENT FOR 1972 OF SENATOR JAMES B. ALLEN

Mr. ALLEN. Mr. President, prior to coming to the U.S. Senate on January 3, 1969, I publicly stated that I would, each year during my service in the Senate, file a statement of my financial condition with the Secretary of the U.S. Senate, the Secretary of State of the State of Alabama, and the Probate Judge of Etowah County—my home county—Alabama.

I have pursued this policy and have filed statements of my financial condition at the end of 1968, 1969, 1970 and 1971. In addition to such filings, I have place in The CONGRESSIONAL RECORD copies of my 1968, 1969, 1970, and 1971 statements. I ask unanimous consent that my 1972 statement be printed at this point in the RECORD. The statement sets forth my reasons for making these statements public.

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

FINANCIAL STATEMENT

I, James B. Allen, Gadsden, Alabama, do hereby certify that the following is a true and correct statement of my financial condition as of December 31, 1972.

ASSETS

Home at 1321 Bellevue Drive, Gadsden, Alabama	$32,500.00
Furniture, furnishings, books	5,000.00
Automobile	2,500.00
State of Alabama; City of Huntsville, Ala. bonds at market	$27,000.00
U.S. Savings bonds, at cost	600.00
Residence at 7405 Hallcrest Dr., McLean, Va.—Cost $47,700 less $2,633.33 depreciation	45,066.67
Bank accounts—exact	5,099.41
Payments into Civil Service Retirement account—exact	13,219.04
Life insurance surrender value (all but $1,000 is term)	100.00
Total	131,075.12

LIABILITIES

Indebtedness on residence at 7405 Hallcrest Dr., McLean, Va. to First State Bank of Altoona, Alabama and Exchange Bank of Attalla, Alabama, monthly payment loan—exact	38,609.42
Note—First State Bank of Altoona, Alabama	7,200.00
Total	45,809.42
Net worth	85,265.70

I am not an officer, director, stockholder, employee or attorney for any person, firm, company, or corporation, nor am I a member of any law firm, nor am I engaged in the practice of law in any form.

My income is limited to my Senate salary and interest on U.S., State of Alabama and municipal bonds listed above. During 1972, I received no honoraria or expense payments or reimbursements of any sort. I have never during my service in the Senate, or at any time prior thereto, accepted any such honoraria or expense payments or reimbursements of any sort, nor do I have a committee or person designated to receive contributions, political or otherwise.

This statement is made pursuant to a declared policy of filing annually with the Secretary of the U.S. Senate, the Secretary of State of the State of Alabama, the Probate Judge of Etowah County, Alabama (my home county), a statement of my assets and liabilities. A similar statement will be filed each year during my service in the Senate, this being the fifth such annual statement I have filed since coming to the Senate in January 1969.

The purpose of this statement is two-fold:

1. To show the absence of any conflict of interest between my ownership of assets and my service in the Senate in the public interest.

2. To keep the public advised as to my financial status, and to disclose the extent to which I have benefited financially during my public service.

I believe the public is entitled to this information from me as a United States Senator in the discharge of this public trust.

Recapitulation of past years' net worth:

End of 1968	$92,984.81
End of 1969	87,750.00
End of 1970	87,243.34
End of 1971	85,939.09
End of 1972	85,265.70

This 9th day of January, 1973.

JAMES B. ALLEN.

Sworn to and subscribed before me on this 15th day of January, 1973.

DAVID G. STEVENSON,
Notary Public.

My Commission expires May 14, 1973.

ORDER FOR RECOGNITION OF SENATORS BELLMON AND ROBERT C. BYRD ON THURSDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the recognition of the two leaders or their designees under the standing order on Thursday next, the Senator from Oklahoma (Mr. BELLMON) be recognized for a period of not to exceed 15 minutes, that he be followed by the junior Senator from West Virginia (Mr. ROBERT C. BYRD) for a period of not to exceed 15 minutes, and that, at the conclusion of such orders, there be a period for the transaction of routine morning business of not to exceed 1 hour, with statements therein limited to 5 minutes.

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

ORDER FOR RECOGNITION OF SENATOR MUSKIE TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that today, following the period which has been allotted to my distinguished senior colleague (Mr. RANDOLPH) under an order previously entered, the distinguished senior Senator from Maine (Mr. MUSKIE) be recognized for not to exceed 15 minutes.

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

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

Mr. ROBERT C. BYRD. Mr. President, is there any legislative business at the desk?

The ACTING PRESIDENT pro tempore. Nothing is pending at the moment.

ORDER FOR RECOGNITION OF SENATOR ALLEN ON THURSDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday next, following the remarks of the distinguished Senator from Oklahoma (Mr. BELLMON), the distinguished Senator from Alabama (Mr. ALLEN) be recognized for not to exceed 15 minutes, preceding recognition of the junior Senator from West Virginia (Mr. ROBERT C. BYRD).

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

EXTENSION OF TIME FOR TRANSMITTAL OF BUDGET MESSAGE AND THE ECONOMIC REPORT TO CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 1.

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the joint resolution (H.J. Res. 1) extending the time within which the President may transmit the Budget Message and the Economic Report to the Congress, and extending the time

within which the Joint Economic Committee shall file its report, which was on the first line of said amendment: strike out "February 5, 1973" and insert "February 10, 1973".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment by the House. I have cleared this with the other side.

The motion was agreed to.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from West Virginia (Mr. RANDOLPH) is recognized for 1 hour.

PRIVILEGE OF THE FLOOR

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Mr. Richard Grundy, a professional staff member of the Committee on Public Works, be permitted the privilege of the floor at this time during my remarks.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

NATIONAL ENERGY POLICY—THE KEY TO NATIONAL WELL-BEING ACTION

Mr. RANDOLPH. Mr. President, I come to counsel today with the Members of the Senate and the Congress itself as a legislative body and certainly with the involved and intensely interested constituency in my own State of West Virginia. I believe that the questions I shall raise will also be of concern to the citizenry, generally.

I am hopeful of that result as I talk today, as I have in the past, about national energy policy. I believe that such a policy must come, and come quickly, if we are to have a national well being, insofar as this matter is concerned.

Mr. President, I think it is correct to say that we are a crisis-prone country. At times, I think the people have been accused of creating crises which are not real and are not based upon hard facts we will say, but rather are a synthesis of soft information of a particular situation. In my remarks today, I shall be addressing myself to our corporate energy problem which is very, very, real and which, of course, has an impact on the people of the United States and on—yes—the peoples of many countries of the world.

I could bring to this Chamber the evidences of an awareness—a new awareness and a new awakening—on behalf of the people who, let us say, had no feeling about the subject of energy a few weeks or months ago.

I understand there are differing viewpoints and I do not wish to be harsh with newspaper reporters who earlier said there is no energy crisis. But I would hope that this afternoon we can attempt to come to grips, at least in part, with what is a very, very urgent matter.

The January 22 issue of Newsweek magazine, which I hold in my hand, has on its frontispiece, a blown-up picture of an electric light bulb across the face of which are the words, "The Energy Crisis."

Five pages of this issue of the magazine, which came to my office yesterday, very properly serve as testimony, once again, to the coverage which the energy crisis should be given, and frankly, a coverage which should have been given, in depth, months and years ago.

I read the concluding words of comment by the editors of Newsweek magazine:

> During the next critical 12 years, the worst thing that the Nixon administration and future administrations can do is to do nothing.
>
> The choices are hard but Peter Flanigan for one hopes the right solutions will evolve from compromise.

Now, Mr. President, I quote Mr. Flanigan's words:

> Everything must give a little—national security, environmental quality, and price.

The article continues:

> The compromise pleases no one completely, of course, but the alternative seems to be to throw the nation out into the cold.

And so it is that compromise—not a compromise of conscience—but a compromise of the programs that somehow or other must be brought together and merged into one program that will not please everyone.

Certainly we must have a quality environment in our country and among our people which represents the very highest that we can maintain. I have supported this concept and have committed myself, over and over again, within the Public Works Committee, as one of its members and later as its chairman, to bring to passage a large substantial number of substantive legislative acts that go far toward strengthening our national quest for environmental quality for the people of this country. This is a continuing commitment which I share with others of my colleagues.

But as we strive for environmental quality, we must also realize that the very productivity of the Nation—of those who work in our factories and in our mines, and in all the structure of business in this country—must be assured a continuance of job-producing substance, which is the very heart of our Nation and has made us a very strong Republic.

I invite attention to the January 15 issue of the New York Times. Increasingly, this newspaper and other newspapers, are beginning to inform and alert the American people to the serious energy problems to which I address myself today.

The headline reads, "Northeast Is Bracing Itself for Possible Energy Crisis." The comprehensive article by Gene Smith which begins on the front-page, reports on the energy situation, not only in the Northeast, but also throughout many sections of the United States.

Industry, business, and commerce as well as the environmentalist must have energy together with a quality environment. We must keep both of these as a part of our American tradition.

In the New York Times article to which I make reference, I invite attention also to the beginning of an understanding among citizens that jobs are involved with this energy crisis. The closing of an appliance plant is cited in the community of Effingham, Ill., some 200 miles south of Chicago, which the article says is typical—not unusual—of something that is spreading itself across the country. This plant was forced to shut down when its natural gas supply was cut in order to insure an adequate fuel supply for residences, for hospitals, for schools, and for other higher priority customers.

I believe this demonstrates, Mr. President, what I have been saying—and repeat today—that a national policy or policies are needed to cope with the energy problems which continue to deepen by the hour. Today we have no real policy or policies. We have nothing but a hodgepodge, hit-or-miss ad hoc approach to energy policy as I will discuss a little later.

This plant was able to reopen because an emergency supply of propane gas was brought in from Kansas. This, however, was only a stopgap measure. The article goes on to say:

> The hardest-hit area appears to be Mississippi, Louisiana and Arkansas.

Listen to these words, those who are present and our guests in the gallery:

> About 43 industries in the Jackson, Miss., area including two neighboring counties were closed, putting more than 40,000 workers out of jobs.

Mr. President, this is beginning to be a very real problem to people, generally. We have been reading about a crisis here and a crisis there, but when it comes to the point that actual jobs are being lost because of shortages of fuel and the lack of effective energy policy, then we begin to understand the seriousness of this matter.

I ask unanimous consent, that the Newsweek article of January 22, "The Energy Crisis," and the New York Times article of January 15, to which I refer appear in the RECORD at this point.

The PRESIDING OFFICER. Without objection it is so ordered.

AMERICA'S ENERGY CRISIS

Suddenly, the harsh winter weather was biting more deeply all across America, and predictably fuel shortages began to plague the nation. In Des Moines, hundreds of homeowners were down to their last chill days of heating oil, with no guarantee when they would get their next deliveries. In Denver, high schools were on a three-day week to conserve dwindling fuel. In West Virginia, Illinois, Mississippi and elsewhere factories had to shut down at least briefly when fuel tanks ran dry.

As the nation's oil refineries ran flat out to meet skyrocketing demand, there were inevitable shortages of other fuels. Grain shipments were stranded on barges in the Mississippi and Ohio rivers. Jet fuel was so scarce at giant John F. Kennedy Airport in New York that many planes couldn't get enough for scheduled nonstop flights to the West Coast; they had to make intermediate stops to fill their tanks. The nation's railroads said continued shortages could disrupt their service, and there were even dire predictions of a gasoline shortage this summer.

In Washington, the Office of Emergency Preparedness responded to the spreading shortages by ordering increased import quotas

for heating oil and said it would seek authority from Congress to ration oil and natural gas. At the same time, the Federal Power Commission advised natural-gas companies to give homeowners first call on supplies. As the bitter cold persisted, Americans who had discounted the mounting cries of "energy crisis" as so much self-serving hyperbole from politicians and energy-company executives were quickly becoming converts.

Memories of the current delivery shortages may fade with the cold weather, but a more fundamental and disturbing problem will remain: America has passed from a long period of dirt-cheap energy that made it the world's leading industrial power into an era in which its ability to meet its own growing demands for energy comes more into question with each succeeding year.

The U.S. still has ample resources—including a 500-year supply of coal (chart). But each ton of coal, each barrel of oil comes harder and at greater cost. "The joy ride is over," says David Freeman, the ex-White House science aide who heads up the Ford Foundation's study of the energy situation. "It was a happy era of low costs, low risks and high benefits," adds outgoing Commerce Secretary Peter Peterson. "But Popeye is running out of cheap spinach." And Democratic Sen. Henry Jackson of Washington calls the energy crunch "the most critical problem—domestic or international—facing the nation today."

THE PRICE IS STEEP

The solutions to that problem may well strike at the very heart of the American life-style. Consumers inescapably will see their bills for electricity, heating and gasoline raised ever higher—and they could conceivably find these necessities being rationed. There will almost inevitably be more blackouts and brownouts. The environmental issue is certain to be exacerbated as the oil companies fight for more drilling rights and electric utilities for more generating sites. Internationally, the crisis could force a whole new order of priority in American diplomacy. The U.S. could ultimately find itself alienating its Israeli allies as it tries to improve relations with the Arab nations that control most of the world's oil reserves.

It might seem impossible that a country as technically advanced as the U.S. should face such a threat. Surely, the system that has created computers, transistors and satellites and has put men on the moon can successfully come to grips with its energy problems. But the economics and politics of energy are incredibly complex. To begin with, there is the vigorous competition among the producers of various fuels; and the energy equation also includes domestic political maneuvering over things like import quotas and depletion allowances, delicate international relations with oil-rich foreign countries and increasingly importunate environmental demands. The wonder is that anything gets done.

It does, of course. America has created the most prodigious energy machine in history. With but 6 per cent of the world's population, the U.S. guzzles 33 per cent of the globe's energy—an all but ungraspable 69 quadrillion British thermal units* in 1971. On any given day, the average American household uses up the energy equivalent of 46 pounds of coal, 9½ gallons of oil products, and a half-pint of nuclear energy, among other fuels (chart, page 54). Projections call for far higher consumption by 1985—70 pounds of coal, for instance, and 5½ gallons of nuclear energy.

The dozen years until then will be the crucial ones. During that period, the nation must continue to rely heavily on its overburdened supply of fossil fuels—coal, oil and natural gas—and on imports. After that, the picture should become less critical as nuclear energy assumes more of the burden. Indeed, the prospects are bright from the year 2000 onward, if some of the more exotic technological departures prove fruitful—such options as fast breeder-reactors, liquid hydrogen and coal gasification.

But it will take "nothing short of a superhuman effort" to negotiate the mid-passage to 1985, Interior Secretary Rogers C. B. Morton told NEWSWEEK's James Bishop Jr., and the effort will have to be a coordinated one. Until now, however, Washington simply hasn't had a comprehensive energy program. Fuel policy emanates for everywhere, from the Bureau of Mines, from the Atomic Energy Commission, from the Environmental Protection Agency—from 64 different agencies in all. President Nixon finally will try to cut through that bureaucratic maze within the next several weeks with a national energy message that, insiders think, may rival in importance—if not drama—Mr. Nixon's new economic policy and his initiatives to China and Russia. It is also becoming clear what the gist of that message will be: the consumer is going to have to pay dearly for his energy in the future.

Given the doomsday implications of the U.S. energy plight, it seems inconceivable that the nation could have raced so close to disaster so blindly. But with energy so readily available and so cheap, the country gave little thought to the huge amounts it was actually wasting. Automobiles, for example, shoot 87 per cent of their energy intake out the exhaust pipe, and the pilot light on a gas range consumes a hard-to-believe one-third of all the fuel the appliance burns. All in all, the U.S. wastes fully 50 per cent of all the energy it burns.

SORRY ABOUT THAT

Ironically, the profligacy was promoted by the government, which clung to the low-cost, maximum-usage policy launched in the 1930s even as the days of plenty passed, and by the oil, gas and electric companies. They advertised relentlessly to sell more and more of their output—something they are in effect apologizing for today with their conservation ads.

The Federal Power Commission, in fact, did such a good job of keeping down natural gas prices that it is now given a large share of the blame for the gas shortages, which are the most critical part of today's energy problem. Gas companies charge that the FPC kept prices so artificially low that they had little incentive to search for the new reserves that could have helped head off today's shortage.

The burgeoning movement for a clean environment has also hampered the energy industry's efforts to keep up with demand. For example, the tough Clean Air Act of 1970 is forcing Midwest utilities to find a substitute for 200 to 300 million tons of dirty, high-sulfur coal a year. Clean-burning low-sulfur coal is plentiful in the West, but proposals to strip-mine the land to get at it have triggered another outburst over ecology. Experts believe that there are massive basins of oil off U.S. shores—the Interior Department says 5.5 billion barrels, nearly a year's supply for the whole country, lie off the Atlantic shelf alone—but protests that oil spills would ruin coastal playlands if the basins were tapped have held up development. Nuclear energy is a proven success, but fears of leakage and various environmental obstructions delay plant after plant.

Despite evidence that something might be amiss with our energy system—evidence that included the massive East Coast blackout in 1965—a private, high-level White House study in 1966 soothingly concluded that "the nation's total energy resources seem adequate to satisfy expected requirements through the remainder of the century at costs near present levels." And as recently as three years ago, the President's Task Force on Oil Imports predicted that the U.S. would have to import no more than 27 per cent of its oil by 1980; the total already has reached that level and is growing steadily.

Such complacency resulted in a low priority on using Federal dollars to develop new sources of energy. "Time and time again when I was Under Secretary of Interior, I tried to convince the Budget Bureau that research-and-development dollars were vital for coal gasification, liquefaction and so on," says Russell E. Train, chairman of the Council on Environmental Quality. "Time and time again they said, 'Forget it, the cost benefit isn't good.' Well, look where the ——— that shortsighted approach has landed us."

But closed schools and factories, which have become practically routine during the past few winters, are changing official attitudes. As he opened timely hearings into U.S. energy problems last week, chairman Jackson of the Senate Interior Committee said tartly: "We are not engaged in an academic exercise."

To try to remedy the problem, the country has several options—all logical enough, but all certain to set off political warfare. The government can push further development of the country's own fuel resources, and try in particular to increase the estimated lifetimes of oil and gas reserves, which have been contracting at alarming rates. But environmentalists oppose a massive new drilling program. The Clean Air Act could be eased—emission controls on 1973 model automobiles, for instance, already increase gasoline consumption at least 7 per cent and the penalty will be sharply higher when anti-pollution equipment required by 1976 is installed. But Sen. Edmund Muskie and his allies are hinting that, if anything, the act should be made still tougher. U.S. ports could be opened wide to oil imports. But the resulting balance-of-payments deficit could undermine the dollar and set off another whole round of international currency crises; and, in truth, there is very real doubt that the United States has the port capacity to handle such a great step-up in traffic.

The government also could try to reverse the wasteful trend and get Americans to use less energy—perhaps by allowing prices to soar to levels that will discourage use. But even without price changes, energy demand projected for 1980 could be trimmed by 15 per cent, the Office of Emergency Preparedness estimates, although some of its proposals would be a bit too much for affluent Americans to take. The government could, says OEP, force the airlines to fly more fully loaded planes, meaning fewer flights for those accustomed to frequent schedules. Subsidy and tax programs could force short-haul passengers out of airplanes and cars onto railroads, which can move them the same distances with far less fuel. The government could also attack escalating gasoline consumption by sharply increasing gasoline taxes or by restricting the engine size on future cars. The most effective conservation tool of all, OEP says, would be outright rationing, but that should be used only as a "highly unpalatable last resort."

OEP made it clear, however, that there can be meaningful conservation without such drastic measures as banning autos from the central cities and forcing all commuters onto trains and buses. There could be sizable savings, for instance, if buildings were insulated better and if fluorescent instead of incandescent lighting were required in kitchens and bathrooms of federally subsidizing housing. A kind of super-daylight-saving time—moving the clocks ahead one hour in the winter and two hours in the summer—would also help. The efficiency of air

* A BTU is the quantity of heat required to raise the temperature of 1 pound of water 1 degree Fahrenheit.

conditioners and refrigerators can easily be improved 20 per cent, OEP says, and the possibility for similar savings on household appliances is moving some congressmen toward proposing a Truth in Energy Bill. This would require that appliances be labeled with the amount of energy they consume, in the hope of encouraging manufacturers to make their products operate as efficiently as possible.

CURBING INDUSTRY'S APPETITE

Substantial power savings can also be achieved in industry. In fact, only last week Aluminum Company of America announced that it has developed a new process for making aluminum that requires 30 per cent less electricity—a particularly welcome advance since aluminum requires more energy per unit of output than any other major U.S. industry. And Du Pont has implemented energy-saving procedures in several of its own plants and in some 100 plants of other companies during the past two years that it says save from 7 to 15 per cent of the facilities' annual energy bills. Seventy per cent of these savings can be achieved without any capital investment, with the measures often as simple as that of changing the horsepower rating of a motor.

Any crisis policy would eventually be doomed, of course, unless technology produces important new energy sources. And, happily, the outlook looks brighter after the '70s. By the mid-1980s, nuclear power, paced by the exotic fast-breeder reactor, will begin taking the load off fossil fuels. Nuclear energy may produce 13 per cent of all U.S. power in 1985 vs. less than 1 per cent today and then is expected to boost its share to 26 per cent by 2000.

The fast-breeder reactor will have a major impact because, in seeming defiance of the laws of physics, it produces more atomic fuel—plutonium—than it burns. The reactor of the future has yet to prove itself in operation—the experimental plant planned by Commonwealth Edison Co. and the Tennessee Valley Authority for Oak Ridge, Tenn., won't be on stream until about 1980—but the experts are confident.

The Atomic Energy Commission also is betting some research dollars on another form of atomic power, nuclear fusion. Fusion reactors would use lithium and deuterium, which so pervade the earth's crust and oceans that supplies would last for millions of years even if the rest of the world escalated its energy use to the U.S. level.

By 1985, rising prices of crude oil and natural gas may force two other promising developments onto the market—oil produced from the shale so abundant in the American West and gas produced from the plentiful U.S. coal fields. There are pilot plants using both processes, but so far their output is too costly to compete. Shale oil, for instance, would cost about $7.50 a barrel vs. the present price of $3.25 to $3.50 for a barrel of crude.

Beyond that, scientists dream of still more exotic sources of energy. Perhaps the most fascinating is hydrogen, which can be produced by the simple electrolysis of water. It is a potential replacement for natural gas, and in liquid form it could be an extremely clean-burning fuel for aircraft and motor vehicles. Because liquid hydrogen has a lower density than gasoline, however, an auto running on it would need a 60-gallon tank for the same mileage a car can get with a 17-gallon gasoline tank. Hydrogen production also requires huge amounts of electricity—so much, in fact, that the fantastically huge investments needed for generation plants might well be prohibitive.

RETURN OF THE WINDMILL?

Geothermal energy, the power that makes Old Faithful spurt, is farther out on the practicality scale. Geothermal energy is generated in the earth when molten rock comes in contact with underground water. When the resultant steam is within a few miles of the earth's surface, it might be tapped to generate electricity. If energy prices boom ever upward, solar energy conceivably could be harnessed as cheap heat for homes, and the wind used to generate cheap electricity, bringing back the windmill.

Even after eliminating the far-out solutions, it is clear that there are numerous ways to tackle the energy problem. And for five months, a high-level White House team headed by Rogers Morton and top Nixon aide Peter Flanigan has been sorting out the options for President Nixon as he tries to bring logic to U.S. energy policy. While there is no official word on his energy message, it undoubtedly will include:

A request to Congress to decontrol at least some natural-gas prices, meaning they will rise sharply.

A Presidential blessing for still higher prices on crude oil and on oil products.

A stout defense of the politically sensitive 22 per cent tax depletion allowances for oil and gas companies and perhaps a request for further incentives for producers.

A major new offshore oil-gas leasing program that could lead to drilling off the Atlantic Coast for the first time.

A slight increase in the present annual level of $630 million in research into new energy sources.

An Executive order for a new chain of command on energy matters, with policy flowing from the White House, new natural-resources czar Earl Butz and Flanigan to the agencies.

The message undoubtedly will be attacked from all sides. To consumer-attuned congressmen, the President's outright endorsement of higher prices will seem like nothing less than a blatant hide-skinning of low-income groups. The White House can answer, and rightly so, that Americans have long enjoyed an energy bargain. The average price for a gallon of gasoline in the U.S. in 1972, for example, was just 37 cents vs. 99 cents in Italy, 81 cents in France and 77 cents in West Germany. But that won't make soaring prices any easier to take. Under the Administration program, electricity prices are also expected to rise 34 per cent in the next five years. Flanigan also says that natural gas prices may have to rise 2 per cent a year for several years, but the National Petroleum Council says that they might leap as much as 250 per cent by 1985, with oil prices jumping as much as 125 per cent.

A CRAMPED LIFE-STYLE

The Administration's hope is that higher prices will discourage certain discretionary uses of power: the Sunday auto outing and the second car, the constant use of air conditioners whether someone is home or not, and furnaces operating full blast. And higher prices might just work. A study prepared last year for the House Committee on Science and Astronautics concluded that demand will drop 1.5 per cent for each 1 per cent increase in electricity prices.

The trouble is the U.S. has no experience with rising energy prices, and experts outside the Administration would like to see the White House aim at conserving huge amounts of energy as well as relying on higher prices. But Flanigan says: "It is not the philosophy of this Administration to control demand by government fiat. We believe the free market should operate . . . We are not going to ask everybody to heat their homes at 68 degrees."

Since the giant oil and gas companies will be the primary beneficiaries of the sharply higher prices the Administration wants to engineer, they will be operating in a political fishbowl as never before.

Congressmen and small-business men were already charging last week that the big oil companies had manufactured the fuel shortages in order to raise prices. And, indeed, the Federal Trade Commission for some time has been investigating the gas industry figures to determine if gas reserves really are as meager as the companies say. If the issue becomes heated enough, there could be demands to break up the major oil companies, which among them control about 84 per cent of U.S. refinery capacity, about 72 per cent of natural-gas production, more than 20 per cent of coal production and more than 50 per cent of uranium reserves.

Though the oil industry is indeed in a solid earnings position, Lawrence M. Woods, a Mobil Oil Corp. vice president in charge of corporate planning and economics, insists that "crisis has never been good for this industry. We'd be better off without the energy crisis." He claims, for example, that running refineries constantly at near capacity and trying to keep up with heating-oil demand is classically inefficient.

ENVIRONMENTAL BACKLASH?

The environmentalists will also hit out at Mr. Nixon's energy proposals. Barry Commoner, author of the best-selling "The Closing Circle," insists that the nation can meet its demands simply by harnessing part of the energy it now wastes. A simple answer and not too practical, perhaps. In any case, there could be a backlash against environmentalists as fuel supplies get tighter. Henry Ford II, chairman of Ford Motor Co., notes that his company postponed plans to enlarge several of its Ohio plants because the state's utilities couldn't guarantee fuel supplies. "If the ecologists are going to block these kinds of programs," he says, "then they will have to take the responsibility."

No matter how the political wars over energy policy are finally decided, there will be one contingency that will please no one. No matter what course the nation takes, it can't help but be more and more dependent on foreign sources—meaning mainly the Mideast—for energy during the crunch period of the next dozen years. Interior Secretary Morton admitted last week that this dependency could soar to 65 per cent in 1985—or 38 per cent of all U.S. energy consumption. The resulting trade deficit for oil alone would be a whopping $20 billion vs. the present $4 billion.

There are constant worries about the security of Mideast oil; the same worries apply to the supplies of liquefied natural gas (LNG) the U.S. plans to import, since the biggest deals are likely to be with the Soviet Union and Algeria. The LNG also will be expensive. Russian LNG is likely to cost $1.25 per thousand cubic feet, not including transportation, vs. about 26 cents for U.S.-produced natural gas. At those prices, critics like Jackson already are questioning the deals. "This is equal to $7.50 a barrel of oil," he complains of the Russian price. "A major question is whether we need such a costly fuel at all."

Members of Congress and the State Department alike are growing concerned that increased U.S. dependence on Mideast oil could cause another problem. Western Europe and Japan also are utterly dependent on Mideast oil, so there could come a time when the three major industrial areas of the world will be competing, perhaps belligerently, for the same energy supply.

But some optimists view this mutual dependence on foreign oil as a force for good rather than a cause for war. M. A. Adelman, an economist at MIT, says the consuming nations may band closer together to deal collectively with the cartelized oil-producing states and thus get better terms. And Herman Kahn, of the Hudson Institute think tank, says the growing interdependence of all nations—both buyers and sellers of energy—is likely to put an end to all warfare.

It is abundantly clear that the energy crisis is gaining momentum, that the possible solutions are incredibly complex and interrelated—and that the importance of the whole situation extends far beyond the U.S. borders.

Yet there is still some concern that Americans aren't really ready to come to grips with the new energy realities. The country may still need, in the words of Rep. Chet Holifield of California, "a good 24-hour blackout" to galvanize it into effective action. There is also a danger that some policymakers may hope ostrichlike that the current doomsday projections of the supply and demand for energy are just as wrong as were earlier predictions that everything was all right.

During the next critical twelve years, the worst thing that the Nixon Administration and future Administrations can do is to do nothing. The choices are hard, but Peter Flanigan for one hopes the right solutions will evolve from compromise. "Everything must give a little—national security, environmental quality and price." Compromise pleases no one completely, of course, but the alternative seems to be to throw the nation out into the cold.

[From the New York Times, Jan. 15, 1973]

NORTHEAST IS BRACING ITSELF FOR POSSIBLE ENERGY CRISIS

(By Gene Smith)

The much-talked-about "energy crisis" became a reality last week in some other areas of the nation, and it could still happen in the Northeast if the weather turns sharply colder.

However, late Sunday the prediction for Tuesday through Thursday in the New York area was "mostly fair" and temperatures normal, which means about 33 degrees at this time of year.

Locally, utilities have had a chance to build up reserves of oil and gas as no real cold weather hit until last week. However, utilities in the Boston area have been granted approval to import liquefied natural gas from Algeria for their own use later this heating season. The Government recently ordered increased quotas for imported heating oil.

The Petroleum Industry Research Foundation said that to its knowledge no homeowner in the Northeast had yet been deprived of fuel oil. But, the foundation added, the situation could get serious should the cold weather persist. It noted that with temperatures in the first seven days of this year colder than normal, particularly in the Northeast and Midwest, stocks of light home heating oil had dropped to 147 million barrels from 178 million a year ago.

A spokesman for the foundation said an increase in the price of No. 2 oil was needed to bring about increased production.

Meanwhile thousands of workers in Mississippi, Louisiana, Arkansas, Georgia, Minnesota and Illinois already have learned how real the energy crisis is when they were thrown out of work as fuel supplies ran out.

In many other areas, even the oil and gas rich Southwest, natural gas supplies have been curtailed for large users, including electric utilities, and the situation could get much worse if the cold wave that gripped most of the nation last week continues for a second week.

What happened at the Norge appliance plant at Effingham, Ill., about 200 miles south of Chicago is typical. The plant was forced to shut down when its gas supply was cut off to insure adequate fuel supplies for residences, hospitals, schools and other high priority customers.

NORGE REOPENS PLANT

On Friday Norge re-opened the plant as an emergency supply of propane was brought in from Kansas. But this was only a stop-gap measure and continued cold weather would close the plant again unless additional fuel supplies can be found.

The hardest-hit area appeared to be Mississippi, Louisiana and Arkansas. About 43 industries in the Jackson, Miss., area including two neighboring counties, were closed putting more than 40,000 workers out of jobs. A dozen or more plants around the Hattiesburg and Gulf Coast regions were closed and nearly one-half of the chicken-broiler industry in East Central and South Mississippi were closed down.

"We are faced with a real energy shortage here for the first time," Keith Howle, head of the utilities division of the Public Service Commission said: "It's going to hit hard as the devil, because it's going to get into people's pocketbooks."

Gerald Bracken, president of M.P.I. Industries at Jackson, said that more than 1,500 workers had been laid off since Wednesday.

"SERIOUS IMPACT"

"When employes lose three days' pay it has a serious impact," Mr. Bracken said, adding: "And of course, we lose our shirts for three days."

M.P.I. operates one of the largest industrial plants in Mississippi and is a major supply of cabinets for television sets, record players and sewing machines. Mr. Bracken said he was considering some sort of back-up system to avoid a recurrence.

The troubles in Mississippi came from a complete curtailment of natural-gas supplies for industrial users by the United States Pipeline Company. This was the first time this has ever happened and it was blamed on a dangerous drop in pressure because of the weather and a frozen gas-supply field in Louisiana. The Public Utilities Commission noted it had advised customers to make plans for stand-by systems, "but we didn't expect to have a 100 per cent curtailment in service and few of them had gone to stand-by equipment."

EQUIPMENT DROVES SAVIOUR

Fred Gaddis of Forest, who is one of the major chicken broiler plant operators, said only the installation of such equipment using diesel and fuel oil had saved him.

"But the use of fuel oil increases our cost considerably, as a matter of fact, about $9.50 a ton for an hour output, so we are not too happy about using oil for very long" Mr. Gaddis added.

The shortage of natural gas, coupled with low wood supply inventories, forced Olin Kraft, Inc., the Forest product subsidiary of the Olin Corporation, to close down a paper mill at West Monroe, La., and sawmills and plywood plants at Winnfield, La., and Huttig, Ark. The plants employ about 3,400 people.

In the Memphis, Tenn., region, the Memphis Light, Gas and Water System routinely shut off natural gas to its largest users on Sunday, Jan. 7 when demand outstripped capacity. A fuel-oil crisis arose as major consumers turned to oil for their alternate fuel.

This is becoming a common occurrence as most utilities have contracts that call for them to interrupt gas for major users when a certain temperature or consumption level is reached. Particularly hard hit were the huge Memphis Naval Air Station and the City of Memphis Hospital. A Defense Department spokesman in Washington said:

"We have been checking with every refinery in the country and we plan to bring in Navy fuel from stocks in Alabama and Florida, but the problem is that we will have to line up barges to transport it to Memphis."

The hospital was planning to consolidate some patient wards if it was unsuccessful in locating fuel supplies over the weekend.

The Southeast was also hit a week ago Sunday by a severe ice storm, said to be the worst in more than 30 years, that knocked down power lines in Atlanta, north Georgia and northern Alabama. By Wednesday, some 75,000 customers, mostly residential, were still without power in the Atlanta area.

The Internal Revenue Service in Atlanta reported a sharp rise in the price of such weather-related items as candles, lanterns, kerosene and sleeping bags, while hotels and motels were said to be "packed and overcharging."

Steve McAteer, manager of the Atlanta Fuel Company, said there is a definite oil shortage. He added:

TRANSIT SERVICE IS CUT

"We just can't seem to get the product. The suppliers keep telling us to cut back. They're setting up quotas. This started two or three months ago and the biggest shortage is in heating oil for homes. The major suppliers, such as Citgo, Ashland Oil and others are bypassing the South because they can get a better price in the North."

Mr. McAteer said that where his company used to sell 40,000 to 50,000 gallons a day, they were now cut back to about 25,000.

Up in Minnesota where way-below-zero weather is taken for granted, the Metropolitan Transit Commission cut service on the Twin Cities' 450 buses on some days and after 6 P.M. daily to save fuel. The buses operate on the same grade oil as is used for heating.

The shortage began in the Minneapolis-St. Paul area in mid-December. At that time four Minneapolis schools came within one day of actually running out of heating oil but were kept open with a 20,000-gallon emergency supply.

Honeywell, Inc., was reduced last week to a two-to-five-day supply of fuel oil, as a spokesman said: "We're not quite at the mittens and overshoes stage."

Only a brief warming spell when the mercury rose above zero permitted schools in Long Prairie, Minn., to use gas just as their fuel oil supplies ran out. Frederick Christiansen, the state's director of school facilities, said: "They're giving just enough gas so the plumbing doesn't freeze."

The Standard Oil Company of Indiana, announcing a 25 per cent cutback in supplies to all major carriers in Minnesota, said its top priorities were homes, hospitals and emergency services.

"The others will have to wait. There simply isn't enough to go around," a spokesman said. The Burlington Northern Railroad, which said it had "substantial volumes" of stored fuel, nevertheless reduced power on some of its runs to save fuel.

Arnold Beckman of Coon Rapids, who services about 350 mobile homes in the Twin Cities area, reported he had had to start buying oil from other retailers at 5 cents a gallon higher than his wholesale cost.

On Jan. 8, Gov. Wendel Anderson asked the Legislature to hold hearings on the oil shortage which, he said, "appears to be worsening daily."

"I remain concerned over the inability of my office or any other state agency to obtain basic information from major oil suppliers concerning the reasons for the shortage, the possible length of time during which fuel supplies may be curtailed and the steps the state may take to mitigate the worst effects of such a shortage."

COMPLICATED SITUATION

The Minnesota situation is further complicated by a strike that began on Jan. 8 at the Koch refinery in Pine Bend, the state's largest oil refinery. Normally it refines about 100,000 barrels of oil a day.

In suburban Dakota County there were no legal bidders on a contract for 150,000 gallons of gasoline and 50,000 gallons of diesel fuel. Suppliers told county officials that they could not bid because they couldn't guarantee delivery.

In neighboring Wisconsin, Gov. Patrick J. Lucey urged residents of his state to "use an extra blanket and turn your thermostats down."

On Dec. 5 the Wisconsin Gas Company in Milwaukee advised 27 of its largest users including factories, breweries and the local electric utility that they could burn natural gas for boilers only on weekends, possibly through March.

The gas company reported that October had been 25 per cent colder than normal, while November was 6.6 per cent colder and the first half of December 34.4 per cent colder.

James Gruentzel, director of the State Office of Emergency Government, estimated the 27 plants would need over 30 million gallons of fuel oil that "just isn't there." He reported several fuel oil companies had stocks for only a week.

"We're holding at the status quo but if we have below normal temperatures for another week, it could really hurt us," he said.

Nebraska Gov. J. J. Exon has asked homeowners to turn their thermostats down 3 degrees to conserve fuel, while Eugene Leahy, Mayor of Omaha, ordered thermostats down 7 degrees in all city buildings.

Chicago, which is struggling with fuel supplies, reported that last year temperatures were below normal in every month except May and, as of last Tuesday, temperatures were 60 degrees below normal levels to date. The Northern Illinois Gas Company cut large users from 30,000 therms of natural gas a day to 800 in three steps and last week sought approval for going down to a 100-therm-a-day limit.

E. I. du Pont de Nemours has been able to cut its energy bills by changing horsepower rating on motors and other simple mechanical methods.

Meanwhile, many utilities and oil companies have been advising homeowners on ways to use less fuel and thus save money, such as turning down the thermostat at night, living with somewhat cooler temperatures, such as 70 degrees instead of 75, adding insulation to windows and doors, checking for leaky hot water faucets, closing fireplace dampers when the fireplace is not in use, leaving or entering a house quickly to cut down on the cold.

There is little doubt that householders should be interested in conserving heat because their fuel bills are headed for much higher.

Many experts believe that higher fuel bills will induce more exploration by natural gas and oil companies to increase their reserves.

Mr. RANDOLPH. Mr. President, there is one other article to which I invite attention. It appeared in the June 1972 issue Environment magazine entitled "Energy and Well-Being." This article provides a comprehensive discussion of energy conservation policies which should be considered as we formulate our national energy policies.

Mr. President, because I feel it would be helpful, I ask unanimous consent that selected quotes by A. B. Makhijani and A. J. Lichtenberg from the Environment magazine of June 1972 appear in the record at this point.

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

It is said that standard of living in the U.S. is intimately correlated with per capita energy consumption. Since the utilization of energy and material resources has both provided us with diverse necessities and comforts and contributed to the deterioration of the environment, an evaluation of the degree of efficiency in the use of energy and materials is useful. Upon analysis, it is shown that the present efficiency in both energy and material-resources utilization is low and that considerable improvement is possible. This could result both in the maintenance of current material standards of living and in the enhancement of the environment, or at least a prevention of its deteroriation at the current rapid rate.

POLLUTION AND CONSERVATION

Pollution can be reduced by two methods: (a) control and reduction of the waste products of fuel and materials consumption; and (b) reduction in materials consumption (including fuels) and reuse of non-fuel resources where possible. These methods are complementary, though the emphasis here is on the latter method.

* * * * *

STANDARD OF LIVING AND ENERGY CONSUMPTION

In studies on energy consumption, the terms "standard of living" and "Gross National Product" (GNP) are often used interchangeably. Both of these terms are imprecise,[3] although for different reasons. The idea of a "standard of living" as related to consumption of goods is somewhat arbitrary, but it is possible, at least to some extent, to quantify this definition by examining the availability of food supplies, housing, clothing, medical, recreational, transportation and communication facilities, and the like. To the extent that the GNP measures these goods and services, it is an indicator of this quantified standard of living.

* * * * *

Five methods of reducing energy and/or raw-materials consumption are outlined below. They are:

The use of solar energy

The use of the "total energy" concept in industry, utilization of waste heat

Materials and product reuse and recycling

The improvement of fuel-usage efficiency in transportation

Improvement in the thermal efficiency of electric power plants.

The Use of Solar Energy. The ecological advantages of the use of solar energy are manifold. A number of devices for using solar energy have been developed, and it currently has practical applications in the space program and to a small extent in miscellaneous low-energy applications, such as highway telephones. It is believed that the economic application of solar energy for household heating could be developed within a few years, as well as the partial substitution of household and commercial electrical-energy requirements by the use of heat pumps. This would depend on the availability of funding for research and development. Many houses using solar energy for heating are currently in existence. These must be considered as pilot projects; development is certainly required for large-scale application.

The "Total Energy" Concept.[7] This concept is built around the utilization of waste heat from the generation of electricity. It is applicable primarily to industries (or a group of contiguously located industries) and other establishments with large demands of heat, electricity, and/or motive power. Electricity is generated locally. The waste heat (in the form of combustion-produced gases) is then utilized to run large turbines (generally larger than 1,000 horsepower, although smaller ones have been installed), or in such operations as preheating, drying, space-heating, aquaculture, agriculture, and desalination. The overall thermal efficiency of such establishments is claimed to be 75 to 85 percent (as compared with 40 percent or less for fossil-fuel or nuclear-power plants). So far, this concept has been applied to industry on a very limited scale. It can also be applied to hospitals and commercial establishments with nearly continuous power demands.

Materials Reuse and Recycling. The energy requirements for the recycling of metals are generally much smaller than those for their production from ore. Therefore, even if the energy for the fabrication of end-products were to remain constant, the total energy requirement for a given end-product generally would be lower.

As regards cans and containers it is found that the differences in the energy of manufacture of new containers does not vary much between steel and aluminum containers (steel being lower per can than aluminum). The weight of bottles is too variable for a direct comparison and the energy requirement for manufacture of a bottle may vary from half to double that for a comparable steel container. While recycling of metal containers affects economies in both energy and materials consumption, compared to the production of new ones, the most economical method from the viewpoint of both energy and materials is the reuse of bottles, since the energy requirements for cleaning are negligible compared to those for the manufacture of new containers.

Transportation Fuel Economy. On adding all the civilian usage of transportation energy in Table II, one finds that about one-fourth of the total energy consumption is directly attributable to this sector. (This does not include energy demands for gas stations, sales stores, petroleum processing, maintenance and repair shops, and spare-parts manufacture except at the factory of origin). This energy consumption can be reduced by increasing the fuel economy of automobiles, by partial replacement of commuter traffic by rapid transit, and partial replacement of truck freight. The example of the automobile is illustrated below.

The average weight of an American car (including imports) is about 3,000 pounds; the average gasoline consumption is 13.9 miles per gallon; and the average life is about five years. Changing these numbers to 2,000 pounds, 25 miles per gallon, and ten years, diverting 30 percent of the mileage to mass transit, maintaining production at the replacement rate (on the basis of 2 persons per car compared to 2.6 persons per car in 1968), and utilizing recycled materials, gives the following:

Energy for production—12,500 kwht/car.

No. of cars produced—11.25 x 10^6/yr. (Population 225 million).

Energy for operation—0.6 kwht/hr. per capita.

Total per capita—0.67 kwht/hr. per capita (Compared with 1.75 kwht/hr. in 1968).

The Improvement of Thermal Efficiency of Electric Power Plants. This can be achieved by the use of topping cycles (a technique that utilizes waste heat) and/or an increase in maximum operating temperatures. Both of these approaches face serious materials problems.

We feel it is possible eventually to increase overall thermal efficiency to 50 percent. While the resulting savings in energy would not be large, the resulting reduction of thermal pollution of the environment is important.

Miscellaneous Methods. The development of superconductor applications for the transmission of electrical energy and for electric motors will probably effect large savings in materials usage in the electric industry. For example, it is estimated that a 3,000 horsepower superconductor motor would be about one-tenth the size of the present one.[8] The technical feasibility of these processes has not been established and they will not make any major impact on the energy picture in the near future.

Conclusion. By applying the above techniques item-by-item we have made a rough calculation of potential energy savings. The largest savings seem to be in the areas of improved transportation efficiency (about 1 kwht/hr. per capita in autos alone), in improved insulation and the use of solar heat

pumps for space heating and cooling (roughly an equal saving), and in the recycling of steel and aluminum. Evidently, it would take some time to introduce such sweeping changes into the economy, but our rough estimate is that by the year 2000 per capita energy consumption could be reduced from 10.6 (in 1968) to 6.7 kwht/hr. per capita. The bulk of this saving is in the three items already mentioned, with small gains in almost every other category. This is certainly a rough estimate of what may be possible, but it is useful in showing that substantial energy savings can be made in principle with out sacrifice of material goods, and further, that possible savings are so large that total energy consumption might decrease despite an expanding population.

Mr. RANDOLPH. So, Mr. President, I come this afternoon, as I did 18 months ago, when I proposed what I felt was a much needed Joint Congressional-Executive Branch Commission on Fuels and Energy.

The problem becomes ever more complicated with each passing day. It becomes ever more real with each passing hour. It becomes, in a sense, ever more dangerous with the passing of each minute. So my approach is not that of an alarmist, but rather of one dealing with the facts in reference to a particular matter, the core of which has for too long gone unattended by the agencies of Government and by Congress itself.

THE AMERICAN DREAM

In the United States we face today, and will face tomorrow—and many more tomorrows—an emerging shortfall in energy resources and their conversion products, such as electricity, gasoline, distillate fuel oils, and synthetic gas and oil, which are essential to the maintenance of the American way of life—as we know it.

Rightly, Americans should be concerned with the continued survival of the society of our forefathers.

Mr. President, I do not want to be misunderstood. What I am saying is that we must recognize that we have experienced a continuing development and now we come to a crossroad, a critical time of decision, which cannot be allowed to be lost in the immediate months ahead. I make this statement also because I feel very strongly that the time for action is now.

We have agonized over many national and international issues. Now, however, we have earmarked more than half of our Nation's wealth for a military system, supposedly geared to deal with aggressors; too much of it is being used in faraway Southeast Asia for debatable reasons and for questionable purposes.

At home, as we approach the 200th year since our founding, it would appear that the greatest threat to our way of life is not from external sources, but from the lack of an adequate national response to many of the domestic challenges within our own society.

"Doomsday advocates" are prone to portray an exaggerated picture of our society as approaching the point of breakdown, of disintegration, and even of finality.

Meanwhile, "supertechnologists" claim that we are on the verge of a giant technological leap forward into a new flourishing of man's spirit and the injection of new vigor into man's institutions.

All too often, the most serious weakness of both of these prophecies is that they oversimplify reality. In short, they are exaggerations. Their inherent weaknesses are that they ignore what might be accomplished.

Behind each prophecy is the startling fact that we are at a turning point, a fork in the long road of our destiny, where our future and that of the world at large are dependent, as never before, on human foresight and ingenuity, and a willingness to make the requisite decisions to assure the American dream.

We are at a point where corporate actions are needed in ways never before undertaken. Monumental tasks are faced by Government and industry alike to make the quality of air breathable, the quality of our rivers enhanced, and land livable, the Nation peaceful, and the future hopeful for all of mankind.

While today passes, some 150,000 babies will be born on this earth: about 10,000 of them in the United States. Many of these new lives are destined to experience poverty, hunger, and disease.

In America, the inheritance of the poorest child includes an education, medical care, and the unique distinction of being born into a society that has never experienced famine. These famines have occurred with continuing frequency for millions of people in other parts of the world.

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

Mr. RANDOLPH. I yield to the Senator from Oklahoma.

Mr. BELLMON. I would like to compliment the chairman of the Public Works Committee, the author of Senate Resolution 45, for calling the attention of the country and the Senate to the crisis which we face in energy, which is just now being noticed by many because it is in the middle of the winter, and also for the comment that our society has never experienced a famine.

I am sure the senior Senator from West Virginia knows I am a farmer and come from a farm State. I have dealt with many people who are accustomed to going into the supermarket and finding the shelves burdened, literally, with such an array of food products that most people have a hard time making a choice. They do not realize the relationship between agricultural abundance and energy.

At the present time only about 4 percent of our people are involved in the production of food and agricultural fiber, and, even of that number, a large percentage are marginal farmers who produce very little for the market. Production for the market is probably carried on by less than 2 percent of the people of the United States. In order to do this job, agricultural producers must have tremendous quantities of energy. Not only must they have diesel fuel and gasoline, and butane and propane, for their tractors; they must also have the chemicals for industry produced from various petrochemicals, coal, and other fossil fuels.

I would just like to ask the Senator from West Virginia if, in his work, he has tried to anticipate and can tell us what would happen to this Nation's food supply in case we were limited in our supply of energy.

Mr. RANDOLPH. The Senator from Oklahoma speaks of the strength of our agricultural system and our productivity generally. He also relates it to the well-being of our people. Of course, when speaking of our agricultural strength, we also must move from there to the fertilizer industry, for example.

Mr. BELLMON. Very true.

Mr. RANDOLPH. They are all a part of the energy system, which is lying very heavily on the Senator's mind at this time. So there is this continuity, this link with energy, which is a part of our agricultural life and reflects on all those who use these products; who are employed in our industrial system, and in business and commerce. A breakdown at one point in our energy supply system means a possible breakdown at another point. So there is this threat of a chain reaction—a domino effect.

Does this respond, in part, to the question the Senator posed?

Mr. BELLMON. It certainly does. It is obvious that the distinguished Senator from West Virginia has thought this problem through.

Let me bring it down to an individual case. My farm is a typical family farm. One person operates it. This one man, using modern equipment and fuel energy, is able to product about 30,000 bushels of wheat and something like 200,000 pounds of beef per year. One workman produces it. That amount of food will obviously feed a very large number of people. But if he were limited to just the work he could do with his own muscles and the animal power that we used when I was first growing up on the farm, his production would probably be less than 1 percent of this amount.

I think the implication of this ought to be brought home as often and as emphatically as possible, because we are certainly going to have to have food and if we are going to have to limit the supply of energy to agriculture, then it means that we will have to bring workers from our hospitals and factories and schools to till the soil with their bare hands. Then the whole standard of living—not just food, but everything we produce in this country—is going to be greatly reduced.

So I thank the Senator for relating the supply of food and the abundance of energy.

I would like to raise another question with the Senator, if I may.

Mr. RANDOLPH. Yes.

Mr. BELLMON. We have talked, as we have this winter, about the rationing of energy. I am not sure we have thought this out as to its ultimate effect. If it becomes necessary, as it very well might in case of an international disturbance that would interrupt the flow of energy across the seas, and if we begin to ration gasoline or fuel for heating offices or factories, we will begin very promptly to slow down our entire Nation's economic output. For instance, if we limit the

amount of gasoline for automobiles and require more people to use mass transit, then we reduce the need for tires, and fewer automobiles will be bought, and pretty soon factories will begin to lay off workers.

This certainly will have a ripple effect that may go all through our economy. Has the Senator studied this matter? Does he have any comments about how the energy supply is tied not only to agriculture and food but also to the manufacture of many other products that we use?

Mr. RANDOLPH. The Senator from Oklahoma has widened his subject matter from agriculture to industry. I would reemphasize my earlier citation to the New York Times of yesterday, that mentions 40,000 workers in one State alone, embracing 43 industries, who were laid off because these industries had to close due to a fuel shortage. This is a very real threat. It is not something that is of slight importance.

I would like to comment briefly on our forms of energy use. Many of our current uses of energy are inexcusably wasteful in the light of this country's, and the world's projected energy plight. The New York State Public Services Commission, for example, has calculated that if all new buildings were properly insulated as well as electrically heated, the superior insulation alone would save roughly 40 percent in the new energy demand resulting from this construction. By 1980, this savings alone could amount to 5 to 6 percent of our total national oil requirements.

The potential energy savings through improved insulation in homes is subtantial, also. Reports indicate that if the June 191, FHA insulations standards were followed, energy savings could amount to 29 percent for a home heated with gas and 19 percent where heated by electricity—electrically heated homes already require more insulation. If, as has been recommended by environmentalists, the 1971 FHA standard were improved, or upgraded, the energy savings for a gas-heated home would approach 50 percent. For the homeowner this could amount to an annual savings of as much as $155 at today's natural gas prices and even larger savings at the anticipated future prices.

Even greater savings are possible in transportation uses of energy. In the last 30 years of our supposed technological development, the gas mileage of all motor vehicles has actually declined from 13.8 miles per gallon in 1940 to 12.2 miles per gallon in 1969. For passenger cars alone it has declined from 15.3 miles per gallon in 1940 to 13.8 miles per gallon in 1969 and even less today. Doubling in the gas mileage, though more efficient operation of passenger vehicles, by 1985, would produce a daily savings of 3.5 million barrels of oil. This action alone could produce a 30 percent decrease in anticipated gasoline requirements. This represents about one-sixth of projected national petroleum and refinery requirements. Within just 10 years this could result in a 15 to 25 percent savings in the national energy budget for this end-use without affecting service or transportation patterns.

This saving could be accomplished voluntarily by the auto industry through the development and introduction of more efficient and economical engine systems; however, as for air pollution control requirements, industry action may very well require the imposition of engine size, weight and efficiency limits before any action is undertaken. As dramatic as this proposal may seem, this transition to less energy, wasteful passenger vehicles would not, in any way, eliminate growth in the petroleum industry; it would, however, have the effect of slowing down the pace of growth.

The Senator is very familiar with this matter I am referring to: Does my response address itself to what the Senator from Oklahoma is saying?

Mr. BELLMON. It is very much on target. The conclusion it draws is the one that I would draw. And that is that we need to take steps in every way possible to conserve our energy supply and eliminate as much waste as possible. Even after having taken those steps, it will still present a tremendous stress on our energy industry to meet our requirements using our own sources in this country and those from abroad. It should be recognized that some of the latter sources are not too secure.

The point is that there is a relationship between food and the level of health and our economic well being. And they are all tied into the energy situation.

I think the Senator from West Virginia is rendering a tremendous service to the country and to the Senate in pointing out this relationship in his very fine speech. I wish to congratulate him.

Mr. RANDOLPH. Mr. President, I thank the Senator from Oklahoma, who is a member of the Interior and Insular Affairs Committee. He has been very much a part of the Senate's study of fuels and energy policies. I always have noted his attendance at the hearings and the penetrating questions that he puts to the witnesses. I compliment him and express the hope that he will be joined by many other Members of the Senate in taking a closer look at the problem.

Mr. FANNIN. Mr. President, would the distinguished Senator from West Virginia yield?

Mr. RANDOLPH. I yield to my very good friend, the Senator from Arizona.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from West Virginia, and I join with the distinguished Senator from Oklahoma in complimenting the Senator from West Virginia for what he has said and for his leadership in this matter.

Let me begin by complimenting the Senator on a most comprehensive and incisive analysis of what the energy crisis is all about. I was struck particularly by the Senator's explanation of the causes of the energy crisis.

In a floor statement last week I suggested that we are faced with an energy crisis for at least six reasons. These are: first, escalating demands, particularly for oil and natural gas and electricity; second, the cost-price relationships of producing energy; third, environmental constraints—both those which are reasonable and those which are purely emotional; fourth, inefficient uses of our present fuel; fifth, national security implications; and sixth, largely unfounded objections to the development of nuclear energy. Does the Senator agree?

Mr. RANDOLPH. Mr. President, I certainly do agree. And I think that the Senator's very comprehensive address on the energy crisis, which he presented on January 9 in this body, was most enlightening. I hope that all Senators have read the Senator's cogent remarks, and I hope that a greater body of the Congress will address itself to this important subject on which the Senator from Arizona, has covered in his work on the Interior and Insular Affairs Committee.

Mr. FANNIN. Mr. President, I thank the distinguished Senator. I certainly appreciate the comments of the Senator from West Virginia.

I also noticed that in the Senator's speech, he mentioned that "unrealistic Federal price controls on natural gas have both served as a disincentive for exploration for new domestic gas supplies and encouraged excessive demands for natural gas." Then later in his speech, he advocates "limited Federal decontrol of producer prices for new gas supplies." Does the Senator feel that such action is required to stimulate domestic exploration and development of gas?

Mr. RANDOLPH. Mr. President, I certainly agree that we need the incentives in reference to the domestic energy supplies rather than have a reliance on sources from outside the United States. Hopefully at a later period in my remarks, I am going to discuss this matter. However, I agree with the Senator that this is absolutely necessary.

Mr. FANNIN. Mr. President, I again compliment the Senator from West Virginia. And I anxiously await the remarks of the Senator. I have read the statement and I know what is included in them. However, I note that the Senator has also expanded upon his written remarks.

Earlier in our discussion we mentioned the problems involved in developing nuclear energy. The Phoenix Gazette has carried some excellent editorials on this subject. And I ask unanimous consent, if the Senator from West Virginia would be willing, that they be printed in the RECORD. I think that they would be quite valuable.

Mr. RANDOLPH. Mr. President, I would hope that the Senator from Arizona would be granted the privilege of introducing the material for the RECORD in connection with his extemporaneous remarks.

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

[From the Phoenix Gazette, Jan. 8, 1973]

NUCLEAR ENERGY'S SAFETY RECORD

When any protest becomes fashionable enough, Ralph Nader, the self-styled consumer advocate, is sure to join in. His latest foray is in the field of nuclear powerplant construction which he criticizes as a safety hazard. With the usual Nader hyperbole he

said, "The danger of catastrophic nuclear powerplant accidents is a public safety problem of the utmost urgency in the country today."

Someone with no knowledge of the history of nuclear powerplants might infer that such power was the illegitimate brainchild of some hare-brained scientist. This is not the case, of course, as the Nation is 10 years into the commercial, nuclear powerplant stage.

The first nuclear-powered submarine was launched in January 1954, and men live safely on such vessels. The first nuclear power station—a 560,000 kilowatts facility in New Jersey—went into operation in 1963. At present there are 28 nuclear generating plants in operation, 52 under construction and 70 far enough along in planning that reactors are on order.

The safety records of these plants is outstanding. President W. Donham Crawford of Edison Electric Institute noted, "They represent the cleanest method available of meeting the Nation's power needs in years ahead. Never has there been a nuclear incident or malfunction affecting the public safety in a licensed powerplant."

The nation's energy supply is now 1 percent nuclear power; petroleum accounts for 44 percent; natural gas, 33 percent; coal, 18 percent, and water power, 4 percent. Petroleum, gas and coal are dwindling supplies, and the Atomic Energy Commission is planning to provide half the Nation's electric power by the year 2000. Needs, by then, will be twice as great as they are today.

This Nation's power future lies in fast breeder nuclear reactor technology, now being developed as an outgrowth of conventional nuclear power. This creates fuel while generating electricity. Nuclear energy is safe and clean and vital to the future.

[From the Phoenix Gazette, Jan. 3, 1973]

ENERGY EQUALS SURVIVAL

The term "energy crisis" has come into use not to describe some future problem but as a label for what's happening now. The nation is energy short, the problem worsens daily, and the scientists who know how to supply pollution-free energy are crying out in a wilderness of opposition to any new form of power supply.

A few years ago proposed hydro-electric dams on the Colorado River which would have been pollution free were killed by hysterical environmentalists who claimed the Grand Canyon would have been flooded. The trade-off was for coal-fired generating plants in the Four Corners area, and now these are under fire because they have smoke stacks and employ strip-mining to get coal to fire the boilers.

The alternative is nuclear generating plants, but the public is frightened of them although it knows nothing about them. Dr. Norman Hilberry, a pioneer nuclear physicist and professor of nuclear engineering at the University of Arizona, recently spoke to 500 top state high school students in Phoenix to explain the need to develop nuclear energy as a major source of power.

Dr. Hilberry is concerned because scientists can't convince people that "there is no way a nuclear reactor can act as a bomb." Of the other fear, radiation, he said, "The idea that the amount of radiation coming from an operating reactor can do any damage is ridiculous, really."

The scientist began his career with Dr. Enrica Fermi who activated the first atomic pile in December 1942. He helped establish Oak Ridge National Laboratory and was one of the founders, later the director, of the Argonne National Laboratory in Chicago. In short, his credentials are impeccable.

The supply of fissionable material, unlike other energy forms, is almost limitless. This nation's very survival depends on taking advice from men who can meet the ever-growing power demands.

Mr. FANNIN. Mr. President, I would like to let the Senate know that developments are going forward in our State of Arizona. I received word this morning from one of the executives of one of our major power industries in Arizona. Their headquarters are located in Phoenix, and they operate in many areas of the State. They produce gas and electric power.

The company will release information either today or tomorrow on the new drilling project they are conducting related to the development of geothermal steam. It is located not too far from Phoenix near a very well known Air Force base. They are going to be drilling to a depth of 3,500 feet using a special enclosure that is designed to prevent pollution.

I just want the Senate to know that this project is going forward without Federal funds. The executives with whom I spoke are very optimistic about the anticipated results of this project specifically designed to develop this important new energy source.

I think this is important information for us. Although I have called for additional Federal funds to develop new energy technology, I think it is encouraging to know what is being done in Arizona related to geothermal steam without Federal assistance.

Mr. RANDOLPH. Mr. President, as I have indicated, I agree with the Senator as to the responsibility of industry as well as Government to take an initiative, which in this instance is being taken by industry, without Federal funding. I only trust that the project will be successful. It seems to have promise of success from the information we have.

Mr. FANNIN. Mr. President, I also agree with the Senator concerning his remarks about the importance of our natural gas shortage. I noticed that in his speech he mentioned that "unrealistic Federal price controls on natural gas have both served as a disincentive for exploration for new domestic gas supplies and encouraged excessive demands for natural gas." Then in his speech he advocated "limited Federal decontrol of produced prices for new gas supplies". Does the Senator feel that such action is required to stimulate domestic exploration and development of gas?

Mr. RANDOLPH. Yes, I certainly do agree.

Mr. FANNIN. I agree with what the Senator has said. That is why I am introducing a bill in this Congress to provide for the deregulation of the wellhead price of gas.

I ask unanimous consent to have printed in the RECORD some further information on this point.

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

ENERGY CRISIS

A decade or so ago the Federal Power Commission chose to severely regulate the wellhead price of natural gas, hoping that by doing so the consumer would be protected. The results have been disastrous. We read in the newspapers nearly every day about the effects of the current gas curtailments. Schools closed. Factories shut down. Farmers losing their crops. Editorials from 2 Arizona newspapers emphasize how this problem strikes home.

Exploration and development efforts for new gas have fallen off considerably while demand for underpriced gas has skyrocketed. The current Federal Power Commission has predicted that the gap between demand for natural gas and its supply will reach 17.1 trillion cubic feet a year by 1990.

Because of continued regulation some U.S. companies have gone to Russia to buy Soviet gas at five to eight times the regulated wellhead price of domestic gas. Such gas would be shipped to the U.S. as LNG.

So long as industry lacks the necessary economic incentives to develop our own domestic gas it will naturally be forced to look elsewhere.

But the interest of the American consumer dictates the need for a Federal policy which will supply him with more reasonably priced gas than will come from the U.S.S.R.

The most reasonally priced gas is that gas which can be developed domestically under economic conditions conducive to finding gas.

Those conditions I believe would be a policy of deregulation of wellhead prices for gas. That is the reason why I plan to introduce legislation which would establish such a policy.

If such legislation were enacted I am confident that the declining trend in exploration for gas would very soon reverse itself and thereby gas would be provided to the American consumer who today is suffering from an insufficient supply.

[From the Phoenix Gazette, Jan. 11, 1973]

ENERGY CRISIS CLOSER

By moving to restrict the use of natural gas here, Arizona Public Service Co. has issued an ominous warning that the energy crisis is moving perilously close to home. If the eco-extremists trying to block the construction of new power plants in these parts succeed, Arizona could be in for some hard times indeed without adequate natural gas or electricity.

The utility company recently announced that because of a shortage of natural gas, it is not accepting any new requests for service involving the construction of new facilities. APS told the Corporation Commission that it needs a 90 day moratorium to develop guidelines under which it will provide new service. On the same day it rationed gas to local industries.

That means, of course, that natural gas probably won't be available, starting right now, to all potential customers who would like to have it—some industries, commercial establishments and residents of new subdivisions. If they can't get gas for heating or cooling, those customers must rely on electricity, the only practical alternative.

Ironically, the same shortage of natural gas which promises to increase demands for electricity also is making it more difficult to produce the needed power. Generating plants using natural gas already are limited in supply, and the shortage obviously precludes any new gas-fired generators. That leaves oil, also in short supply, and coal, relatively plentiful.

Fortunately, electricity is not yet in such short supply hereabout that it must be rationed, but it could come to that unless utilities are permitted to make maximum use of the vast coal supplies in the Four Corners area. Until more advanced nuclear power plants can be constructed and new technology provides other means of generating electricity, the cost-fired generators will have to carry the load, or Arizona will have to do without adequate supplies of gas or electricity. That isn't a pleasant prospect.

[From the Flagstaff (Ariz.) Daily Sun, Jan. 10, 1973]

FROM THE DESK

(By Bill Misslin)

The energy crunch is moving closer to home.

Arizona Public Service has asked for a 90-day moratorium on accepting new requests for natural gas service involving construction of new gas facilities.

APS said it would evaluate the situation during the 90-day period and then come back to the Arizona Corporation Commission with a request for a more detailed permanent order specifying guidelines under which it would accept applications for new gas service.

The corporation commission has set a hearing for Jan. 22 and other natural gas distributors to show why the proposed moratorium should not apply to them in view of the supply problem cited by APS.

APS doesn't provide natural gas service in Northern Arizona. This area is served by Southern Union Gas Co.

J. O. Carnes, vice president of Southern Union, says that information available to his company at the present time is such that it would resist a state wide moratorium order.

Both Southern Union and APS get their natural gas from El Paso Natural Gas Co.

APS cites an interim order from El Paso from the Federal Power Commission as the reason for the moratorium request.

The APS news release states, "The El Paso company has in turn notified APS that no further increases of gas deliveries are possible under present conditions. El Paso faces an immediate gas shortage which will increase in severity for at least the next several years."

Southern Union officials don't read the FPC interim order in the same light.

Carnes said there is no indication in the FPC order suggesting curtailment of new deliveries in areas that presently have gas service.

Carnes said the basic objective of the interim order was to protect gas deliveries for residential and small commercial customers. There was nothing indicated in the order to restrict growth or to refuse to accept new residential and small commercial customers, he said.

The FPC did set up curtailment priority categories. Top priority goes to residential and small commercial use. On the other end of the scale are large industries that use natural gas for boiler fuel.

APS has curtailed such industrial uses, effective at 7 a.m. today. And so has Southern Union. Three large users in Northern Arizona—none in Flagstaff—were curtailed this morning and switched to alternate fuel supplies which they have.

Carnes notes that the FPC has ruled that residential use is a higher and better use than boiler use for natural gas.

The hearing before the corporation commission on Jan. 22 will resolve the immediate question of a moratorium or no moratorium.

But the long-range outlook still remains grim. Energy from all sources could be in short supply for many years to come unless there is an acceleration in the search for new reserves and in research for new techniques of utilizing present fuels.

Mr. FANNIN. I appreciate very much that the distinguished Senator from West Virginia has yielded to me. I would like to take another minute or two, if the Senator has the time. I appreciate that he has been yielded additional time.

I am hopeful that the Commerce Committee will respond positively to the gas crisis by reporting out legislation to decontrol the wellhead price of gas. Does the Senator share this hope?

Mr. RANDOLPH. I do share this feeling which has been expressed by my distinguished colleague.

Mr. FANNIN. I also strongly feel that we need to take positive action to reduce our dependence upon foreign oil because we cannot afford it. That problem has been covered very thoroughly, I think, by the Senator; he has brought out the magnitude of it. Some economists have predicted that if present trends continue we will be faced by 1980 with a balance-of-payments deficit for energy imports alone exceeding $25 billion annually.

I think the Senator shares this great concern; it that not true?

Mr. RANDOLPH. I also share this view and I just hope others will agree with what the Senator is saying.

Mr. FANNIN. I do not know what we can export. The Senator has a wonderfully productive State, and I realize that we are competitive in the world market in many products. But we are limited in the amount of products that we can export in order to mitigate our growing balance of payments deficit. Hence, I do not know whether we would have the opportunity to offset the tremendous amount of money our energy imports will cost—perhaps amounting to $25 billion—by increased exports of our own products.

In the intermediate term, however, I believe we will have to rapidly develop new energy sources such as geothermal steam, oil shale, coal gasification, to name a few. I also believe the Federal Government has a responsibility to stimulate the development of such technology by granting the proper incentives to private industry.

Would the Senator agree with that?

Mr. RANDOLPH. Yes; I agree with the Senator that there has to be this incentive. I think it absolutely necessary.

Mr. FANNIN. Again I commend the distinguished Senator from West Virginia for his leadership regarding the energy crisis at an early time. He has talked about this issue at length before, and he has very capably presented the energy problem, and I certainly will give him my wholehearted support in exploring for the proper means for its solution.

Mr. RANDOLPH. I appreciate the comments of the Senator from Arizona concerning the problem of balance of payments. I recall that on January 9 we were very emphatic about the subject of how we could alleviate this situation. I think certainly that coal gasification is one answer. Research and development are urgently needed, and I believe that it is important at this point to mention the contract which was signed yesterday for a coal gasification process to be developed in Indiana, looking, not to the gasification of low sulfur coal, but also of high sulfur coal. We have this type of coal in many States—Indiana, Ohio, West Virginia, and others.

I believe that we can, and I believe that we will find a feasible method of coal gasification.

Certainly the know-how in this country is very great, if it is actually put to the test. However, we do not yet have the support among the American people that we need to make such all-out effort.

Mr. FANNIN. The Senator has certainly brought out a very important factor, one we may sometimes overlook. And that is that we do have a large necessity for the generation of electric power near the different points in our country where it is needed. That is to say that the place of electric power generation should be located as near as possible to its point of consumption. I am referring particularly to the need for mine mouth powerplants which are not only near to the homes, but to the factories and industries they serve as well. I do not mean that they should be built in everyone's backyard but rather in the general vicinity of the communities they serve. I know that the Senator is as concerned about the proper development of energy sources in his State as I am about those existing in my State.

If we are going to be competitive with other countries of the world, we must have the low cost power he is talking about, in order to reduce our total costs and remain competitive as a developed and productive Nation. I know we are all working toward the same goal, and I am very happy to join my colleague in his effort.

Mr. RANDOLPH. I thank the Senator from Arizona, because if there is one subject which must be devoid of politics, it is this problem of dealing with the energy crisis facing this country and all of its citizens. I hope that never will there be a tinge of partisanship which enters into meeting and solving this serious and growing concern. I know that from my standpoint it will not occur. We must act for the future well-being of America—not only at home but in relationship to our leadership in the world. I am sure that the Senator from New Mexico would approach it in exactly the same attitude.

Mr. FANNIN. I certainly agree with the distinguished Senator from West Virginia. He has set the pace, certainly, on a nonpartisan basis. I commend him for that approach, and assure him that I will walk in that same path, as I feel that we will proceed down the road toward the adoption of viable solutions to our energy crisis much faster if we follow that course.

Mr. RANDOLPH. Again I thank my colleague very much.

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

Mr. RANDOLPH. I am happy to yield to the knowledgeable Senator from Wyoming, who has very often stood in this Chamber and addressed himself to the problems of fuels and energy.

Mr. HANSEN. Mr. President, first of all I want to congratulate the distinguished Senator from West Virginia for making a very knowledgeable and timely report on a matter of crucial importance to every single American, and, indeed, to most of those nations throughout the world that we characterize as being in the free world. Because the energy problems we face here in America today, those problems that the Senator from West Virginia has addressed himself to so adroitly impact heavily upon our way of life. The energy crisis impacts upon our

opportunity to live well, our opportunity to enhance prospects for increased employment, and to keep those employed who presently have jobs. It also impacts upon people in other nations around the world and such opportunities for their citizens, too. But unless we change the course of inadequate domestic supplies of energy that we have been embarked upon, it seems inevitable to me that we are going to be on a collision course with other nations in the free world.

I would ask my distinguished colleague if he does not agree with that statement.

Mr. RANDOLPH. Yes; I am in 100 percent agreement with my distinguished colleague. That course is in the making now, is it not?

Mr. HANSEN. I certainly think that it is. The Western European countries and Japan know perfectly that if we were to increase our dependency—as has been not the advice and not the recommendation of the distinguished Senator from West Virginia—on Middle Eastern sources for oil, we would, all of us—the Western European countries, Japan, and the United States—be looking toward a single source of supply, and competition for that oil would become that much more intense.

I know that the Senator has taken the time, not only in preparing his address today, but as well in the responses he has made on the floor this afternoon, to point out all the ramifications of the energy crisis. I could not agree with him more. We have got to examine them all. We need to get on with the establishment and adoption of an energy policy, as the Senator has been calling for repeatedly, time after time.

I think that we can look at short-term priorities and the steps we can take now which, hopefully, will quickly result in an amelioration of our problem and a mitigation of some of the shortages

Many sound thinkers have been exploring the possibility of de-regulation of the wellhead price of natural gas. The need for such a policy has long seemed obvious to me.

Further, in commenting on our present fuel shortage, we should permit determinations to be made by the various oil companies as to what sort of product they make. Such economic decisions should be made on the basis of the companies best business judgment, rather than as a necessary consequence of actions taken by the Price Commission.

It has been pointed out that the price of gasoline was fixed at its normal summer high and the price of fuel oil was fixed inordinately low at the time price controls were put into effect. We might have anticipated, as indeed the Senator from West Virginia has, that we would be short of fuel oil as a consequence of such a policy. So we do need to take a look, as he has recommended, at our short term priorities and the steps we can take now which can alleviate this unnecessary energy shortage. But, beyond the short term, I see no other course except that which he suggests, and that is to help bring commonsense and reason to bear in the formulation of a national energy policy, by taking stock of the abundant energy resources we have here in America, that we control, and that cannot be denied us by the whims of other nations. We have got to take advantage of our domestic opportunities in order to make certain that we shall never again be caught in this same energy crunch we now find ourselves facing.

Does my colleague from West Virginia not agree with that statement?

Mr. RANDOLPH. I certainly do. I would want to add that the Senator speaks about the oil imports from the Middle East and how, if we are to rely on them, there could be conditions that might interrupt or decrease that supply regardless of the balance of payments and economy. I would suggest, and I am sure the Senator's thinking also extends to natural gas from Russia and from Algeria. Here is another instance of dependence, if we go that direction, toward foreign energy sources. It could very well not only impair our security as a nation, but as a people. It also would be, I think, almost an admission on the part of a creative nation that we did not have the resources, the know-how, the technology, or the determination to do the job and use the resources we have here at home.

Mr. HANSEN. I must say I agree wholeheartedly with the distinguished Senator. In the first place, Americans are not ready to make the sort of admission that would be implicit in our actions here, as some people suggest. The Senator has been in the forefront of those who have been counseling for a long time that we needed to take action to solve the energy problems. Not today, not last week, but several years ago the Senator began to call public attention to this matter. He called attention to a national issue at a time when only a few enlightened persons were willing to try to detect trends related to our growing needs for energy and our lagging efforts at providing the necessary supplies. Had others then too recognized the course we were to pursue they too would have been able to predict the chaotic situation we find ourselves in today.

The Senator from West Virginia was in the forefront of those who said "There is an energy crisis emerging in this country." The Government has neglected to pay the attention that should have been paid to the need for coal gassification. It too has not given enough heed to all the other processes through which we could convert potential new sources of energy into the kind we could use now.

Returning to the more immediate problem, as a consequence to our failure to provide the encouragement to private industry by the action of the Government itself to regulate the wellhead price of natural gas, we are in big trouble. When the Federal Power Commission arbitrarily regulated the price of natural gas, it not only encouraged an overuse of natural gas, not only encouraged people to heat their patios with it, not only encouraged many other uses that look foolish to us today in retrospect, the FPC also concommitantly discouraged its production. As a result of this FPC action we are wondering how we can find enough energy to heat American homes, to get schools back into operation, and to help dry out crops in the Middle West which are unnecessarily wet. As we try so desperately to find answers to the desperate shortages of natural gas we face in 1973, we can not help but look back to the action of the Federal Power Commission several years ago which encouraged the waste of natural gas. I think that decision of a prior Federal Power Commission makes us look terribly ridiculous today insofar as our supplies of natural gas in 1973 are concerned.

Mr. President, I want to say that the distinguished Senator from West Virginia has been far more discerning than many of us in recognizing the good sense exhibited by a free enterprise economy. I know that he appreciates the fact that the policies pursued by the Federal Power Commission 10 or more years ago denied incentives to industry that should have been theirs. I know too that the Senator knows that had the FPC made a more sensible decision, coal gasification would have seemingly become a more possible economic reality than it now appears to be.

My feeling is that while there is little to be gained in criticizing those whose past actions resulted in our present dilemmas, I think it is useful at this time to recognize that we can and should take these short term priority steps that I spoke about earlier. If we do by deregulating the wellhead price of gas will we be encouraging the petroleum industry and those engaged in the search for and the production of oil and gas to promptly take actions necessary to explore and bring onstream our abundant untapped resources of natural gas.

We must at the same time encourage the great coal industry of this country to join hands with Government through an effort that I hope will be adequately funded by Congress, in order to assure that we get on posthaste with the job of making use—making better use—of the tremendous energy reserves we have in the solid fuels area. Coal is one, oil shale is another, and there are others that are even further down the road. We too must expedite the development of nuclear energy.

Earlier this morning when we were interrogating Mr. Whitaker, the nominee for the post of Under Secretary of the Interior, I asked whether he agreed with me that we ought to extend every encouragement we now could to those who would be interested in drilling and searching for oil on the Outer Continental Shelf. I asked that question because I think the OCS holds great promise of making available in the near future more natural gas, which is our cleanest and most premium fuel. By an expanded OCS leasing program we can lessen the crunch that otherwise will continue to be experienced by us. We must take the remedial action that my good friend from West Virginia has recommended for so long.

Mr. President, the Government of the United States, though oftentimes criticized, I believe can be said to operate from the best of intentions. I think this has been true no matter who has been the occupant of the White House. For example, consider the Vietnam war. It

has been initiated and continued during the terms of four different occupants of the White House. While we may not agree one bit with the war in Vietnam I think all of us would have to give good marks to our Presidents in trying as best they could to do what they felt would promote the best interests of the United States.

It is in this connection that I say that I think it makes very good sense to remove, insofar as we possibly can, any dependency upon a foreign country for something as vital and as necessary to us as is energy. I say that because our policy in the Middle East, I should think, would have to be modified very drastically if our dependence upon the Arab countries for oil were to continue to grow. If such increasing dependence were to come to pass, our ability to maneuver internationally in a manner which, hopefully, best will serve America, and best will serve the free world will be limited. On the other hand, our international posture will be strengthened by an energy policy which places only minimal dependence upon foreign sources of energy.

Mr. RANDOLPH. Mr. President, the Senator from Wyoming speaks of the possible world situation, which is indeed turbulent. Perhaps that is an understatement. He speaks about our being as self-sufficient as we can to the challenges that may come tomorrow. This is true.

While my colleague was speaking so knowledgeably on this subject, I thought, with no tinge of partisanship whatever, of an earlier Senator from Wyoming who, with me, addressed himself to this subject. In the war years of World War II—the late Senator Joseph O'Mahoney and I coauthored the Synthetic Liquid Fuels Act. At that time, we were under the gun, as it were, under the threat of the submarine. We needed to find ways of producing aviation fuel from coal and from oil shale, both of which are in great supply in the State of Wyoming. Then we faced the crunch of a crisis, while attempting to find some answers during that period of time. How significantly we would have served the country's interest had we been able to continue that effort of coal gasification and the oil shale development.

This is now a matter of history and has nothing to do with politics. However, in the middle and late 1950's, the money dried up, I say to the Senator from Wyoming, and the job, which had begun in the 1940's, did not go forward. From the perspective of hindsight, what a disservice it was. It was a failure to meet the need for continuing research and development, about which the Senator speaks so eloquently as a necessary program that we need in this country—rather than the current trend toward reliance upon fuel sources from abroad.

Yet that happened. It was in the House that I cosponsored that measure with Senator O'Mahoney of Wyoming. When I came back to the Senate, I was sworn in here, in November of 1958, for an unexpired term. Very soon, thereafter, in 1959, I offered a legislative proposal to establish a Joint Committee on Energy to look into these matters.

Now, the Senator from Wyoming as a member of the Committee on Interior and Insular Affairs, with Senators JACKSON, FANNIN, and BELLMON, and other Senators from the Interior Commerce, Public Works, and Joint Atomic Energy Committees are conducting the Senate's study of national fuels and energy policies. I anticipate this effort will be of value even though it is late; however, it is not too late if we are to grasp the responsibility that is upon us.

The Senator from Utah (Mr. Moss) has just come into the Chamber and he knows that in his State, Utah, as in Wyoming, there are abundant energy resources. For example, huge, huge amounts of coal can be converted into clean fuels to serve our economy. So I commend all the Senators participating in this study effort, because it is not too late, even though we should have addressed ourselves to this problem years ago.

I have quoted in the past Dr. Rene Dubois, who would be called a creative environmentalist. He has said, as the Senator from Wyoming has said a few moments ago, that the Government can do this job through the people if we have the foresight to do it. And, if our goals are sufficiently defined within the framework of Government, the job can be done. Dr. Dubois, an environmentalist, believes it can be done. The environmental and energy problems, as we know them, not need be competitive. They both are a part of the general welfare of this Nation.

It is very important that we proceed with dispatch, because there is an urgency which I hope the people throughout this country will begin to understand. I reiterate the situation of the last few days wherein 40,000 workers are unemployed and 43 industries have been shut down in Mississippi alone. This serves as an indication of the depth of this problem and the awareness that comes home to people when their general employment and lives are interrupted.

I am certain the Senator and I can agree on these points. I do believe that at long last, perhaps, with no pun intended, the fires are burning from the standpoint of interested people. First, we have an awareness of the problem. It may be a very slight awareness, but we are a part of it and there is a feeling of hope.

Mr. HANSEN. Mr. President, I wish to conclude my remarks. I am pleased to pay the accolades to my colleague from West Virginia.

I make two points. First, I am glad the Senator mentioned the former distinguished Member of this body, the revered Senator Joseph C. O'Mahoney, of Wyoming. I am glad he pointed out it is not uncommon at all for Members of this body, although they stand on different sides of the aisle, to agree on matters that are of transcendent importance to our country. I am pleased to be referred to in context with men like Joseph C. O'Mahoney of Wyoming.

Yet at the same time it is true that the Senator from West Virginia and I may not agree in every last detail of what our energy policy should be. I think the record of the Committee on Public Works and the Committee on Interior and Insular Affairs can speak to that point, but significantly in my mind, the thing I would like to focus on here today is that in broad general terms there can be no question, but that we do face a very serious energy crisis. There can be no question, but that we need to take a new tack now, one that will be responsive to today's problems and one that seeks to take advantage of the continuing desire and always present response of industry, when a chance for a profit is present, to serve the people of America.

We need to turn industry loose with the incentive that should have existed all along. To the extent necessary we need to aid industry in a research and development program for new energy technology that will be in part federally financed. Also necessarily, as the Senator from West Virginia pointed out, we need to take the proper measures for improving the environment of America. We want clean air and we want pure water and we want a beautiful and unscarred landscape. There is no reason in my mind why we cannot have all these things while at the same time enjoying an ever better standard of living.

But if we are to realize these goals as quickly as I hope we might, there can be no question but what more power and more energy will be required tomorrow to speed up the attack on pollution, polluted air and polluted water, and a desecrated landscape than we had in the past. It will take not less, but more power to handle the effluent from the sewers of the big cities in America. It will not take less, but more energy to sort out the waste and materials we have to recycle. And it will take a great deal more energy to raise the standard of living of those people whose concerns weigh heavily on our minds and consciences. It will take more energy than less to create employment opportunities for them.

Some, however, say the easy, simple, and quick answer to problems of environmental degradation is simply to use less power. These no growth advocates say never mind the coal, let it lie untouched in the ground. They say forget about trying to keep the lights going. They say let us do without energy rather than pierce a hole in the earth to find it. I say that is no answer at all. It is no answer, because it is not acceptable to most clear-thinking Americans. As Secretary Morton said in Tulsa, Okla., when he addressed the International Petroleum Exposition:

> The environment is the most important thing in the world until the lights go out.

I suspect that, as quickly as the lights go out, there will be few, if any, Americans who do not become very greatly concerned. I do believe that satisfying our national appetite for energy and providing reasonable protection to the environment are in fact compatible goals.

In closing, I want to compliment the distinguished Senator from West Virginia for his astuteness, for his courageousness, for the leadership he has displayed, in calling to the attention of this body and to the attention of all Americans the dimensions and the urgency of the energy crisis.

I yield the floor.

Mr. RANDOLPH. I again thank my colleague from Wyoming.

At this point I should recall the words of Abraham Lincoln. He faced another type of crisis during his period of leadership of our Republic. What did he say about that crisis?

He said:

The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise with the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country.

So here once again, paraphrasing, I think we must think anew; we must act anew. In a sense we must be more realistic than we have ever been before, if we are to save our country—at least from the standpoint of the standard of living. As has been referred to by several Senators this afternoon, this standard of living is not something to be bragged about particularly, but it is a very real symbol of our national and human well-being.

As expected, our standard of living also stands as a symbol of national and human well-being to virtually every other nation. However, the principal cost of this unparalleled prosperity is an unprecedented dependence on energy. Our affluence has been possible mainly because of our ability to extract energy and mineral resources from the land in historically unprecedented amounts. The United States, with less than 6 percent of the world's population, consumes about one-third of the world's production of energy resources.

Yes, our prosperity is a national goal now actively sought by other nations of the world without a full appreciation and understanding of the stewardship and challenge such as energy dependent economy entails.

THE RESULTANT ENERGY CRISIS

Meanwhile, the United States continued on a course which has all the early signs of an energy crisis, affecting all forms of energy supply. Although environmental concerns have irritated the immediate problem, the course toward an energy crisis was charted by other factors, years ago. In reality, energy consumption has escalated faster than our discovery and development of replacement domestic supplies. In the last 10 years, the United States has passed from the status of a net exporter of energy resources to a position with all the earmarks of a long-term heavy dependence on foreign supplies of oil and gas. The Federal Government has been derelict in permitting this to happen.

A number of clearly identifiable factors have contributed to gaps between energy resource demands and available domestic supplies—

Unrealistic Federal price controls on natural gas have both served as a disincentive for exploration for new domestic gas supplies and encouraged excessive demands for natural gas;

The overall growth in energy demand has exceeded the growth in domestic discovery of replacement energy resources;

Replacement short-term supplies for domestic oil and gas are, principally, from the Mideast and Africa;

There continues to be delays in the access of Alaskan North Slope oil and gas to markets in the lower 48 States.

There is a coal shortage which is the product of decreased productivity, labor difficulties, unauthorized strikes, a critical shortage of coal-carrying railroad cars, new and more stringent mine safety regulations, and new environmental requirements which affect coal mine operations and create marketplace demands for cleaner fuels;

Research policies have neglected the long-term role of coal in our energy economy; and

The future is one of indecision and uncertainty which is the consequence of ad hoc, piecemeal Federal policies which are held together very fragilely.

With respect to electricity, the lack of foresight and concern only for short-term economic benefits, have accentuated the electric supply problem. The situation further deteriorated with the introduction of expanded environmental ethic into public policies and, in turn, into corporate planning. However, the principal factors contributing to the electric power problems include these—

Insufficient Government and corporate planning which was intensified by erroneous forecasts of the Federal Power Commission in 1964 when future growth in the demand for electricity was underestimated;

When many of the Nation's utilities were burdened with severe generating overcapacity they reduced prices to stimulate consumer demand;

The Atomic Energy Commission and the utilities were optimistic in their forecasts of the arrival of nuclear energy; for example, in 1965, Con Edison of New York estimated that by 1970 some 24 percent of its generating capacity would be nuclear; but the actual figure was 1 percent; and

There have been extended delays in nuclear power development due to equipment problems and labor problems as well as environmental concerns.

INTERNATIONAL SCOPE

Significantly, national concern for available energy supplies is not confined to the United States. For example, England is urging the Common Market countries to shape a unified energy policy. Faced with a U.S.-style energy crisis, Europe's domestic production of oil is almost nonexistent: In 1971, about 90 percent of their oil supplies came from Africa and from Middle East sources—the rest came from Russia.

Meanwhile, Europe's energy needs, as ours, are burgeoning. Even when the dramatic oil finds in the North Sea, off Britain and Norway, are taken into consideration, in 1980, Europe may still be 88 percent dependent on oil from Africa and the Middle East. The United States will be dependent on the same sources as long as there is a continuation of current policies which emphasize low-cost oil imports to replace domestic shortfalls in supply. The further we go down this misdirected road the greater the likelihood that there will be cut-throat competition between the United States and Europe for these limited supplies.

The consequence will be severely strained relations with many of our former allies—and this is an added cost we cannot afford.

THE POTENTIAL CONSEQUENCES

I have stated repeatedly that the cumulative effect of all these factors is a disturbing picture. It reveals our country, and numerous others, embarked on a gigantic gamble that reliable and abundant production of crude oil, natural gas, and coal from all sources—domestic and foreign—will ensue. Failing this, the assumption is that, hopefully, some immense substitute source or sources of energy will be found in time.

Meanwhile, nonrenewable fossil fuels are being depleted at ever increasing rates. The situation actually developing is such that should any energy supplies falter the people affected—Americans or Europeans—will experience economic and social depression verging on catastrophe.

The consequence of the threat of interruption of supplies of oil imports was cogently expressed recently by Joseph C. Swidler, chairman of the New York State Public Power Service Commission, as follows:

Even if there is not actual interruption of United States supply, risks and threats of interruptions could profoundly affect American life, and perhaps even the independence of the American character which is our badge and our pride. As we look around the world and see the extent to which dependence on oil imports has influenced the foreign and domestic policies of many of the countries of the globe, it becomes apparent that this heightened dependence on foreign oil threatens the historic freedom of the United States in foreign affairs and our ability to continue to stand for the principles of liberty which have stamped upon the United States its special character as a Nation. Already we hear voices urging that the United States tailor its relations with other powers to the views and demands of the oil exporting countries. If we cannot provide a high degree of security in fuel resources, we may end up unable to resist a pervasive influence over foreign policy by the exporting countries of the Mid-East, which have little understanding of the well-springs of American behavior in international affairs, or sympathy for United States' foreign policies.

Action, not rhetoric, is needed now to insure the economic viability of domestic, not foreign, energy supplies. We must act to protect our national security. We must not rely excessively on foreign supplies of oil and gas. I would hope, after more than 2 years' work, that the President's Domestic Council is in a position positively to offer some realistic proposals as initial steps toward the formulation of coherent, rational, and comprehensive national fuels and energy policies. We remember that the President placed within the Domestic Council the mission I had intended in 1970 for a proposed Commission on Fuels and Energy in legislation I offered that year. Consequently, I look forward to the anticipated special message from the President to the Congress within a few weeks. I hope it will not be more "words without performance," which the country has been receiving from the Nixon administration all too long. Our performance

in the Congress on this subject can stand vast improvement, too.

WE ARE VERY LATE COMING TO THE POINT

This is an opportune time to point out that this Senator—then a Member of the House of Representatives—and Senator Joseph O'Mahoney, of Wyoming, successfully sponsored, during the wartime years of the 1940's, legislation authorizing programs of research and development on synthetic liquid fuels and the gasification of coal. Our country faced grave shortages of fuels and energy in those wartime years. We weathered that crisis more through luck than planned application or policy development.

The synthetic fuels and gas-from-coal research programs under the Randolph-O'Mahoney Act were still valid and meaningful efforts when the Truman administration ended and the Eisenhower administration came upon the scene. But they went into limbo in the first Eisenhower administration and died out completely under the pennywise pound-foolish domination of its Bureau of the Budget.

Then came the economic recession of the second Eisenhower administration. The coal industry was in a very sad plight—even though the usefulness of coal for direct heating and for conversion was not disputed. Although new energy demands were not great, because of the recession, competition between fuels was keen for the available markets—especially for the electric utility market.

In the late 1950's and the early 1960's, it was obvious that our Government needed to take cognizance of the fuels and energy situation, especially from the standpoint of cutrate competition from new South American refinery products, particularly heavy residual oil. Some of us felt strongly, as early as 1959, that we needed a national fuels policy. But the oil and natural gas industries opposed this concept and interjected a fictional contention that the proponents of development of a national policy on fuels were simply attempting to have Congress impose end use controls.

As a consequence the resolution I introduced to create a Joint Committee of Congress on Fuels was stopped in the Senate Committee of Interior and Insular Affairs. Instead, there was substituted a committee resolution to conduct a fuels "study." The result was a report in 1962 which did not contribute much to posterity nor did it provide anything solid that would serve as a foundation for a national fuels policy. So, we went into another period of drift.

As we entered the decade of the 1970's, it was thoroughly apparent that our country was, indeed, rushing—not just drifting—toward a national fuels and energy crisis. Ironically, the same opponents of the 1959 effort I spearheaded—to have the Congress go thoroughly into the problems of fuels and energy—began coming to me along with proponents of this earlier effort. They joined almost as one in urging that "now—1970—is the time to do what we long have needed to do in this country, namely, develop and enact into law a national fuels and energy policy."

There was a broad consensus that the most suitable instrumentality for getting the job done would be a Commission on Fuels and Energy, the membership of which would have been drawn from Members of the Congress, appropriate officers of the executive branch, and some members of the public at-large, appointed by the President. A bill was introduced by me, with over 60 Senate cosponsors. It was S. 4092 of the 91st Congress, introduced on July 16, 1970.

Although the Senate Interior and Insular Affairs Committee promptly called for comments by the appropriate offices, departments, and agencies of the executive branch, it was not until November 1970 that the Executive Office of the President informed the committee that the White House felt that the proposed commission would not mesh with President Nixon's newly formed Domestic Council.

Chairman JACKSON of our Interior Committee and I discussed this turn of events and concluded that it would be useless to move forward with the fuels and energy commission legislative proposal if one of the proposed partners—the executive branch—was reluctant to participate as a partner, in fact, in the development of a national fuels and energy policy. We deplored the White House stand on this proposed legislation, but we decided to give the Domestic Council a green flag to go ahead and hold the President responsible for its end results, if any of note.

But we also decided that the Congress could not wait for the Domestic Council alone to produce something which might be appropriate for consideration in the formulation and, hopefully, the enactment of national fuels and energy policies. We concluded that we have a responsibility in the Senate in these matters and should not lose time getting to work to meet these responsibilities. So, we drafted Senate Resolution 45 at the outset of the 92d Congress; Senator JACKSON and this Senator introduced it jointly and had it considered and passed by the Senate on May 3, 1971. This resolution is the basis for the study which has been going on in the Interior Committee, with ex-officio members from the Commerce, Public Works, and Atomic Energy Committees, for almost 2 years.

Real progress is being made by this Senate study group. I feel sure that it will have interim legislative recommendations to make to the Senate within a few weeks—and perhaps other interim and a final set of recommendations later this year.

Personally and officially, I believe that a comprehensive national fuels and energy policy must reflect—

An assessment of future energy needs and their relationship to the general economy;

The availability of domestic fuel supplies, including the time period required to make additional supplies available, the technological needs, their environmental characteristics, and the probable costs;

The availability of foreign energy resources, including the competitive demand for these fuels from other nations; and

The interrelationship between foreign sources and the attendant risks to national security, both military and economic.

SUMMARY OF PROPOSALS FOR ACTION

After many years of deep concern for our Nation's energy economy, I believe I am now prepared to speak of the policy elements that I feel must be reflected in Federal energy programs and priorities.

I offer the following 26 legislative and executive branch actions as integral elements in rational, coherent, and complimentary national energy and fuels policies:

TO COORDINATE AND ADMINISTER FEDERAL ENERGY PROGRAMS MORE EFFECTIVELY

We should:

Establish a policy formulating and coordinating body, such as a Council on Energy Policy, within the Executive Offices of the President.

Congressionally restructure the Department of the Interior, or approve a Department of Natural Resources—and Energy—or develop some other suitable department or agency, the principal functions of which would be administration of domestic energy and mineral resources developments in a manner consistent with overall economic, environmental, and societal policies.

Separate the traditional roles of the Office of Emergency Preparedness for energy resources contingency planning and the ongoing administration of a mandatory oil and gas import program and place the latter solely in the newly constituted department or agency resulting from the above action.

Initiate a joint congressional-executive branch review looking toward consolidation of Federal regulation of energy activities, such as the Federal Power Commission and the Atomic Energy Commission, within a single agency.

Establish a joint Government-industry corporation to spearhead the demonstration of new and advanced energy technologies.

TO FOSTER ENERGY CONSERVATION PRACTICES NATIONALLY

We should:

Upgrade the 1971 FHA home insulation standard.

Establish Federal guidelines for the incorporation of energy conservation practices in new buildings—mandatory for new Federal and federally insured buildings and homes. The Senate Public Works Subcommittee on Buildings and Grounds will study this aspect in detail this year.

Establish a national program of consumer education to foster more efficient use of energy in our daily lives.

Develop and publish Federal guidelines for the labeling of electrical equipment to reflect efficiency of energy utilization.

Initiate comprehensive national reyiew of the potential for energy conservation within the transportation sector of our economy, hopefully, to lead to the adoption of Federal policies for fostering energy conservation in this end use.

TO ASSURE REALISTIC CONSIDERATION OF EXPANDED ENVIRONMENTAL AND SOCIAL CONCERNS IN NATIONAL COAL POLICIES

We should:

Insure that the prices previously allowed for energy supplies by the recently abolished Price Commission are increased, with the concurrence of the Cost of Living Council, to reflect decreased production, the increased costs incurred in meeting rising wages, in developing new coal sources, and in responding to new environmental and occupational policies governing both the production and end use of coal.

Implement the Clean Air Amendments of 1970 so as to reflect the statutory distinction between the 1975 primary—health—air quality standard and achievement of the secondary—welfare—standards at a reasonable time thereafter.

Implement State plans of implementation approved by the Environmental Protection Agency, so as to appropriately reflect the availability and nonavailability of sulfur oxides control technologies and low-sulfur fuel supplies. These two recommendations will be reviewed by the Senate Public Works Committee's Subcommittee on Air and Water Pollution, later this year.

Initiate the earlier congressionally mandated Federal expanded program for the demonstration of sulfur oxides control technologies—an element of the President's June 1971 energy program that did not materialize.

Undertake a significantly expanded Federal research program which reflects the fact that the vital role of coal in our energy economy rests in its conversion into environmentally clean gaseous and liquid fuels.

We must have:

Immediate enactment of surface mining legislation which—

Covers coal and other mineral resource developments on public lands;

Provides the States with Federal guidelines and minimum standards as the basis for strict State control of surface mining operations and reclamation;

Places in the States the primary responsibility for development and administration of programs for the control of surface mining;

Provides Federal fallback authority where Federal guidelines or minimum standards are not being met; and

Provides that each applicant for a surface mining permit should file a detailed plan for the mining operation and the reclamation that is to be performed during, and after, commencement of mining operations.

TO PROMOTE THE DEVELOPMENT OF DOMESTIC ENERGY SUPPLIES

We should:

Initiate a comprehensive analysis of present trends on oil and gas imports with an assessment of the desirability of arresting current trends toward and increased dependence on Eastern Hemisphere sources of oil and gas.

Establish realistic pricing systems for domestic oil and gas supplies.

Use the Federal Power Commission's existing authority to channel natural gas supplies on Outer Continental Shelf into interstate markets.

Develop energy resources on Federal lands on reasonable terms and time schedules to mitigate dependence on foreign supplies.

Provide for limited Federal decontrol of producer prices for new natural gas supplies under two comprehensive and complementary Federal initiatives—

As the quid pro quo for eliminating wellhead price regulation as a determining factor in Federal Power Commission regulatory actions, extend all other jurisdictional indices, or criteria, other than price into intrastate natural gas producer sales; and

Promulgate national guidelines for the curtailment of natural gas customers during periods of shortage, with authority for the Federal Power Commission to impose the established enduse priorities with regard to both direct and indirect sales.

Initiate immediately a joint congressional executive branch review of the adequacy of domestic refinery capabilities. This review must consider anticipated short-term and long-term requirements and serve as the basis for legislation to stimulate the development of an expanded domestic refinery capacity consistent with economic, environmental, and societal needs.

Initiate a comprehensive analysis of the adequacy of uranium refinery capabilities to meet the fuel requirements of projected nuclear electric power plants over their operational life. Federal policies must assure that ad hoc fuels policies do not commit this country to nuclear power development at a level that cannot be maintained with anticipated uranium supplies.

We must also undertake—

A comprehensive and objective analysis, and action, on the National Petroleum Council's recommendations to improve the economic and political climate to encourage energy development and competition among domestic energy suppliers.

A review of the 15 major areas suggested by the National Petroleum Council for policy guidance initiatives by the Federal Government in order to foster the development of increased U.S. energy supplies.

The necessary steps to establish a national deep water port policy which requires that any deep water port development recognize the need for long term reliance on domestic energy supplies. The Senate Public Works Committee's Subcommittee on Flood Control, Rivers, and Harbors will review this matter in detail.

EPILOG

Under the concept of the responsive man, security must be earned; it is not handed out in exchange for freedom.

America has yet to develop a perfect system, but we have come closer than most of the older nations on earth. As we near the third century of our Nation's success, it is time to turn to our full attention and resources to the proper evaluation of our creation.

The struggle to keep our forefathers' concept of a prosperous people living in freedom has not been easy and, in the years ahead, the challenge may be even more difficult. This was perceived by that statesman of the American Revolution John Adams, who, on signing the Declaration of Independence, wrote these prophetic words to his wife:

I'm well aware of the toll and blood and treasure that it will cost us to maintain this declaration. Yet through all the gloom I can see the rays of ravishing life and glory. I can see that the end is more than worth all the means; and that posterity will triumph in that day's transactions, even though we should rue it, which I trust in God we shall not.

The challenge of the energy crisis is now—not later. It is real. The question is one of acceptance and solid commitment to meet our energy needs on schedule while, at the same time, meeting environmental responsibilities. We can do if the approachment to solutions is realistic.

Mr. President, I ask unanimous consent that the remainder of my remarks, which include the basis for my recommendations, be printed at this point in the RECORD.

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

ORGANIZATION OF FEDERAL PROGRAMS

For several years there has been a generally recognized need for reorganization of the Federal energy related programs. In recent years proposals have centered on either reorganization of the Department of the Interior or the President's proposal to create a new Department of Natural Resources. The January 19, 1973, issue of Science magazine reports that the Department of the Interior has set up an Energy Board whose function eventually will be to coordinate energy policies in all branches of the Federal government. The Board is to be chaired by Interior Secretary Morton and will consist of four or five assistant secretaries. Ultimately, the Board is to reside in the proposed Department of Natural Resources and is also to serve as the focal point for energy research development and research policies within the Department of Natural Resources.

As pointed out by the Ash Council (or the President's Advisory Council on Executive Reorganization) Federal energy organization reflect a comprehensive and coherent approach, not only to the formulation of energy policy, but also to the promotion and regulatin of energy resource development activities, including deep water ports, refineries, and power plants, to name a few activities.

Considering the critical nature of such a reorganization to national economic, environmental, and societal well-being, I believe such an undertaking is the joint responsibility of both the Congress and the Executive Branch. In undertaking Federal reorganization for energy careful consideration must be given to the benefits and disadvantages of the various proposals before the Congress.

After many years of concern for Federal energy programs, I believe we should take the following six actions to provide for the more effective administration of Federal energy programs:

Establish a policy formulating and coordinating body, such as a Council on Energy Policy, within the Executive Offices of the President.

Congressionally restructure the Department of the Interior, or approve a Department of Natural Resources (and Energy), or develop some other suitable department

or agency, the principal functions of which would be administration of domestic energy and mineral resources developments in a manner consistent with overall economic, environmental, and societal policies.

Separate the traditional roles of the Office of Emergency Preparedness for energy resources contingency planning and the ongoing administration of a mandatory oil and gas import program and place the latter solely in the newly constituted Department or agency resulting from the above action.

Initiate a joint Congressional-Executive Branch review looking toward consolidation of Federal regulation of energy activities, such as the Federal Power Commission and the Atomic Energy Commission, within a single agency.

Establish a joint Government-Industry corporation to spear-head the demonstration of new and advanced energy technologies.

As I remarked during June, 1972, hearing before the Senate's Energy Study, an Energy Development Corporation could serve as a focal point for much needed joint government-industry research on such technologies as coal gasification and liquifaction, advanced power cycles, sulfur oxide control technology, solar energy, and, possibly, breeder and fusion reactors. Conceivably this effort could be financed by revenues from an energy surcharge or refundable tax.

AVAILABLE ENERGY SUPPLIES

One prognosis on the availability of ample energy supplies of fuels to meet our domestic demands was, contained in the July, 1971, preliminary report of the National Petroleum Council entitled, "U.S. Energy Outlook—An Initial Appraisal (1971–1985)." Three major implications of current policies and practices were emphasized:

Continuation of present government policies and economic conditions will lead to significantly increased United States dependence on foreign energy resources, mostly in the form of oil from Eastern Hemisphere countries, and will lead to an acute shortage of natural gas;

Potential energy resources of the United States will support higher growth rates for domestic supplies, given adequate economic incentives and careful coordination of efforts between government and industry; and

Capital requirements to meet United States energy needs through 1985 are extremely large and will be difficut to obtain unless the general economic climate for the energy resource industries is improved.

Last month, upon completion of their three year study effort, the National Petroleum Council, enunciated the following objectives as fundamental to the development of a National Energy Policy:

assurance of adequate supplies of secure sources of energy;

preservation of the environment in the production and use of energy;

promotion of efficiency and conservation in all energy operations and uses; and

recognition that, in all three of the above objectives, appropriate consideration must be given to the impact of energy costs on economic welfare and progress.

Meanwhile, events are carrying us toward an ever increasing dependence upon foreign sources for oil and gas; due in large part to the necessity to make up short-falls in available supplies of domestic energy resources—particularly natural gas. Under current policies and practices, oil serves as, what is termed, the "swing fuel"; this is because oil is the only resource available in sufficient quantities to meet gaps between supply/demand deficits incurred for other fuels.

However, any analysis of the United States projected dependence on foreign supplies of oil and gas must begin with the recognition that three-fourths of the non-communist world's oil reserves are located in the Persian Gulf and north Africa. In the context of world affairs, the long-term political and economic consequences of this reality of nature are often overlooked or ignored as these countries strive to achieve positions of world power in the League of Nations.

The full impact of the envisioned dependence on oil imports and, to a limited extent, natural gas imports is conjectural, at this time. With the continuation of current trends, however, on the basis of quantity, it is estimated that, by 1985, oil imports will account for 57 percent of our national petroleum supplies, or about 25 percent of our total energy consumption. (By comparison, in 1970, only 23 percent of our petroleum supplies and ten percent of our total energy requirements were satisfied by oil imports.)

Although discussed in some detail later, in summary, from an economic perspective, in 1970, the United States economy experienced foreign oil purchases of $2.1 billion. Under current oil import policies this will increase to $13 billion in 1975 and $31 billion by 1985. The implications of a cash flow of this magnitude for balance of payments is highlighted by the fact that, today, our total annual export of goods and services is only about $65 billion.

However, according to the National Petroleum Council's December, 1972, report, however, under effective Federal energy policies, purchases of foreign might be reduced to $9 billion, by 1975, and $7 billion by 1985. And, by the end of this century, the United States could again become self-sufficient, as Russia is today.

Setting national security aside, the consensus among the experts is that actions to stimulate domestic energy resources provide the best and lowest cost long-term, as distinguished from short-term, solution for the energy needs of this Nation. Actions must be undertaken to assure this end-point for our national fuels and energy policies before vast sums of capital are prematurely or irrevocably committed to expensive foreign substitutes for potential domestic supplies.

The forecasts mentioned portray an ever increasing demand for domestic as well as foreign energy supplies. The cumulative effect of these events can be expected to place severe strains on our national institutions and will be a paramount importance to all Americans.

ENERGY DEMAND

Historically, as a Nation, we have been accustomed to abundant, low-priced energy; today, however, for the first time in our history, we must recognize the full economic, environmental, and societal consequences of energy conversion and consumption. Until very recently, we have been content as a society to externalize the costs of energy resource development, conversion, and consumption as scarred hillsides, eroded topsoil, degraded air and water quality, and the human misery accompanying underground mining. Rightly, public policies now require that these social costs be internalized, and the damage and abuse resulting from outdated practices be corrected. As expected, "social accounting," when applied to energy related activities, will mean higher prices for the consumer.

In recent months there has been considerable discussion of the full societal consequences of our projected growth. Several aspects of these dialogues deserve mention here.

Growth is inherent in the American psyche and fundamental to the viability of our current economic system. Consequently, it is difficult for Americans to visualize proposals for stabilization of population, of energy use, or of total productivity. Yet, as thinking people we all are aware that current growth patterns cannot continue forever as observed in the current degradation of environmental quality. At some time, possibly in another generation or century, man's numbers and his exploitation of the Earth's nonrenewable resources must be accommodated to the limitations of nature.

The efforts of the Club of Rome, which are reported in *The Limits to Growth*, portray a vivid, doomsday picture of future events as basic resources become increasing limited. It is unclear when this time will come; indeed, it may already be on our doorstep, as we enter the 21st century.

We do know that, in less than a decade, the combination of increasing energy demands and declining known reserves of domestic energy resources has revolutionized this country's energy prospects for the future. In a short space of time events have transformed our nation's domestic fuel supplies into one large deficit with the only possible short-term supply being oil and gas imports. This transition—of enormous political and economic importance—occurred in an instant of history, to use Professor Forrester's phrase.

ENERGY CONSERVATION

The time is long overdue to put into effect a comprehensive national program of energy conservation, designed to accommodate as much as possible of our future growth in energy consumption through the more efficient conversion and consumption of energy. The potential is reportedly there for a 30 to 40 percent increase in the amount of usable energy from the same quantity of basic energy resources we are using today. By 1980, this could amount to an annual savings of as much as 7.3 million barrels of oil a day or an annual reduction in foreign oil purchases of $10.7 billion.

Energy conservation practices designed to achieve this objective could, and should, serve to both mitigate our dependence on oil imports and help stabilize our total consumption of basic energy resources. These observations and others, are made in the October, 1972, and January, 1973, reports of the Office of Emergency Preparedness on Energy Conservation.

Many of our current uses of energy are inexcusably wasteful in the light of this Country's, and the world's, projected energy plight. The New York State Public Services Commission, for example, has calculated that if all new buildings were properly insulated as well as electrically heated, the superior insulation alone would save roughly 40 percent in the new energy demand resulting from this construction. By 1980, this savings alone could amount to 5 to 6 percent of our total national oil requirements.

The potential savings through improved insulation in homes is substantial, also, Reports indicate that if the June, 1971, FHA insulations standards were followed energy savings could amount to 29 percent for a home heated with gas and 19 percent where heated by electricity (electrically heated homes already require more insulation). If, as has been recommended by environmentalists, the 1971 FHA standard were improved, or upgraded, the energy savings for a gas heated home would approach 50 percent. For the home owner this could amount to an annual savings of as much as $155 at today's natural gas prices and even larger savings at anticipated future prices.

Even greater savings are possible in transportation uses of energy. In the last 30 years of our supposed technological development, the gas mileage of all motor vehicles has actually declined from 13.8 miles per gallon in 1940 to 12.2 miles per gallon in 1969. For passenger cars alone it has declined from 15.3 miles per gallon in 1940 to 13.8 miles per gallon in 1969. Doubling in the gas mileage, through more efficient operation of passenger vehicles, by 1985 would produce a daily savings of 3.5 million barrels of oil. This action alone could produce a 38 percent decrease in anticipated gasoline requirements. This represents about one sixth of projected national petroleum and refinery requirements. Within just 10 years this could

result in a 15 to 25 percent savings in the national energy budget for this end-use without effective service or transportation patterns.

This saving could be accomplished voluntarily by the auto industry through the development and introduction of more efficient and economical engine systems; however, as for air pollution control requirements industry action may very well require congressional legislative action to provide authority to impose engine size and weight as well as efficiency limits before any action is undertaken. As dramatic as this proposal may seem, this transition to less energy, wasteful passenger vehicles would not, in any way, eliminate growth in the petroleum industry; it would, however, have the effect of slowing down the pace of growth.

Another possibility for energy economy is in the area of electrical equipment. For example, some air conditioners consume 50 percent more energy than others, but few buyers are made aware of the difference. The customers' choice usually depends upon appearance or convenience features. Here, too, there is a potential for significant saving in the Nation's fuel bills. where existing Federal procurement standards for window air conditioners extended nationwide, by 1980, the energy demand for air conditioning uses would be cut by 20 percent.

As the first steps towards fostering energy conservation practices nationally, we should.

Upgrade the 1971 FHA home insulation standard—

Establish Federal guidelines for the incorporation of energy conservation practices in new buildings (mandatory for new Federal and Federally insured buildings and homes). (The Senate Public Works Subcommittee on Buildings and Grounds will study this aspect in detail this year.)

Establish a national program of consumer education to foster more efficient use of energy in our daily lives.

Develop and publish Federal guidelines for the labeling of electrical equipment to reflect efficiency of energy utilization.

Initiate comprehensive national review of the potential for energy conservation within the transportation sector of our economy, hopefully, to lead to the adoption of Federal policies for fostering energy conservation in this end use.

UNCERTAINTY IN NATIONAL COAL POLICY

As a Senator from West Virginia, one of our country's largest coal-producing states, I feel the appropriateness in beginning my discussion of national fuels policies with a review of the problems associated with coal production and utilization.

As mentioned, the supply of coal in the United States must grow if this resource is to meet anticipated increases in coal demands for this resource—any supply shortfalls in supply must, be satisfied, under current policies, by oil imports.

To date, however, the essential role of coal in our Nation's future energy economy has almost been ignored by Federal policies. Immediate reform in government policies must be instituted to remove the present market uncertainties regarding the future of this vital resource. For coal is the only domestic energy resource capable of relieving emerging fuel scarcities for other domestic energy supplies. Coal current climate of development leaves much to be desired, described by Carl E. Bagge, in *1972 Bituminous Coal Facts*, as:

"The American coal industry, has been forced to live all too long on a subsistence level to be expected to reach its full stature merely by the shrinkage of other fuels. It absolutely requires national policy encouragement and realistic help to increase its production to the level of our energy needs, to improve its product to the new norms of environmental acceptability, to reinvigorate its economic base by access to the sources of capital, and to be allowed to compete without artificial handicaps in a fuel market freed from outdated government policy controls.

"The Nation's new and hastily conceived environmental ethic is the broadest single barrier to the coal industry's achievement of its full potential in time to restore our energy balance. Both government and the public must reevaluate coal as a lasting energy asset instead of a passing environmental liability. Coal must be regarded less as part of the problem and more as most of the solution. The ecological problems of coal production and utilization can be solved in good time, but the nation is rapidly running out of time to solve its far more crucial energy shortages."

Today, the coal industry is highly competitive; this situation must be maintained. In the United States there are some 5,000 coal companies, with approximately 575 companies producing more than 90 percent of the available supplies. The top fifteen producers account for slightly more than 50 percent of this production. This inherent diversity results in aggressive competition. within the industry. Another factor contributing to market-place competition is the inherent geographical distribution of the many companies. The recent arrival of the oil or energy companies on the coal scene appears to have further intensified this competition.

Over the years, concern has been expressed regarding the acquisition of coal companies by the so called "energy" companies. Such action has often been viewed as contrary to our national interests; however, to date, such acquisitions appear to have been beneficial for the economic viability of the acquired coal companies.

I would like to briefly review the experience, to date, regarding four coal divisions of oil companies: Pittsburgh and Midway, a subsidiary of Gulf Oil Corporation; Old Ben, a subsidiary of Standard Oil Company of Ohio; Island Creek, a subsidiary of Occidental Petroleum Corporation; and Consolidation Coal Company, a division of Continental Oil Company. Since their acquisition by "energy" companies, the average rate of growth for these four coal companies has been 6.2 percent, annually, compared to 2.6 percent for the whole industry. With the firming of public policies affecting coal markets, comparable growth can be expected in the future, also. Unfortunately, however, the stability of the market in the immediate future is disconcerting as long as public policy requirements for environmental and occupational controls as well as surface mine reclamation are in a state of flux.

The one word that aptly summarizes national coal policies is "uncertainty." The present situation was cogently described in testimony before the House Public Works Committee, last August, by Robert Price, Executive Vice President of the National Coal Association, as one of—

"Uncertainty about the continued viability of the coal industry in the face of this Nation's increasing dependence on oil imports; uncertainty about coal's present and future markets due to the increasingly restrictive environmental regulations with no commensurate development of the technology necessary to meet those standards; uncertainty about the ability of coal companies faced with declining productivity and onerous price controls to attract the necessary capital to insure not only their growth, but their continued existence in a capital-intensive industry; uncertainty about mining methods and the ability of coal producers to tap the vast stores of coal found in this country; and uncertainty about the resolve of the Nation to swiftly develop a comprehensive national energy-environmental policy which will help solve these problems."

In short, time is of the essence. Unless we immediately come to grips and resolve these issues this situation can be expected to deteriorate further.

The current lack of definitive Federal policy guidelines has acted to create a constrained and semiretired coal industry which is unable to respond with the capital, production, and economic vigor necessary to support a new big synthetic gas and oil industry, as foreseen.

Even if it were possible, it would be unrealistic and foolhardy to consider placing our domestic coal industry in mothballs, awaiting the ultimate development of environmentally acceptable means for the extraction and use of coal. The industry is a high-cost, complex, skilled-labor industry, reactive to public policy and market demands. Provided the uncertainties are removed from public policies the coal industry is capable of assuming its vital role in our future energy economy.

Recently, at the 1972 West Virginia Industrial and Mining Show, Carl Bagge, President of the National Coal Association, portrayed the future of the domestic coal reserves as one of abundance and versatility—

"Coal is the one fuel that can, if it is allowed to, provide us with both short and long term solutions to the energy crisis. Vigorously supported research programs can enable us to redeem its vast potential, providing us with ample supplies of clean energy for centuries to come. Equally important, coal is capable of fulfilling our present energy needs. If, however, the coal industry continues to be subjected to excessive restrictions, our energy crisis will be further aggravated with little hope remaining for the creation of a (*National Energy*) Policy which will allow the Nation the independence, energy supplies and environmental protection which it deserves."

Added to these uncertainties affecting our domestic coal industry is the question of the availability of adequate capital to respond to expanded production requirements consistent with expanded public policies in the areas of occupational health and safety and the environment. A traditional means for assuring this capital has been contract escalation clauses.

Although the President's Phase III controls abolished the Price Commission last week, according to the January 1, 1973, issue of *Barron's* the former Price Commission did not allow coal producers to charge previously contracted prices because they allegedly violated the Commission's rulings, which are still in effect. To make matters worse, the Price Commission refused to permit the industry to raise prices to fully reflect 1971 and 1972 wage increases approved by the Pay Board. These apparent inequities must be eliminated, obviously, through higher prices. However, this must be accomplished to the satisfaction of the Cost of Living Council.

Until this is done both coal producers and consumers will be faced with uncertainty in negotiating new long-term contracts. This is particularly true where new mines are needed. Finding immediate solutions to this dilemma, without undermining the whole economic stabilization program, is essential.

Unfortunately the Price Commission, as the oil import program, was established by the President's Executive Order and are not directly affected by the Congress. In order to assure that national coal policies reflect realistic consideration of expanded environmental and social concerns, we should:

Insure that the prices previously allowed for energy supplies by the recently abolished Price Commission are increased with the concurrence of the Cost of Living Council, to reflect decreased production, the increased costs incurred in meeting rising wages, in

developing new coal sources, and in responding to new environmental and occupational policies governing both the production and end-use of coal.

Last Friday's Washington Evening Star and Daily News, in an article by John Fialka, reports that the President's energy message, to be transmitted to the Congress in a few weeks, will emphasize a shift from imported oil to domestic coal. It will be interesting to note whether this is just more words without a follow-through of Federal funds.

AIR QUALITY CONSIDERATIONS FOR COAL

Without question our Nation needs a capability for the environmentally acceptable generation of electricity from high sulfur coals. Otherwise, existing coal supplies from many regions of the Nation will be rendered unavailable to meet present and future energy demands without severe environmental implications. This was recognized by the Congress in air quality legislation in 1963, 1966, 1967, and 1970. The Air Quality Act of 1967 provided a major Federal program for joint government-industry demonstration of new technologies for the control of sulfur oxides. This authority was significantly expanded in the Clean Air Amendments of 1970 to provide the Environmental Protection Agency with authority to undertake advanced power cycle and coal-gasification research.

As I emphasized over the years and during the hearing of the Senate's Energy Study, on April 5, 1972, and the record will support, from its inception this Federal research and demonstration program—to develop environmentally acceptable means for the combustion and use of domestic coal—has been totally inadequate. This is further highlighted when the anticipated impact of State imposed air pollution standards on existing coal supplies is fully assessed.

According to the Environmental Protection Agency, under 1975 State air pollution control standards, which are more stringent than the 1975 health standards provided for in the Federal Clean Air Act, "the only satisfactory method for maintaining Eastern seam coal in the energy market is through conversion to synthetic gaseous or liquid fuels." Loss of this supply represents a loss of $1 billion annually in sales and a reduction of about 30 percent in the current work force employed in the bituminous coal industry. Some 44,500 mine workers would be affected including 15,000 in my state of West Virginia, alone. I find this proposition unacceptable.

This possibility was foreseen by the Congress more than 5 years ago when provision was made for the joint government-industry research program I mentioned; however, the response to this problem by the users of fossil fuels, the electric utility industry as a whole, has been short-sighted, and not sufficiently responsive to the problems and the public policies. Except for a new electric utilities research efforts have been confined to the last two years. Equally, the response of the suppliers of fossil fuels—the mining and mineral industry—needs improvement. (These observations are based, in part, upon an exhaustive briefing I received, last October, from representatives of the coal, railroad, and electric utility industries as well as the Environmental Protection Agency, in preparation for a Clean Air Colloquium later this year.

The problem we are now faced with is the combined product of both the Administration's and industry's ineffective response to implementation of the Clean Air Act. Reliable and economical processes for the desulfurization of coal or stack gases do not appear to have been perfected to a point where the 1975 health standards can be met and the coal industry may well suffer another serious blow to the future development of coal gasification and liquefaction and other environmentally acceptable coal technologies. And, there is no reason to suspect that the picture for 1980 will be substantially altered. However, in the decade beyond, I believe, an aggressive Federal research and development program can play an important role toward assuring an environmentally acceptable role for coal in future energy supplies.

In the Clean Air Amendments of 1970, the Congress mandated achievement, by 1975, of a primary air quality standard designed to protect public health—the consumer. Provision also was made for secondary standards designed to protect the public welfare at a "reasonable time" thereafter. The States, however, in establishing their plans of implementation, accelerated this time schedule. Exercising authority provided in the same 1970 Amendments, the State implementation plans, in many instances, call for achievement of the national secondary (welfare) standards by 1975, on the basis of air quality enhancement.

In reality, the sulfur oxide control standards adopted for heavily polluted regions, such as New York, also are being required for other air quality control regions in response to citizen pressures and encouragement by the Environmental Protection Agency.

Nevertheless, despite uncertainty over the availability of "clean" fuels and commercially available control technologies to meet the national primary (health) air quality standards for sulfur oxides the Environmental Protection Agency approved the State plans.

This conflict, in part the product of EPA action, was acknowledged by EPA Administrator Ruckelshaus, on May 31, 1972, in the *Federal Register:*

"Preliminary analysis by EPA indicates the real possibility that, under current conditions in the domestic and world fuel markets including the absence of the sulfur tax, all aspects of the State plans in the aggregate *cannot be achieved by 1975 despite the best efforts of both government and the private sector.* (Italic added). Pending further study, EPA is approving or promulgating regulations for meeting both the primary and secondary CO, standards. *The States should proceed to develop compliance schedules on the assumption that both standards can be met.* * * * Highest priority must be given to achieving the primary standards (health related) by the statutory deadline."

Regarding priorities for the State's development of "plans of implementation" EPA's own guidelines suggest that air quality control regions be divided into three categories:

Priority I—Where the national primary (health) air quality standard is in violation;

Priority II—Where the existing ambient air quality is somewhere between the primary (health) and secondary (welfare) air quality control standard; and

Priority III—Where the existing ambient air quality is less than the national secondary (welfare) air quality standard.

Reportedly, however, these priorities are generally not reflected in the State Implementation Plans. In fact, it appears the State's tended to establish uniform standards, state-wide, without reference to the air quality control regions.

Nevertheless, the Congress, and the Environmental Protection Agency, are now faced with the policy decision of whether to allow the market place to determine who receives the available sulfur oxide control technology and low sulfur fuels. Alternatively, Federal intervention could be exercised under existing authority to insure preferential treatment for Priority I areas, where the national primary (health) air quality standard is currently being violated.

In light of the above stated reasons, I was encouraged to note the recent action by EPA Administrator Ruckelshaus to require that implementation of the State-plans-of-implementation reflect the availability of low sulfur coal supplies and commercial sulfur oxide control technologies. The EPA Regional Administrators and the Governors, on November 3, 1972, were notified by Administrator Ruckelshaus to keep in mind the following six policy issues, considered of utmost importance, when evaluating State air pollution compliance schedules—

"Any plan revision should provide first for the attainment of the *primary* ambient air quality standard by the date approved in the implementation plan.

"Any plan revision should not allow degradation from a base year air quality level nor an increase in base year emissions.

"Many states, in their approved implementation plans, defined 'reasonable time' for attainment of secondary standard as being coincident with the date for attainment of the primary standard. EPA will entertain arguments for redefinition of 'reasonable time' for attainment of secondary air quality standards.

"Large scale fuel shifts from coal to other fuels should be discouraged; they could result in adverse economic and social impacts.

"Large fuel burning installations should be encouraged to opt for low sulfur coal or stack gas cleaning as the solution to their sulfur emissions problems in a time frame consistent with regional ambient air quality conditions. Large boilers with special technical problems or those which expect to be phased out within a few years, thus making capital intensive solutions prohibitively expensive, may reasonably opt for fuel switching to low sulfur oil or natural gas. By discouraging large scale fuel switching away from coal and delaying compliance when primary standards are not jeopardized, the additional supplies of low sulfur coal and scrubbers which will be available in 1975 can go to priority uses, reserving scarce supplies of low sulfur oil and natural gas for area sources and large fuel burning installations with special problems.

"Compliance schedules for large fuel combustion sources planning to use new sources of low sulfur coal or stack gas scrubbing to meet SIP's should spell out in detail the lead times involved in obtaining new supplies of low sulfur coal and in obtaining, installing and checking out new stack gas cleaning devices. Even where ambient air quality conditions would permit delays in compliance, such a timetable of action must be agreed upon to insure the achievement of secondary standards within a "reasonable period."

The Regional Administrators were further advised to do everything in their power to achieve these objectives.

My review of the historical and legislative development of this issue, as Chairman of the Committee on Public Works, leads me to offer the following recommended actions; we should—

"Implement the Clean Air Amendments of 1970 so as to reflect the statutory distinction between the 1975 primary (health) air quality standard and achievement of the secondary (welfare) standards at a reasonable time thereafter

"Implement State plans of implementation approved by the Environmental Protection Agency, so as to appropriately reflect the availability and non-availability of sulfur oxides control technologies and low-sulfur fuel supplies.

"Initiate the earlier Congressionally mandated Federal expanded program for the demonstration of sulfur oxides control technologies—an element of the President's June, 1971, energy program that did not materialize."

It is anticipated that these issues and others will be discussed in detail during subsequent oversight hearings by the Senate Public Works Committee's Subcommittee on Air and Water Pollution, later this year.

There is a need to examine the economic, environmental, and societal implication of distinguishing between new and existing sources versus the health and welfare standards. What is at issue is phased implementation, not the granting of variances.

COAL GAS AND OIL

It is generally recognized that the long-term future of coal must rest on the development of synthetic fuel supplies which rely upon coal as their feed stock—just as we now refine crude oil to produce residual oil and other conversion products. For coal, the immediate potential lies in the development of high- and low-Btu synthetic gas and coal liquifaction.

The development of both high-Btu and low-Btu synthetic gas from coal offer significant potentials for supplementing domestic energy supplies and mitigating our pending energy crisis. At the same time, these potential supplies are inherently clean, serving to enhance environmental quality.

By 1980, synthetic high-Btu coal gas, a supplemental supply for natural gas, can be produced at $.60 to $1.00 per 1,000 cubic feet or one-million Btu's. This compares to imported liquified natural gas at about $1.25 to $1.60 per 1,000 cubic feet.

Recently, a detailed evaluation of coal gasification technology was performed by the National Academy of Engineering—National Research Council. Because of the vital role that coal gasification to our country's future energy economy, I place in the record at this point the resultant NAE-NRC summary, conclusions, and recommendations.

EVALUATION OF COAL-GASIFICATION TECHNOLOGY—PART I

(Prepared by Ad Hoc Panel on Evaluation of Coal-Gasification Technology Committee on Air Quality Management, Committees on Pollution Abatement and Control, Division of Engineering, National Research Council, National Academy of Engineering)

I. SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

A. Summary

The United States has been fortunate in the past in possessing large reserves of the three major fossil-fuel energy sources—gas, oil, and coal. In recent years, however, the nation's energy picture has changed drastically with respect to oil and gas. After World War II, the oil finding rate in the continental United States fell, and currently imports supply over 25 percent of the country's oil requirements. It is estimated that oil imports will supply 50 percent of U.S. requirements by 1980.

The natural-gas picture is not greatly different. *Additions to domestic natural-gas reserves have not equalled use since 1966, and the gap between yearly additions to reserves and consumption is growing rapidly.* Curtailment of gas for utility use has already begun and, without new sources of supply, such limitations will increase. Natural gas can be imported by pipeline from Canada, Mexico, and Alaska, but these amounts are limited. Gas can also be imported from overseas in liquefied form; however, such a solution is expensive and increases U.S. dependence on foreign sources of supply for gas as well as for oil.

Due to the shortages of both gas and oil, prices are expected to increase. At a time when the country has an urgent need for clean fuels to reduce pollution, it faces shortages and higher prices for those fuels best suited to the purpose. For the United States, coal and oil shale are the remaining fossil-fuel sources abundantly available.

1. Natural-Gas shortage

From the environmental standpoint, gas is the most satisfactory fuel. But, assuming that all the present uses of natural gas are to continue, that fuel-price relationships remain constant, that present users are permitted to expand at the rate of the past few years, and that no substantial new uses arise or are permitted, the Institute of Gas Technology has estimated deficiencies in supply as follows (in trillions [1] of cubic feet):

Year	Demand	Production	Deficiency
1980	30.5	22.7	7.8
1985	34.6	21.4	13.2
1990	38.1	19.8	18.3

The above production estimates include gas imported from Canada and Mexico and assume a pipeline supplying gas from Alaska after 1980.

While it is unlikely that all the assumptions will remain valid, the Panel considers this a reasonable estimate of the magnitude of the prospective shortage of natural gas. It is possible, however, to produce pipeline-quality gas [2] from coal as one way to reduce the deficit. Process development in coal gasification has been in progress for many years and at least seven processes are being studied in some detail.

2. Gas-gasification industry

The projected deficiencies of natural gas for the 1980 to 1990 period are enormous, and it would be unrealistic to think they could be made up entirely with synthetic gas from coal, if for no other reason than lack of capacity to produce the special equipment that would be required for the plants. In addition, very large investments would be necessary to produce synthetic gas to provide a major fraction of the projected deficiency. For example, it would take 12 plants, each making 250 million cf per day, to supply about 5 or 6 percent of the 18.3 trillion cf deficiency projected for 1990. A reasonable estimate of capital requirements for one plant and coal mine (in terms of 1971 costs and dollars) is about $280 million $250 million for plant and $30 million for a mine), making the total capital investment for 12 plants about $3.4 billion.

A savings of $0.01 per thousand cubic feet or per million Btu produced by these 12 plants would amount to $10 million per year. The experimental programs could yield savings in costs on the order of $0.10 to $0.20 per million Btu (using presently projected Lurgi cost as a basis), which would amount to about $100 million to $200 million per year of operation. This possible savings is clearly in the national interest and justifies strong government support of the full research program to develop the lowest-cost method of producing gas from coal.

Extensive coal resources are available in the United States and should provide many suitable locations for plants making gas from coal. It is likely that coal-gasification plants will be used to supplement natural-gas supplies and that the delivered gas will be a mix of natural gas and synthetic gas. Assuming that this is the case and that the synthetic supply is 10 to 20 percent of the total, the change in prices would occur more slowly than if complete replacement were practiced. According to the American Gas Association, the 1971 average well-head price of natural gas was $0.171 per thousand cf and the average residential delivered price was $1.06 per thousand cf. Thus, if distribution costs remain the same (excluding the increased cost of energy used for pumping), the incremental addition of 10 percent of gas from coal at $1.00 per thousand cf would result in an average residential delivered price of $1.14 per thousand cf, or an increase of 7.5 percent.[3]

B. Conclusions

The natural-gas supply situation in the United States is critical enough to justify the greatest effort on the part of industry and government to develop as quickly as possible the best and the most economic methods for producing supplemental pipeline-quality gas from coal.

1. The gas industry is proceeding with the commercial production of gas from naphtha and with the importation of liquefied natural gas. It is also examining the possibilities of crude-oil gasification and of a pipeline from Alaska and Arctic areas, but gas from these sources will be relatively high in price and limited in amount. It is improbable that gas from all these sources, in addition to that obtained through the gasification of coal, will meet the deficiency projected for 1990.

2. Synthetic gas from coal can be produced only by methods that are complicated and costly, a situation that is inevitable when solids must be processed under pressure. Nevertheless, the country must develop the best of the processes or the best combination of processing steps from the various development programs.

3. At the present time the Lurgi gasifier is the only coal-gasification process ready for commercial application. Two plants of 250 million cf per day are being considered for construction in the Southwest with private funding. The Panel hopes these projects will go forward and urges that data on capital and operating costs and operating results be made available.

4. From the standpoint of national interest, it will be prudent to support research on several new processes until such time as experience with large pilot plants establishes clearly identifiable advantages of one sequence of process steps over the others. This approach will be expensive and will require substantial government support, but it will increase the chances of reaching an optimum solution as quickly as possible.

5. The estimated capital investment required for 12 coal-gasification plants that would produce 1 trillion cf of gas per year (about 5 percent of 1970 production and 5 percent of the estimated 1990 deficiency) is about $3.4 billion.

6. Development problems in coal gasification include the following:

a. Basic data and experience are needed on the gasification step. The conditions leading to the formation of methane directly from coal are generally known, but specific data on the effect of hydrogen pressure, temperature, time, and catalysts will be needed. Further data on such items as reaction rates of carbon and coal with H_2, CO, CO_2, and H_2O will be very important for precise design work on large plants.

b. Conditions of temperature and pressure in some of the processes are very severe and further data are urgently needed on the effect of pressure in order to determine optimum operating conditions. The data presented to the Panel did not clearly demonstrate the need for pressures as high as 1,000 pounds per square inch (psi) in some of the processes.

c. The successful development of a simple, continuous method for feeding coal into a pressurized system is critical to all gasification processes. Further development work is needed.

d. The plants making pipeline gas from coal will be very large installations using ap-

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[1] See Appendix IV, "Terms, Units, and Conversion Factors."

[2] In this report, the term "pipeline-quality gas" is used to describe gas of about 1,000 Btu per cf and consisting of natural gas, its synthetic equivalent, or a mixture of the two.

[3] Unless otherwise stated all gas prices shown are for gas delivered to the pipeline at point of production.

proximately 20,000 tons of coal per day. They will create pollution problems in the localities in which they operate unless proper safeguards are applied at their inception.

C. Recommendations

The gas industry's search for new sources of supply is an old one, but it has grown in intensity as use has increased faster than reserves. By the late 1940s and early 1950s, research was under way on a small scale to make a high-Btu gas from coal. The efforts during the past 20 years have advanced gasification technology and several new process concepts have emerged; however, synthetic gas can be produced only by complicated, inevitably costly methods. In spite of this, the Panel believes the need for gas is so great that the federal government should assume leadership in developing the best of the existing processes or a combination of processing steps from the various programs.

The processes reviewed by the Panel were: Hy-Gas (Institute of Gas Technology); Bi-Gas (Bituminous Coal Research, Inc.); CO_2-Acceptor (Consolidation Coal Company, Inc.); Molten Carbonate (M.W. Kellogg Company); Lurgi (Lurgi Gesellschaft fur Warme und Chemietechnik M. b. H., Germany); Synthane (Bureau of Mines); and Atgas (Applied Technology Corporation). The Office of Coal Research of the U.S. Department of the Interior has supported the first four of these processes as research contractor. Currently, one third of the costs of the pilot programs of the Hy-Gas, Bi-Gas, and CO_2-Acceptor processes is being furnished by the American Gas Association as co-contractor with the Office of Coal Research.

In addition to these processes, work by the Bureau of Mines on Hydrogasification, a process involving the use of high hydrogen pressures, was also reviewed.

This program is in a very early stage of development and more bench-scale and small-scale pilot-plant work is needed. The work is promising and the Bureau of Mines is proceeding with it.

The Panel has outlined (see Table 4 on page 42) what it regards as a reasonable schedule for the developmental programs for the Hy-Gas, Synthane, Acceptor, and Bi-Gas processes up to the point of making a decision on construction of demonstration plants.[4] Because of the need to reach commercial application of a modern process as quickly as possible, the Panel believes it is in the best national interest to go forward with the development of these four processes on the scale proposed. The cost of the proposed pilot-scale development program for these processes is estimated at $122 million for 1972 through 1975.

The justification for recommending support for development of four different gasifiers through the pilot stage is that each gasifier—the most critical component of each process—has unique features that could have significant economic importance. Although the processes are similar in flow patterns, their gasifiers dictate the size if not the components of the downstream portion of the process and are in no sense interchangeable.

Based on its review, the panel recommends that:

1. Modern technology should be developed and applied as rapidly as possible to coal-gasification plants to be built in the United States. Since the essential component being examined is the gasifier, it is not necessary in pilot-work to operate the full gasification train. Several processes should be tested in order to determine the one or two that offer the best technological and economic benefits. These should be carried through the commercial demonstration level.

2. Pilot-plant work should go forward on the Hy-Gas (Steam-Oxygen), Synthane, Bi-Gas, and Acceptor processes. The IGT Electrothermal and Steam-Iron options of the Hy-Gas process do not appear promising. Further work is recommended on the Hydrogasification process that is under test by the Bureau of Mines. This process gives promise of producing a high-methane gas directly from coal.

3. Prime responsibility for coal feeding, as well as for gas purification and methanation, should be given specific attention by groups other than those developing the gasification processes. This division of effort should result in much faster progress on the total program.

4. As yet, the methanation process has not been used for the complete conversion of a high concentration of carbon monoxide to methane where there is a large evolution of heat. There are additional questions concerning the effects of gas produced from coal on catalyst life and performance. It is recommended that enough work be carried out to ensure that the catalysts are satisfactory under these conditions and to secure necessary design data on rates of heat release and on methods for the efficient recovery and use of this heat.

5. Development and design work to find satisfactory solutions to pollution and ecological problems associated with coal gasification should proceed concurrently with the development of gasification processes. This work should be assigned to a special group for its full attention.

6. Basic research should be conducted on such factors as fluidization and reaction rates between carbon, oxygen, hydrogen, and steam at various temperatures and pressures in order to facilitate the design and construction of plants and reactors. Purification systems for high-Btu gas synthesis must be studied and analyzed to determine which are most suitable and economical. Catalyst research should be strongly supported on a continuing basis. Fluid-mechanics problems, including the effects of bed diameter on fluidization (scale-up factors are poorly known), the effects of changes in particle-size distribution, and the permissible concentration of sticky feed and ash, should be studied. Other process areas requiring research are those involving expansion and contraction with temperature in pressure joints and seals.

7. All estimates should be made on a consistent and realistic basis to facilitate cost comparisons between the various processes. A base plant size of 250 million cf per day has been agreed upon. It would be desirable to select one or two coals and lignites of approximately a typical composition and have the plant designs based on these raw materials. Also agreement on approximate prices per million Btu would be desirable for fuels at a few locations. Site development, unit costs for utilities, auxiliary facilities, and major items of capital cost and operating costs should also be put on a standardized basis.

The Panel strongly recommends that all estimates be reviewed and revised by an independent organization with experience in plant design fuel conversion, environmental acceptability, and economic evaluations to ensure that they are accurate and based on sound engineering judgment.

8. A management group should continuously review the entire government-sponsored program on coal gasification.

The work for the next several years will involve a considerable number of research and engineering groups. The Panel recommends that the gasification step in particular be simultaneously investigated by at least four groups. One or perhaps two of the gasification processes will probably show superiority over the others, and decisions will have to be made to drop the least promising lines of development.

A second and equally important part of the management problems will be the division and coordination of the work between the development groups and the assignment of work to allow concentrated effort on the most critical problems.

NATIONAL ACADEMY OF ENGINEERING NATIONAL RESEARCH COUNCIL, DIVISION OF ENGINEERING—COMMITTEE ON AIR QUALITY MANAGEMENT

(Ad Hoc Panel on Evaluation of Coal-Gasification Technology)

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RESUMPTION OF STATEMENT

Under the current Department of the Interior's coal gasification program, three different processes are being demonstrated for production of pipeline quality gas from coal in Illinois, South Dakota, and Pennsylvania. The Federal share in this joint government-industry energy development was $15.9 million in fiscal year 1972 and an estimated $29.2 million in fiscal 1973. As laudable as these programs are they are only partially responsive to the obvious national needs. They are both late and under-funded and, as a consequence, are unresponsive to the critical role that coal must play in our future energy economy.

Low-Btu coal gas, with about one-half the heat value of natural gas, also offers a new special purpose fuel for use in formulating air pollution control strategies. Synthetic low-Btu gas is suitable for the generation of electricity with high-sulfur Appalachian and Interior region coals, thus preserving these existing supplies in the market place. Preservation of the economic viability of these supplies is an essential ingredient for a viable national energy policy.

Federal low-Btu gas development efforts, to date, have emphasized advanced power cycles combining in one system coal gasification and conversion into electricity. This technology relies on low-Btu coal gasification without going to the lengths necessary to produce a high-Btu coal gas with an equivalent energy value to that of natural gas. The potential of this technology was discussed during hearings before the National Fuels and Energy Policy Study, in February 1972, which I chaired.

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[4] The Panel defines a demonstration plant as a single processing train of commercial size with the necessary purification, methanation, and other facilities to produce pipeline-quality synthetic gas. The plant should operate satisfactorily for one year.

*Deceased

The potential of this technology for air pollution control was recognized by the Environmental Protection Agency in 1969. Subsequently, the Clean Air Amendments of 1970 provided the Environmental Protection Agency with statutory authority to undertake a research and development program applicable to coal on "improving the efficiency of fuels combustion so as to decrease atmospheric emissions." As in the past, the most recent oversight hearings before the Senate Subcommittee on Air and Water Pollution demonstrated that this program is also underfunded.

Even more disturbing, however, is the loss of time that has occurred due to delays in the initiation of any major Federal efforts to demonstrate the advanced power cycle. This week the first significant agreement was signed by the Department of the Interior to demonstrate an advanced power cycle system designed by Westinghouse; however, almost two-years ago the Environmental Protection Agency had firm proposals in hand, which did not receive the attention mandated by the Congress in the Clean Air Amendments of 1970.

The United States cannot declare—as the President did in his Clean Energy Message to Congress in June, 1971—that coal gasification is one of our priority needs without providing significantly increased research funding and giving a corollary priority to the healthy development of this domestic energy resource. Actions that are needed to strengthen this industry which has a generally recognized vital role in our future energy economy; we must: Undertake a significantly expanded Federal research program which reflects the fact that the vital role of coal in our energy economy rests in its conversion into environmentally clean gaseous and liquid fuels.

SURFACE MINING

In recent years, a larger fraction of the Nation's coal supply has been produced by surface mining rather than underground methods; during 1972, surface mining accounted for more than half of the coal mined in the United States.

Accompanying this increase in surface mining has been a heightened public awareness of the real and potential environmental and occupational implications arising from the production of coal. In many regions of the country, surface mining has become a highly emotional issue. Unfortunately, an extreme polarization of viewpoints has developed. One side advocates a total abolition of surface mining. The other extreme expresses the belief that surface mining has produced only good results.

Both viewpoints, while understandable, are so unrealistic as to impede the development of an effective policy which reflects equitable treatment of both public and private interests. As I have stated previously, I am *against* any *drastic* relaxation of coal mine health and safety regulations. We are upgrading some beneficial features now, and I know they are expensive—but they are necessary to humanity.

I also am for *tighter regulation* of surface mining of coal, but against abolition of such production methods, which supply just under one-half of all the coal mined domestically. The alternative supply is imported oil.

Nevertheless, surface mining continues to be one of the most intensely debated public issue nationally as well as in my State of West Virginia and other Appalachian states.

During the 92nd Congress there were several proposals before the Congress relating to surface mining of coal and other minerals. When examined carefully, there are numerous well-considered recommendations which deserve consideration. The Congress can no longer delay resolution of this issue. We must have:

Immediate enactment of surface mining legislation which—

covers coal and other mineral resource developments on public lands;

provides the States with Federal guidelines and minimum standards as the basis for strict State control of surface mining operations and reclamation;

places in the States the primary responsibility for development and administration of programs for the control of surface mining;

provides Federal fall-back authority where Federal guidelines or minimum standards are not being met; and

provides that each applicant for a surface mining permit should file a detailed plan for the mining operation and the reclamation that is to be performed during, and after commencement of mining operations.

In the interim, it is the paramount interest of the mining industry to assure that irresponsible surface mining is not condoned and, where possible, are self-policed. Otherwise, political pressures may very well become so severe that the only feasible response, considering all the factors, is a moratorium on further surface mining during which industry must demonstrate mining and reclamation techniques which protect environmental and social values.

In the long-term, I am convinced that a cleaner environment and adequate quantities of environmentally acceptable fuels can be provided simultaneously. What is needed is action and realism on the part of the industry as well as government.

DOMESTIC PETROLEUM SUPPLIES

It is generally recognized that our long-term national energy policy must stress restoration and our previous reliance on domestic resources of oil and gas as well as coal, geothermal, and solar energy.

Production of oil and gas was one of the first important industries in West Virginia. The State has a long history of involvement in providing petroleum products to drive our economy. Oil or gas production is virtually a State-wide activity, carried out in 48 of our 55 counties. While West Virginia does not occupy as large a place in the oil and gas market as it once did, we still produce large quantities of these two fuels, and provide direct employment for more than 11,000 people. Therefore, any decisions that are made in Congress and elsewhere relative to National Energy Policy have a very real impact on West Virginia.

From a national perspective our domestic petroleum industry, has some 10,000 large and small companies engaged in exploration and production of crude oils and natural gas. The largest of these companies accounts for only seven percent of our total domestic production. Likewise, in the refining sector, there are some 130 companies, with the largest accounting for less than ten percent of U. S. refining capacity.

In petroleum marketing, American Petroleum Institute data indicates there are an additional 12,000 industrial wholesalers and jobbers with the largest firm marketing about ten percent of the available supplies. Consequently, market competition is a characteristic of the oil and gas industry.

This diverse industry is responsible for the development of our domestic oil and gas supplies on public as well as private lands. On August 9, 1972, the Energy Study held hearings on the implications of observed decreased rates of exploration for and development of domestic supplies of oil and gas by these industries. James Wilson, President of the American Association of Petroleum Geologists, presented estimates of future potentially recoverable domestic oil and gas resources—not the too often cited "pie in the sky" estimates, but probable and possible supplies—that can be found and produced with current and near term technology.

Mr. Wilson's estimates represent challenging domestic supply targets, which can be found and developed with exploration techniques in use today and anticipated from near term research efforts, some 141 billion barrels of domestic crude oil and 595 trillion cubic feet of natural gas. However, time is of the essence, even should lease sales be accelerated on the outer continental shelf and reasonable economic conditions and incentives be developed, a dramatic increase in dependence on oil imports is envisioned before these domestic resources can be developed to the status of available supplies. Incentives must be provided, to insure the economic viability of all domestic sources of energy: coal as well as oil and gas.

An obvious conclusion, from a perusal of available information, is the desirability of realistic increases in oil and gas prices for domestic supplies. This is essential if the funds are to be provided to promote the development of domestic energy supplies which are necessary to mitigate the projected heavy dependence on imported oil and gas. To this end I propose the following Federal actions:

Initiate a comprehensive analysis of present trends on oil and gas imports with an assessment of the desirability of arresting current trends toward an increased dependence on Eastern Hemisphere sources of oil and gas.

Establish realistic pricing systems for domestic oil and gas supplies.

Develop energy resources on Federal lands on reasonable terms and time schedules to mitigate dependence on foreign supplies.

In establishing realistic economic and pricing systems for oil and gas, serious attention appears to be warranted for the proposal by Dr. Richard J. Gonzales, and others, that investments in oil and gas operations be considered in their composite. This recommendation, which was presented in detail to the Senate's Energy Policy Study, is predicated upon the reality that oil and gas occur together in geological formations, although currently priced separately.

Under current price policies and practices a change only in gas prices, in Dr. Gonzalez's opinion, would have a small and slow effect on incentives to increase exploration and development; whereas a significant change in oil prices should have a large and immediate impact on the discovery of oil and gas.

NATURAL GAS POLICY

For the last 5 years, the United States' domestic gas reserves have been declining at an alarming rate when compared to projected demand. The immediate consequence is the widespread shortage currently being experienced as natural gas pipelines curtail their distributors, and, in turn, their customers, principally industries. However, the current situation has all the signs of an unprecedented natural gas shortage which may well strike in full force before solutions are found. As of January, 1972, the proved natural gas reserves in the lower 48 States were at their lowest level since 1957. In turn, proved oil reserves were at their lowest in 20 years.

Simply stated, as a Nation we are consuming domestic energy resources faster than our capability to discover and prove replacement supplies. This situation is the product of many factors—

Artificially low prices for natural gas which have stimulated consumption but inhibited exploration and development for replacement supplies;

Intermittent, and delayed, Federal offshore lease sales; and

The fact that the Federal Power Commission's regulatory authority is limited to interstate gas.

As I mentioned earlier, my view is that if new gas supplies are to be developed, prices must increase; however, economists are unable to tell us the price elasticity, or how much gas would be produced at a given

higher price. The producers also cannot, or will not, indicate how much gas might be forthcoming at different price levels.

An added factor contributing to natural gas shortages is that unregulated intrastate customers are able to outbid regulated interstate pipelines—thus diverting limited new supplies from existing interstate customers; thus contributing to shortages in many areas of the country such as those now occurring in my State of West Virginia and the Midwest.

To mitigate interstate natural gas shortages, the Federal Power Commission has proposed to price interstate sales to be more competitive with intrastate buyers. Nevertheless, I fail to see how any price increases by the Federal Power Commission will resolve the predicament of the interstate consumers. It seems to me that no matter what price the FPC establishes for sales to interstate pipelines, the intrastate buyers can still bid slightly more, or offer other contractual inducements, and thus continue to keep whatever gas is available within the producer State's borders.

Chairman Swidler of the New York State Public Service Commission recently commented at length on this dilemma and its national implications:

"A producer witness in the pending Permian Basin area rate proceeding at the FPC has presented some thought-provoking statistics in this regard. He testified that the initial annual volumes sold under new gas sales contracts by large producers to the interstate market in the Permian Basin area amounted to 149 billion cubic feet in 1966, but dropped to 10.3 billion in the first half of 1970. At the same time, the annual volumes committed by these producers to the intrastate market under new contracts rose from 29 billion cubic feet in all of 1966 to 103.1 billion cubic feet in the first half of 1970. The interstate market obtained 5 times as much gas as the intrastate market in 1966, and one-tenth as much in the 1970 period, or a relative deterioration in position of 50 times. During the 4½ year period interstate buyers were almost squeezed out of the market."

I understand the FPC has available to it clear authority to help redress this imbalance by assigning natural gas originating on the outer Continental Shelf, for example, offshore Louisiana, to pipelines serving interstate markets. Under current practice the developer of such natural gas fields, in the Federal domain, may market the gas within the adjacent states. In this manner, the FPC could channel natural gas from the offshore Gulf of Mexico into interstate pipelines to the mid-west and other areas currently experiences shortages. According the Chairman Swidler, the amount and location of discoveries, and other considerations, may make it infeasible for the FPC to completely cure current shortages by allocating offshore gas to the interstate market; and obviously, any improvement that might occur in interstate supplies would depend on the precise location of the fields in the public domain.

Chairman John N. Nassikas of the Federal Power Commission has expressed the opinion that another cause of the immediate "energy crunch", as relates to the natural gas shortages, is the misapplication of natural gas for burning under electric utility boilers. It is Chairman Nassikas' expressed view that society would derive more benefits if natural gas were diverted from utilities and industries to domestic uses. Meeting these energy demands, however, implies an even greater future reliance on residual oil and coal, in spite of their known and potential environmental impacts.

Restoration of the balance between interstate and intrastate markets will help to provide equitable treatment of both national and regional customers. To accomplish this, however, it may be necessary to extend, in part, the Federal Power Commission's jurisdiction to so-called new intrastate gas sales as well as interstate gas sales. This need not include price, but could be limited to all other authority with respect to allocation of natural gas supplies.

At issue are the long-run benefits to the consumer. The context is broader in scope than traditional criteria used in the regulation of gas utilities. For example, when the Federal Power Commission's authority was enacted concern was for unfair competition between producers at the wellhead. Today, the issue is competition between intrastate consumers and federally regulated interstate customers, which, in turn, is contributing to natural gas shortages in regions which do not have sufficient resources to satisfy even present demands, such as West Virginia.

What is not generally recognized, however, is that, despite the best efforts of government and industry, sufficient new supplies of natural or synthetic gas may not be developed in the future to do more than maintain existing levels of supply. Consequently, it may be necessary to establish Federal guidelines governing priorities or the end-uses of natural gas to be exercised during periods when supplies are being curtailed.

During hearings of the Senate's Energy Policy Study, last week, I engaged in a colloquy on this matter with Federal Power Commission Chairman John N. Nassikas. We discussed at length the authority of the FPC to impose priorities for natural gas deliveries during periods of curtailment. Proposed priorities and a policy statement for curtailment were issued by the FPC on January 8, 1972. Under the proposed guidelines the highest priorities in curtailment actions would be for residential and small-volume customers.

At issue, according to Chairman Nassikas, is whether the proposed priorities could be enforced in even direct interstate sales. It is unlikely the priorities could be imposed on sales for resale; and, definitely, could not be imposed on intrastate sales of natural gas for even boiler fuel.

For the reasons stated I believe the following actions should be undertaken to promote the development of domestic natural gas supplies to mitigate our dependence on oil and gas imports—

Use the Federal Power Commission's existing authority to channel natural gas supplies on Outer Continental Shelf into interstate markets.

Provide for limited Federal decontrol of producer prices for new natural gas supplies under two comprehensive and complementary Federal initiatives—

As the quid pro quo for eliminating wellhead price regulation as a determining factor in Federal Power Commission regulatory actions, extend all other jurisdictional indices, or criteria, other than price into intrastate natural gas producer sales; and

Promulgate national guidelines for the curtailment of natural gas customers during periods of shortage, with authority for the Federal Power Commission to impose the established end-use priorities with regard to both direct and indirect sales.

These recommendations are offered because I believe we are at a point where price should no longer be the dominant determinant factor in determining end-use and the FPC should have sufficient authority to prevent the diversion of gas from inferior uses to higher priority uses which are consistent with the total national as well as regional economic, environmental, and societal well-being.

PETROLEUM CONVERSION PRODUCTS

Up to this point, I have concentrated in my remarks on the issues associated with assuring adequate supplies of basic energy resources to meet this country's energy demands. However, in recent months our emerging energy crisis also has extended to refinery products, as witnessed in the recently reported shortages in distillate fuel oil. As we are all aware, oil not only serves as resource supply that can be used directly as source of energy but it also serves as the feedstock for our refineries which produce a wide range of conversion products such as heating oil, low-sulfur residual oil, gasoline, and a wide range of transportation fuels.

In addition, petroleum energy resources serve as the feedstock for our Nation's petrochemical industry which uses oil and natural gas not only for their heat value but as an essential process raw material. At present, the petrochemical industry consumes about 10 percent of the U.S. supply of natural gas and gas liquids and about 5 percent of the total supply of petroleum products. Reportedly, the petrochemical industry cannot practically substitute other forms of hydrocarbons for its raw material requirements. Thus, the availability of oil and gas is of vital importance. The unique need for feedstocks and the significance of energy to the petrochemical industry must be an integral element in national energy and fuels policies.

In the immediate future, however, the greatest needs for petroleum conversion products appears to be for distillate fuel oil and transportation fuels. This winter the demand for distillate fuel oil has exceeded supply as a result of several factors, including increased demand resulting from decreased natural gas supplied and from restrictions on the use of other fuels due to environmental standards. This was foreseen last September when the President expanded crude oil imports to assure refinery supplies, however, as of November, 1972, according to the Office of Emergency Preparedness, refineries were still not operating at maximum feasible capacity and less on-hand stocks of distillates were below normal levels. One of the principal reasons was an unusually high level of gasoline production to meet increased summer demands in lieu of increased distillate production for subsequent winter use. The Office of Emergency Preparedness informed the industry that a greater fraction of refinery capacity should be devoted to distillate production; yet, the early signs of a shortage in this conversion product already are being observed, although production is up. This is because of depleted stocks when entering the winter season.

This shortage also has extended to transportation fuels such as diesel fuels for railroads, trucking companies, barges, and bus lines. Last week there were reports that jets from New York Kennedy airport were stopping in Washington, D.C., to pick up jet fuel. In addition there are reports that trucking companies are having difficulties renewing diesel fuel supply contracts expiring this month. This forces trucking companies who are now under contract into the category of a "new customer" in negotiation with other oil companies, which are reluctant to, and in many instances refuse to, accept new customers because of shortages in available fuel supplies. This situation has deteriorated to the point that for one trucking company alone, the United Parcel Service, some 20,000 employees in the Eastern States face layoff in mid-February if diesel fuel supply contracts are not renewed.

Reportedly, more than ten of the major oil companies have refused to bid on the UPS's diesel fuel contract for its Eastern United States operations, due to inadequate supplies.

A number of factors are contributing to this situation; the greatest factor contributing to the emerging shortages in petroleum conversion products is the fact that we are fast approaching the limit of the capacity of our domestic refinery industry. In the last five years, there has not been built in this country new refinery and there are none now planned. While environmental concerns are a cause of this situation, many other factors

are also involved. Regardless of the causes, there is a need to examine our current policies regarding domestic refineries; we should—

Initiate immediately a joint Congressional-Executive Branch review of the adequacy of domestic refinery capabilities. This review must consider anticipated short-term and and long-term requirements and serve as the basis for legislation to stimulate the development of an expanded domestic refinery capacity consistent with economic, environmental, and societal needs.

NUCLEAR POLICY ISSUES

This discussion would not be complete without at least mention of nuclear power for, again, as a Nation, we are being misled by its advocates. Portrayed as a low cost source of electric power, new plants are being constructed at an ever increasing rate without any assurance of adequate supplies of uranium to support their operation over their anticipated lifetimes. As of right now, nuclear power plants in operation, under construction, or on order will, during their 30 years of operation, consume more than twice the known reserves of low-cost uranium within the United States.

Although, today, our domestic uranium industry reportedly has substantial overcapacity compared to demand for electric utility uses this situation could change drastically during the next few years if sufficient capital is not invested. Reports indicate that by about 1976, demand is expected to exceed refining capacity from anticipated uranium mines and mills. To meet anticipated demands by the end of this decade, some 27 new uranium mills, or major expansions of existing plants, will be required. The investment required for exploration to discover reserves and construct these mills is approximately $2 billion.

A short-fall in this fuel supply is not analogous to a deficit for oil, gas, and coal; uranium is one respect *sui generis*. Once a utility decides to build a nuclear power plant no other fuel is in competition with uranium. There is no opportunity for fuel substitution should a deficit occur between supplies and demand. Each utility must compete in the market place with a growing number of other companies for limited uranium supplies.

In addition, a realistic lead time for bringing a new nuclear power plant into being is now almost eight years. Unless a plant has already been announced or begun construction, it is unlikely that it will be in operation by 1980, even though some plants may be built on a shorter time schedule.

Experience indicates however that when a utility company discovers that it cannot complete a nuclear plant on schedule it falls back on gas turbines or oil-fired units, for which there is a substantially shorter lead time.

Today's over-optimistic nuclear plans by electric utilities and the Atomic Energy Commission must be viewed with considerable skepticism. There is every reason to believe that not only will more fossil fuel fired power plants be built than currently planned, but also some of the announced nuclear power plants—on which construction has not yet begun—should be considered tentative, and subject to replacement with coal or oil fired installations.

In other words, the role of nuclear power has been exaggerated, again. Where possible the most likely means for meeting the inevitable shortfall will be with imported oil; however, the situation may arise where nuclear power plants are built but cannot be operated over their currently envisioned lives. Obviously, we must:

Initiate a comprehensive analysis of the adequacy of uranium refinery capability to meet the fuel requirements of projected nuclear electric power plants over their operational life. Federal policies must assure that ad hoc fuels policies do not commit this country to nuclear power development at a level that cannot be maintained with anticipated uranium supplies.

DOMESTIC ALTERNATIVES TO OIL IMPORTS ARE NEEDED

During recent months I have become even more concerned for our Nation's policy of continually increasing dependence on foreign energy resources, particularly oil imports, than I was when I originally preposed the National Fuels and Energy Policy Study. Current policies rely on imported oil as the "swing fuel" to fill gaps between domestic supplies and demands for all energy fuels. It its generally agreed that a more realistic long-term policy should be to rely on domestic supplies, including coal gasification, coal liquification, and oil shale as well as geothermal and solar energy to fill these deficits.

Since 1948, our Nation has moved from the status of a net exporter of petroleum products to a position where our current dependence on foreign oil is over 22 percent of domestic consumption. Were present trends to continue in the early 1980's some 40 to 60 percent of our total domestic oil requirements will be supplies by oil imports primarily from the Middle East. This situation is reviewed in depth in a policy background paper prepared by Dr. Arlon Tussing of the Energy Study staff which is being released by Senator Jackson this week in connection with hearings on January 10 and 11.

In brief, until very recently, nearly all our oil imports came from Venezuela and the Caribbean. By comparison, the projected countries anticipated as the principal sources of oil imports in 1985, have a history of being volatile, politically unstable, and mostly marginal in their friendship with the United States. When the vagaries of the policies of these oil producer countries are examined the current trend is even more disturbing.

OPEC NEGOTIATIONS

The first indications of a crisis in global oil supplies was observed in negotiations between the international oil corporations and the militant cartel known as the Organization of Petroleum Exporting Countries (OPEC). Articles, in the lay press, highlighted these and the efforts of the Organization of Petroleum Exporting Countries (OPEC) to obtain control over not only production facilities but also over the oil transportation systems. Several significant precedents were set in these negotiations which deserve mention:

First, in order to assure their position the oil companies had to negotiate as a block;

Second, in order to do this, the United States companies had to obtain an unprecedented waiver of antitrust laws, which applies to companies not only to U.S. soil but to actions taken overseas by U.S. companies.

Third, in sanctioning these actions the United States permitted an international industrial cartel to negotiate U.S. foreign policy.

Perhaps the most significant outcome, however, was reported by *Fortune Magazine* as a general loss by the oil companies of previous control over negotiations.

Let us not kid ourselves, the outcome of recent negotiations with OPEC representatives in Teheran emphasizes the urgency of developing domestic sources of synthetic oil and gas as one means of countering a price squeeze for Middle East oil and mitigating undue, and undesirable reliance on potentially interruptable sources of supply.

I would like to briefly review what this means for balance of payments. As is frequently mentioned, in 1970, the United States experienced a drain of dollars for foreign oil of $2.1 billion. Under current policies this is expected to increase to $13 billion in 1975 and $31 billion by 1985. The magnitude of this balance of payments deficit is highlighted by the fact that today's total annual export of goods and services is only about $65 billion.

According to the National Petroleum Council, effective national energy policies can reduce this dollar drain to $9 billion by 1975 and $7 billion by 1985. And, by the end of this century, the United States could again become self-sufficient, as Russia is today.

To accomplish this objective, the Federal government must immediately adopt aggressive policies which will permit us to take full advantage of our vast domestic reserves of oil and gas as well as coal—the energy resource that the United States has in greatest abundance. Current policies have created a climate of uncertainty and have failed to assure the economic viability of our domestic energy industries.

NATIONAL PETROLEUM COUNCIL RECOMMENDATIONS

To this end, the National Petroleum Council has recommended two Federal initiatives to improve the economic and political climate to encourage energy devolpment and competition among domestic energy supplies, which are:

Any leasing system should provide sufficient total acreage for each fuel and should schedule sales at frequent and regular intervals, so that energy suppliers can efficiently deploy their skills towards developing needed energy supplies; and

"The system of leasing public lands should be reviewed in the context of urgency to develop additional reserves of oil, gas, coal, uranium, oil shale and geothermal steam. An equitable system should be designed to foster and encourage exploration for the discovery of additional energy resources."

In addition, 15 major areas were defined by the National Petroleum Council, in December, 1972, for Federal policy guidance to foster the development of increased United States energy supplies, which are:

"The United States must adopt a national sense of purpose to solve the energy problem;

"The security of the United States is dependent upon secure supplies of energy, and therefore healthy, viable and expanding domestic energy industries should be encouraged by government;

"The mandatory oil import control program should continue to be a fundamental part of the National Energy Policy of the United States;

"Import policies should be designed to encourage the growth of domestic refining capacity;

"Policies for imports, enrichment operations and government stockpile disposal should continue to encourage growth of the domestic uranium mining industry;

"The Federal government should establish an economic and political climate which encourages energy development and competition among domestic energy suppliers;

"The field prices of natural gas should be allowed to reach their competitive level;

"The rational balance must be achieved between environmental goals and energy requirements;

"Both the government and industry should continue to promote energy conservation and efficiency of energy use in order to eliminate waste of our resources;

"Access to the Nation's energy resource potential underlying public lands should be encouraged;

"The United States should maintain jurisdiction over exploration and development of the seabed energy resources underlying the continental margins off its coasts, and urge that other nations do the same;

"Energy research and technology must be permitted to make the advances necessary for the Nation's longer term development of energy resources;

"Fiscal policies should foster the finding and development of all domestic energy resources;

"The United States should support its nationals engaged in energy operations abroad; and

"The Federal government should coordinate in many competing and conflicting agencies dealing with energy."

The National Petroleum Council's recommendations represent three years of intensive effort to meet an assignment for the Department of the Interior. On December 12, 1972, I was pleased to meet in an Executive Session of the Senate's National Fuels and Energy Policy Study to review these findings with John G. McLean, Chairman of the NPC's Committee on U.S. Energy Outlook and Board Chairman of Continental Oil Company. The potential benefits from this study effort to our understanding of this problem are significant. I believe we, the Congress, must undertake—

A comprehensive and objective analysis, and action, on the National Petroleum Council's recommendations to improve the economic and political climate to encourage energy development and competition among domestic energy suppliers.

A review of the 15 major areas suggested by the National Petroleum Council for policy guidance initiatives by the Federal government in order to foster the development of increased United States energy supplies.

ENVIRONMENTAL CONSTRAINTS ON OIL IMPORTS

A factor that is frequently omitted from discussions of oil imports is their environmental acceptability. As mentioned, under the Clean Air Amendments of 1970, the States established stringent emission controls designed to protect public health by 1975, and, in many instances, the States have established standards whose objective is to protect public welfare, in its broadest context, on the same time schedule. However, a question exists regarding the availability of adequate low-sulfur energy supplies and control technology to meet the additional requirements necessary to progress from achievement of the health standard to compliance with the more stringent welfare standard.

For new power plants these standards translate into a maximum sulfur content of seven-tenths. Typically, the sulfur content of Persian Gulf crude oil is about 3.5 to 4. percent. Low-sulfur crude oil supplies are available principally from Libya and our own Louisiana. Unfortunately, these sources are limited.

Reportedly it is possible to desulfurize the heavy fuel portion of most crude oil at a cost is about 50 cents to one dollar per barrel, depending upon the desired sulfur content of the product. Significantly, however, the total existing, and planned, desulfurizing capacity in the United States is 650,000 barrels per day out of a total demand of about 16 million barrels per day. This capability represents less than one-third of total residual fuel oil demand for the East Coast or about four percent of the total United States demand. Obviously any increased reliance on Persian Gulf crude oil, without desulfurization, represents increased sulfur oxide emissions and further degradation of air quality.

I mention this constraint to highlight another justification for developing domestic, low-sulfur supplies. This constraint further supports the need to

Initiate a comprehensive analysis of present trends in oil and gas imports with an assessment of the desirability for arresting current trends toward and increased dependence on Eastern Hemisphere sources of oil and gas; and

Establish realistic prices for domestic oil and gas supplies.

RUSSIAN GAS IMPORTS

In November, 1972, the *Washington Post* reported negotiation between United States' industries and the Soviet Union to purchase $45.6 billion of natural gas at a reported price of about $1.25 per 1,000 cubic foot: or some four to six times the price the Federal Power Commission allows domestic producers. As originally reported these negotiations include participation in the construction of two pipelines, in Russia, costing $10 billion, plus a $750 million gas liquification plant in Russia, and 30 tankers to transport gas to the East and West coasts of the United States as well as Japan.

Additional details were presented, on January 9, 1973, in the *New York Times*, by Edward Cowan. Although these two deals, it now turns out, are not completed, they are still very much alive despite the reservations of the Nixon Administration, and others, such as this Senator.

A "North Star" project—being sponsored by Tenneco, Inc; Texas Eastern Transmission, and Brown & Root, Inc—is intended to bring into Eastern markets, by 1980, two billion cubic feet of natural gas (or more than 10 percent of projected 1980 gas supplies for the 13 Appalachian and Eastern States. The total investment in the project would be about $3.7 billion. This does not include the required fleet of 20 tankers involving an investment of $2.6 billion by the American companies, for a total project cost of $6.3 billion. Reportedly the strings to incentive for getting into the North Star project is the tanker profits.

A second project would involve American and Japanese business interests and is referred to as the Yakutsk proposal. The principal American companies involved are El Paso Natural Gas Company, the Occidental Petroleum Corporation, and Bechtel Corporation. In concept, this project would deliver daily from eastern Siberia both to Japan and to the United States some 1.5 billion cubic feet of natural gas.

As I stated in Elkins, West Virginia on November 4, 1972, before these agreements are irrevocably completed, I hope that each and every provision will be subjected to careful public and Congressional scrutiny. At my suggestion Senator Henry M. Jackson as Chairman of the Senate's National Fuels and Energy Policy Study, included in last week's hearings and the hearing tomorrow on the overall fuel imports issue an inquiry into this reported arrangement with the Soviet Union. At the time these negotiations were discussed briefly by Administration witnesses and additional information is being supplied for the hearing record.

DEEP WATER PORTS

This discussion would not be complete without at least mention of the need for a Federal deep water port policy. I am in favor of a Federal policy which recognizes the long-term dependence of our Nation's economy on the development of a deep water port capability; however, I must, of necessity, question any *ad hoc* Federal policy which, by intent, provides a Federal subsidy for deep water port construction, so that foreign energy supplies can enter our markets and undercut the prices for domestic supplies of coal and oil, or which, by default, allows a national policy to be determined individual *ad hoc* State or local actions.

Any national deepwater port policy must reflect not only our Nation's short-term energy requirements, but also the long-term implications of oil and gas imports for our national security, the economy, balance of payments, and the environment, to name a few areas. Should such a policy further accelerate present trends toward an excessive dependence on foreign sources of oil, gas, and petroleum products, the long-term economic viability of domestic energy supplies may well be endangered.

The Corps of Engineers is currently conducting deep-water, super-tanker, port studies authorized by the Senate Committee on Public Works on the Gulf Coast between Brownsville, Texas, and Tampa, Florida; along the North Atlantic Coast between Eastport, Maine, and Hampton Roads, Virginia; and in the San Francisco Bay area and the Los Angeles-Long Beach area. As I understand it, the San Francisco Bay study was recently extended by the Administration to include the whole West Coast.

As I stated during hearings before the Senate's Energy Policy Study on October 30, 1972, before we, as a Nation, commit ourselves to the implementation of any recommendations from these studies, the Committee on Public Works as well as the National Fuels and Energy Policy Study and other appropriate legislative committees, not just the Executive Branch, must fully understand—

The short- and long-term economic implications for domestic energy supplies of a Federal policy which subsidizes the construction of deep water ports;

The anticipated roles for the Corps of Engineers in the dredging of harbors and the construction of pipeline and terminal facilities on the outer continental shelf as well as the potential long-term environmental consequences of these activities;

The projected attendant development of refineries, and other economic interests, which will affect the environmental quality and land-use concerns of the regions involved;

The potential for oil spills and the existence of adequate oil spill contingency planning by both government and industry; and

The adequacy of existing liability limits covering oil spill clean-up which are the same for all super-tankers greater than 100,000 dead-weight tons.

Joint congressional and Executive Branch action is needed to now assure that—

* * * *The necessary steps to establish a national deep-water port policy which requires that any deep-water port development recognize the need for long term reliance on domestic energy supplies.*

To this end, the Senate Public Works Committee's Subcommittee on Flood Control Rivers, and Harbors will review this matter in detail, later this year.

Many nations of the world have no choice but increased reliance on imported petroleum products. However, the United States, like Russia, does have the potential for developing domestic energy resources to a level which avoids excessive dependence on foreign sources. It would be pure folly, and potential catastrophe, should national policy be so short-sighted as to encourage oil imports without initiating the necessary Federal policies to capitalize on our long-term domestic fossil fuel potential.

ALTERNATIVES FOR THE LONG-TERM

Energy is but a small part of the larger issue of people and their aspirations, with all its ramifications, such as land use, mass transit, security, economic growth and mobility. Perhaps the most significant demographic factor is the location and life-style of future population. Ever-expanding patterns of concentration of population in selected areas of our country could place unmanageable regional burdens on all resource supplies, including energy. The most significant constraint may be not the availability of energy resources but, rather our practical ability to extract and transport these resources in the quantities envisioned. There is a limited construction capability in this country which can be brought to bear in the construction of new power plants, refiner-

ies, pipelines, and other energy facilities as well as the retrofitting of existing facilities to meet expanded environmental requirements.

There is a long list of projects that could be pursued by industry to insure the viability of this country's domestic energy supplies. Many of these were discussed during hearings before the Senate's National Fuels and Energy Policy Study. Many of these could be developed if government policies and industry initiative faced up to the challenge that our corporate long-term economic, environmental and societal futures are at stake.

Most assuredly, our potential domestic energy and mineral resource base is sufficient to meet our projected energy needs until the time when the nuclear breeder reactor or the fusion nuclear reactor or solar energy or some other unconventional energy source, are sufficient contributors to domestic energy supplies to relieve our dependence on foreign sources for energy.

To date, however, Federal policies have been insufficient in pursing sufficient alternatives to permit us to take full advantage of our vast domestic reserves of oil and gas as well as coal—the energy resource that the United States has in greatest abundance. Current Federal energy policy emphasizes long-term nuclear solutions to electric supply problems and fail to assure the economic viability of non-nuclear and non-electric energy supplies.

For 20 years the American people have subsidized nuclear power as an energy source on the premise of abundant energy, but only electrical energy. Let us now apply this same concept to other energy supply forms and assure, for the immediate and long-term abundant domestic, not foreign, sources of fuels which are compatible with environmental requirements. It is unrealistic to rely almost exclusively on increased domestic oil and gas exploration to carry the burden of success in assuring adequate supplies. (We made such a single-minded mistake in formulating our nuclear energy policy.)

These are several technological areas where Federal support offers potential for early resolution of both our environmental and energy dilemmas. Many of these areas were reflected in the President's message on Clean Energy in July, 1971, however, there appears to have been little in the way of realistic commitment on the part of the Nixon Administration to other than the breeder reactor. For example, two new sulfur oxide control technologies were cited for demonstration in the President's June, 1971, message; yet, today, 20 months later, they have yet to be announced.

Let us now do what is obviously required: insure the economic and technical viability of all practical energy technologies including both high- and low-Btu synthetic gas from coal, oil shale, tar sands and solar energy as well as increased exploration for domestic oil and gas.

Significant long-term potential also exist for relieving the emerging energy crisis by improving the feasibility and capability for the more efficient conversion and utilization of energy resources. Such improvements in energy conversion would reduce our depletion of energy resources and mitigate the environmental impacts of energy production and use.

As I pointed out during hearings before the Energy Study on Federal Energy Research programs and priorities, our Nation's long-term energy posture depends on the successful development of solar energy, the nuclear breeder reactor, controlled fusion, and other unconventional energy resources. First, however, we must successfully meet the requirements of the 1970's and 1980's when there will be need for the development of sulfur oxide control technology, both high- and low-Btu coal gasification, and geothermal energy sources. In a subsequent statement, I intend to address in detail recommendations for Federal energy research priorities.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Maine is recognized for not to exceed 15 minutes.

THE ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL FOR IMPLEMENTATION OF AIR QUALITY STANDARDS IN THE LOS ANGELES BASIN

Mr. MUSKIE. Mr. President, the extent of the transportation and land use restrictions proposed for the Los Angeles air quality region by the Environmental Protection Agency should not come as a surprise to anyone who is familiar with the severity of southern California's air pollution problem, its causes, and the provisions of the 1970 Clean Air Act Amendments.

In fact, we should recall that the Senate Public Works Committee report on the act in 1970 forecast the kinds of changes the new law would require:

> As much as seventy-five percent of the traffic may have to be restricted in certain large metropolitan areas if health standards are to be achieved within the time required by this bill.

The report warned that—

> Construction of urban highways and freeways may be required to take second place to rapid and mass transit and other public transportation systems. Central city use of motor vehicles may have to be restricted.

Two years have passed since the committee issued those warnings. And what has transpired since then?

First, the automobile companies, who have been aware of the threat posed by motor vehicle emissions in the Los Angeles area for over 20 years, have continued to refuse to develop or even consider alternatives to the internal combustion engine.

Second, we have learned that even if all cars in the Los Angeles Basin met the 1975–76 emission standards, motor-vehicle-related pollution levels would still exceed the levels necessary to protect public health. Nevertheless, the automobile companies are leading an effort to undermine even those standards—a ploy which, if it succeeds, will only force upon more communities the kind of crisis faced by Los Angeles.

Third, the oil companies spearheaded defeat of an effort to allow the use of gas tax revenues for the broader transportation system Los Angeles so desperately needs.

Finally, some of us in Congress have tried twice to redirect our transportation policies by expanding the uses of money from the highway trust fund to include support for public transportation projects. And twice we have failed.

In 1970, only a few days following Senate passage of the Clean Air Act, I offered an amendment in committee which was rejected. Last year, the Cooper-Muskie amendment was passed by the Senate, but was rejected by House conferees. Tomorrow, I will propose legislation which addresses the issue of autos and air pollution in cities, and I hope that the Congress will recognize the absolute necessity of approving those proposals.

Unfortunately, the EPA proposal does not, in my view, place sufficient emphasis on the need for making available transportation and land use alternatives for the Los Angeles area. I hope that suggested alternatives will be forthcoming, and that EPA and the administration will support the necessary public transportation legislation this year.

I strenuously disagree with those who would suggest that we must choose between protecting public health and providing a viable transportation system. We can—we must—do both. With great ingenuity, productivity, and activity, we have created our current dilemma. I am convinced that by applying equal amounts of ingenuity, productivity, and activity, we can cope with it, but not by retreating from it.

ARMS CONTROL

Mr. MUSKIE. Mr. President, the entire world was greatly encouraged last year by the first success of the Strategic Arms Limitation Talks — SALT — the ABM Treaty and the Interim Agreement on Offensive Weapons. Most of us have always known that the United States and the Soviet Union have a common enemy—the costly and dangerous arms race. Accordingly, we have sought to preserve a situation of mutual deterrence which guarantees our security while checking an arms race. Such arms control efforts consistent with our national security merit bipartisan Congressional support as well as the solid backing of the American people.

When President Nixon returned from Moscow last May with a signed arms control agreement, therefore, I publicly saluted his efforts and subsequently voted for the SALT accords in the Senate. I believed that the agreements, by limiting each side to two ABM sites and placing numerical restrictions on offensive weapons, would result in considerable dollar savings for this country while stabilizing the strategic arms competition between the United States and U.S.S.R. In sum, the superpowers seems to have indicated their intent to reduce the risk of nuclear holocaust and, in the words of the May 29 joint American-Soviet communique, "to contribute to the relaxation of international tension and the strengthening of confidence between states."

Since last May's accord, I have begun to doubt the Nixon administration's continuing commitment to arms control. These doubts were first raised when, in the wake of the signing of the SALT I agreement, Secretary of Defense Laird told the Congress that as a result of SALT I, the United States had to increase defense spending on offensive weapons, not reduce it. At the time, Secretary Laird said that it was imperative that we step up our spending for weapons systems not covered by the agreement. The double-think logic of the bargaining chip theory had evidently

produced an arms control agreement that would serve to accelerate the arms race—not limit it.

In recent weeks, serious new doubts have been raised in my mind concerning the Nixon administration's commitment to curtail the arms race during its second term of office. First, there is the reported budgetary request by the Pentagon for fiscal year 1974 to put MIRV warheads on all 1,000 of our land-based Minuteman missiles. I certainly hope the White House will reject this request if the reports are true.

In 1970 when the administration was arguing for the initial deployment of a MIRV system, it was asserted that Soviet deployment of MIRV's was "imminent." At the time, I said that this was nonsense, an assertion subsequently borne out by fact. The simple truth is that we do not yet have any evidence that the Soviets have even tested, let along developed, a true MIRV capability.

I feel today just as I did in 1970 about land-based MIRV's—further deployments are unnecessary and potentially destabilizing. Moreover, further large-scale deployments at this time might be harmful to prospects for further progress at SALT.

There is further reason to be concerned about the Nixon administration's continuing commitment to arms control. Last November, the United States participated in the first round of SALT II talks in an uninspired and undirected manner. The quality of our participation—or rather nonparticipation—is lamentable. To be sure, it will not be easy to achieve a quick agreement on the complex problems that remain unsolved following SALT I. However, this does not reduce the importance of devoting the strongest possible efforts to solving those problems. As a result of our foot-dragging, there was precious little serious interchange between the American and Soviet negotiators in Geneva concerning limitations on MIRV's or anything else. Regrettably, the only concrete achievement to come out of SALT II thus far has been the creation of a four-man consultative commission to supervise past and future strategic arms agreements, a development called for in the SALT I accords.

A third disturbing sign is the Nixon administration's alleged decision to reduce the budget of the Arms Control and Disarmament Agency—ACDA—by one-third during the next fiscal year. Such a budget reduction can only reduce the agency's effectiveness and importance. The United States can hardly afford such a development, particularly with SALT II, Mutual and Balanced Force Reductions — MBFR — the Comprehensive Test Ban Treaty, and other urgent arms control matters on the agenda.

A fourth and related reason for concern may be the recent resignation of Ambassador Gerard Smith as Director of the Arms Control and Disarmament Agency and as our chief negotiator at SALT. A capable and effective public servant, Ambassador Smith was firmly committed to the cause of arms control and was an articulate advocate of this cause at SALT and in Washington. Some observers have suggested that his resignation as our chief arms control spokesman could be the result of policy disagreements with the White House or a possible indication that the Military Establishment is ascendant within the executive. I certainly hope that these suggestions are not true.

Finally, I am troubled by the administration's plan to separate the SALT delegation from the Arms Control and Disarmament Agency. During Ambassador Smith's tenure as our chief SALT negotiator, he simultaneously served as Director of ACDA. Now, the administration plans to have one person lead the U.S. delegation at SALT and another head the Arms Control Agency. This is an unfortunate and undesirable downgrading of ACDA which is likely to hamper the effectiveness of our SALT effort and make it more difficult for our SALT negotiating team to buck Pentagon pressures.

All of these developments are troubling me. We need an energetic and continuing effort on the part of the administration to curtail the arms race. SALT I was a good beginning—but it was only a beginning. We need to cut back military spending, not increase it. We need to limit strategic arms deployment, not expand it. We need to build up ACDA, not emasculate its budget. We need to give our SALT negotiators more authority and support, not less. In short, we need to build on SALT I for long-range arms reduction—and not use it simply as a rationale for complacency.

Mr. President, I ask unanimous consent that certain recent newspaper articles relating to my remarks be printed in the RECORD.

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

[From the New York Times, Jan. 5, 1973]

ALEXIS JOHNSON IS EXPECTED TO REPLACE SMITH AS NEGOTIATOR ON STRATEGIC ARMS

(By Bernard Gwertzman)

WASHINGTON, Jan. 4—U. Alexis Johnson, the State Department's senior career officer, is expected to replace Gerard C. Smith as the head of the United States delegation to the talks with the Soviet Union on limitation of strategic arms, well-placed Nixon Administration officials said today.

The sources said that Mr. Johnson, who has served as Under Secretary of State for Political Affairs, would reportedly be made a special ambassador by President Nixon, but would not assume Mr. Smith's other job as Director of the Arms Control and Disarmament Agency.

The White House formally announced Mr. Smith's resignation from both his assignments today, but did not name his replacements. Administration officials said that a new director of the arms control agency had not been chosen and that the Administration had decided to curtail the activities of the agency sharply in the coming year.

BUDGET SLASH REPORTED

Last Wednesday, for example, the White House Office of Management and Budget informed the arms control agency that it would have to absorb a one-third cut in its projected $9-million budget for the next fiscal year, which begins July 1, officials said.

The budget cut shocked some agency officials who were informed on the same day that Mr. Smith was leaving the Government.

The reasons behind Mr. Smith's departure have already become a source of considerable discussion in the Government. Officially, he announced today that he was returning to private life to practice law in Washington and to help set up a "trilateral commission" of private citizens to promote relations between Japan, North America and Western Europe.

"SHABBY TREATMENT" CITED

Close associates of Mr. Smith said today that they believed that he would probably have stayed on in his agency if it had not been for what one called "the shabby treatment" he received from Henry A. Kissinger and President Nixon in Moscow after the signing of the first agreements limiting strategic weapons. According to the informants, Mr. Smith was irritated by two developments.

The first was the White House decision to keep him and the rest of his delegation in Helsinki for most of the week that Mr. Nixon was in the Soviet Union, instead of inviting them to join the talks in Moscow that concluded the agreements that Mr. Smith had negotiated for two and a half years.

The second involved the press briefings on the night agreements were signed.

There were two briefings that night. Mr. Smith attended the first and shorter one with Mr. Kissinger. A second briefing was held in a nightclub in the hotel in which the American newsmen were staying, and Mr. Kissinger conducted that one alone. Mr. Smith told associates later that he had been "disinvited" by the White House.

Mr. Smith was given minor responsibility in the weeks following the signing, when the Administration sought to get Congressional approval for the two accords—a treaty limiting each side to 200 antiballistic missiles and a five-year interim accord placing certain limits on offensive weapons.

For example, at a key briefing at the White House for leading senators and members of the House of Representatives, Mr. Smith was not invited to participate in the discussion in which Mr. Nixon and Mr. Kissinger participated.

The White House attitude, Mr. Smith's associates said, persuaded him that his work was not fully appreciated and he began to look to his own future.

OFFERS TO RESIGN

He told Mr. Nixon last fall before the election, that he wanted to resign at the end of the year, and Mr. Nixon prevailed upon him to lead the American delegation once more when the arms limitation talks began their second phase at the end of November in Geneva.

When the first round concluded last month, an official said, Mr. Smith told his Soviet opposite number, Deputy Foreign Minister Vladimir S. Semyonov, that he would not be returning when the talks resumed on Feb. 27.

It is not known how many of the other members of the American delegation will be retained for the next round of talks, which deal with the reduction and limitation of offensive strategic weapons.

OFFICIAL PRAISE FROM NIXON

A White House spokesman, Gerald L. Warren, read a statement from Mr. Nixon today praising Mr. Smith for what Mr. Nixon termed his central role in bringing about the arms accords.

Mr. Johnson, who is 64 years old, has held a variety of ambassadorial posts and is the only active Foreign-Service officer with the title Career Ambassador.

On Nov. 30, the White House announced that he would be replaced by William J. Porter, the chief negotiator at the four-party Vietnam peace conference in Paris. The White House said at that time that Mr. Nixon had

asked Mr. Johnson to accept "a major new assignment commensurate with his special talents."

Mr. Johnson is regarded as a tough negotiator, and his appointment should be welcomed by legislators who have criticized the way the arms talks have been handled.

[From the Washington Post, Jan. 5, 1973]

MORE MIRV MISSILES SOUGHT

(By Michael Getler)

The Pentagon has recommended expansion of the U.S. Minuteman intercontinental ballistic missile force so that all 1,000 of the strategic missiles eventually can carry the highly accurate type of triple warhead known as MIRV.

For the past several years, the Defense Department had planned to put the MIRV (multiple independently targetable re-entry vehicles) warheads on 550 of the 1,000-missile Minuteman force. But in the fiscal year 1974 military budget request, which goes to Capitol Hill later this month, the Pentagon is recommending a start on a project that would allow eventual expansion of the force.

Military sources say the decision on approving the Pentagon recommendations now rests with the White House.

A favorable decision by the White House could have an important impact on the current second round of Strategic Arms Limitation Talks (SALT).

The United States is expected to press at these talks for some overall reduction either of the number of missiles carrying multiple warheads or of the number of individual warheads carried on each missile.

The Soviet Union has not yet flight-tested or deployed a MIRV similar to those in service aboard several hundred landbased U.S. Minuteman missiles and submarine-based Poseidon missiles. But the Soviet Union does have about 290 large missiles and about 90 silos for additional large missiles that might eventually carry MIRVs that are as powerful and as accurate as the U.S. version.

Thus, the U.S. move to expand the Minuteman MIRV force could be seen as a bargaining chip for the new round of arms limitation talks intended to make it worthwhile for the Soviet Union to agree to some multiple warhead limitation. Since it would obviously take several more years to deploy more than 550 MIRVed Minuteman missiles, some success at SALT II could possibly be achieved before new deployments were actually made.

At the same time a favorable White House decision on the Pentagon request also would keep the missile production line open.

A decision has to be made soon, Air Force officials have said, with respect to the future of the Minuteman program. Otherwise, production lines for the missiles' rocket motors would have to shut down soon and the cost of reopening them would increase if it were decided later to expand the force.

Currently, the United States has about 250 Minuteman III missiles, the version that carries the three-part MIRV warhead, operationally deployed in underground concrete and steel silos. The other 750 missiles are older Minuteman I and II versions. The original plan called for conversion of the older Minuteman I missiles in order to reach the full 550-missile Minuteman III force during fiscal 1974 which will begin July 1.

To go beyond 550, the Air Force would also have to convert the remaining 450 Minuteman II missiles to the Minutemen III configuration. This would involve replacing all three rocket motors on each missile, plus adding the MIRV warheads.

Eventually, the expense of such a project could run into billions of dollars, but the expenditure to get started during fiscal 1974 would be small, say Pentagon sources. This could improve chances for a White House go-ahead in the new budget.

The Soviet Union continues to lag well behind the United States deploying an accurate multiple warhead system. However, intelligence sources say that within the past several weeks the Soviet Union has test-fired for the first time a large new missile that appears to be destined for deployment in the 90 large silos constructed during 1971 and 1972.

The missile, however, apparently did not carry any MIRV-type warheads in these early tests, and it is still uncertain whether the Soviet Union has mastered the technique for putting several individual warheads on the top of a single missile and guiding each one accurately to a different target.

ARMS CONTROL: A BAD TIME FOR DISARRAY

(By Chalmers M. Roberts)

It now has been nearly 17 years since President Eisenhower appointed Harold Stassen to the post of Special Assistant to the President for Disarmament, with Cabinet status. In 1961 the job was institutionalized with congressional creation, at President Kennedy's request, of the Arms Control and Disarmament Agency. William C. Foster became head of ACDA and the chief negotiator, as well, on arms control measures. In 1969 President Nixon chose Gerard C. Smith to head ACDA and later to be the chief negotiator for the Strategic Arms Limitation Talks (SALT). Now, as the second Nixon term begins, Smith has departed by his own choice and the President has tapped U. Alexis Johnson to be the negotiator. No one has been announced as Smith's successor to head ACDA, a quasi-independent agency housed and supported by the State Department but with its own congressionally approved budget.

It is evident, in retrospect, that all the major decisions in the arms control field since the initial Baruch Plan in 1946 have been presidential decisions, but it also is evident that presidential choices have been circumscribed by the quality and extent of the bureaucratic machinery which has examined the problems and possibilities and thus, through various layers of the government, served up the options. Stassen, Foster and Smith all were effective, or ineffective, to the degree that they could establish an independent input from an office or an agency that was beholden neither to the diplomatic views of State, the military views of Defense, or the views of the White House staff.

It is for such reasons as these that the appointment of Alex Johnson has done more than raise eyebrows among those in and out of government, who concern themselves with arms control, above all with the SALT II negotiations which resume in Geneva for a second session on Feb. 27. Johnson is widely viewed as a temporary appointment. He suffered a heart attack a while back and his doctors have warned him against excessive work. For that reason, it appears, he turned down a Nixon offer to succeed Ambassador Bunker in Saigon. The top career man at State, Johnson is now 64. He has had only minimal acquaintance with the complex arms control issues.

The issues at SALT II are going to be very tough to resolve. Henry Kissinger, the generalissimo of SALT I here in Washington, has had no time for the problem because of Indochina and now his own continuation in the White House is uncertain. By all accounts, then, the U.S. is in a holding pattern on arms control and this is likely to last for some time. President Nixon's separation of the two posts of ACDA head and top negotiator adds an additional uncertainty.

It was widely believed when SALT II began that there would be no pressure from either Washington or Moscow for speedy new agreements. The interim pact on offensive weapons runs for five years and most people felt that not until about the fourth year would negotiations become intensive. But from what is now learned about the first go-round of SALT II this may not be necessarily true; indeed, a major opportunity for a key new phase in arms control just might be present, if the U.S. is prepared to grasp it.

This is because at the recent Geneva talks, all behind closed doors, the Soviet delegation expressed an interest in the control of multiple warheads, MIRVs. This came as a surprise to Smith and his delegation but there is no doubt that Moscow did indicate such an interest. It is true, however, that the other anticipated problems, notably the Moscow demand for limits on the American forward based systems (FBS) in any new agreement, were put forward by the Soviet side. But the Soviet talk of MIRV control added a new dimension to the meetings. At this first session neither side laid down any formal proposals.

Quite obviously the Kremlin interest in MIRV control must spring from the enormous American lead in such warheads though the Soviets are ahead in numbers of missile launchers and in throw weight of warheads. It would take some very difficult trade-offs to reach any form of MIRV agreement, and monitoring of such an agreement, beyond monitoring a ban on further tests, would be equally hard to achieve. But if there is no agreement, multiple warheads will be a major element in both arsenals.

Thus it appears this is a very bad moment for the American arms control establishment to be in such a state of disarray as the Johnson appointment, and the Kissinger situation, indicate it to be. Only President Nixon can change this state of affairs, although the Senate disarmament subcommittee of Foreign Relations could do some prodding.

The opportunity to control MIRVs is judged, at best, to be a long shot. But so were many other opportunities in past years that finally reached fruition through the perseverance of such men as Stassen, Foster and Smith. The U.S. can do no less than try—and there is currently no sign it is ready to do that.

[From the New York Times, Jan. 16, 1973]

MR. RICHARDSON'S TURN

(By Herbert Scoville, Jr.)

McLEAN, VA.—Deterrence, our sole protection from a nuclear attack or blackmail, requires not only sufficient retaliatory weapons to make the initiation of war inconceivable, but also a national attitude that leaves no doubt in the minds of both our potential foes and our allies that we will not submit to intimidation.

Although no one will ever know whether or not we would actually launch a retaliatory attack in any specific situation, an aggressor would be deterred from action if he were certain that he risked the complete destruction of his society. The Moscow ABM Treaty was a public acknowledgement by President Nixon and Secretary General Brezhnev that the security of the two major nuclear powers depends for the foreseeable future on mutual vulnerability.

Secretary of Defense Laird, however, has acted to destroy the credibility of our deterrent; will his successor, Elliot Richardson, reverse this course?

The U.S. now has more than 6,000 strategic nuclear weapons in its arsenals; about 4,000 of these are in ballistic missiles aboard submarines that are invulnerable to attack for the foreseeable future. This submarine missile force is backed up by more than 1,000 landbased ICBM's and nearly 500 intercontinental bombers. As a result of the ABM Treaty virtually all the missile warheads have a free ride to targets in the

Soviet Union. Can anyone question that such a force is more than enough to wreak havoc on the Soviet Union under any conceivable circumstances? Certainly this is a credible deterrent today; Soviet developments could not destroy this retaliatory capability in the next ten to twenty years even if the U.S. stood still.

But for the last four years, and even after the Moscow pact, we have been witnesses to a strange performance by our defense leaders. Instead of making clear to the world that the United States could never be vulnerable to nuclear attack, they have been belittling U.S. strengths and inflating Soviet threats.

Each year the refrain of inferiority swells in intensity as the military budget comes under review. Secretary Laird has preached a national security strategy of "realistic" deterrence while he defended his programs before Congress on the basis of unrealistic threats. In 1969, he decried the vulnerability of our Minuteman ICBM deterrent to large Soviet SS–9 missiles with MIRV's and said that warheads with a "footprint" covering Minuteman silos had been under test for a year; but three years later he is forced to admit that the first Soviet MIRV test may still be six to eight months in the future. Now as he makes his departure from the Pentagon scene he again refers to the momentum of the Soviet weapons program. At last he can report the first un-MIRV'ed test of a new SS–9 type ICBM which may go in the very large silos he was so alarmed about two years ago. However, as a result of SALT I, the Russians are limited to less than 40 of these so regardless of the number of MIRV's they might eventually carry they pose no danger to the Minutemen force.

Misleading depreciation of U.S. strategic strength might be ignored as the distortions of an overenthusiastic advocate of military power if it was harmless. But, unfortunately, it serves to undermine the very credibility of our deterrent. Can we be sure that our allies will recognize such statements for what they are, i.e., attempts to extract more funds from the Congress, or will they perhaps take them at face value, cease to rely on the U.S. nuclear umbrella, and procure their own nuclear weapons?

Might even the Soviets believe that they had a freer hand to make political capital out of such advertised U.S. weaknesses? At the very least we are increasing the chances that we will be subjected to nuclear threats and be more pliable to pressures. If we talk often enough about the dangers of numerical inferiority, we may come to believe that numbers of weapons are a realistic measure of strength. Numerical advantage has no military significance when both countries can wipe out the other many times over; it can only have a political meaning if our leaders give it one. Expressions of alarm can become self-fulfilling prophecies.

THREE RESOLUTIONS PASSED BY THE DEMOCRATIC CONFERENCE ON JANUARY 11, 1973

Mr. MANSFIELD. Mr. President, I wish to call the attention of the Senate to three resolutions passed by the Democratic conference on Thursday, January 11, 1973.

As majority leader, I have been directed by the majority conference to communicate the contents of these resolutions to the leadership of the minority, to the chairmen of the standing committees, and in the case of the resolution concerning refusal of Cabinet and other officials to testify before Senate committees, also to the President of the United States.

I ask unanimous consent that copies of these resolutions be printed at this point in the RECORD.

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

PRIORITIES IN CONSIDERING LEGISLATION

Whereas, several measures enacted by the 92nd Congress, 2nd Session, were vetoed by the President after adjournment, thus precluding an opportunity to override;

Whereas, other measures passed by one House were not considered by the other;

Whereas, the Senate has responsibility to assert its concept of priority in the conduct of the continuing legislative business of the government:

Therefore, the Democratic Majority in the Senate resolves:

(1) That Senate Committees should consider initial legislative business, wherever feasible in the following order of priority:

(a) legislation vetoed in last session, notably legislation vetoed after adjournment;

(b) legislation held in Conference or passed by the Senate but not disposed of by the House;

(c) legislation passed by the House but not disposed of by the Senate;

(2) That the Leadership, in scheduling measures for consideration by the Senate, should be guided by the same concept of priorities as is proposed by this resolution to the Committees.

Resolved, further, that the Majority Leader is requested to communicate the text of this resolution together with lists of specific bills intended to be considered on this basis to the Chairmen of the Committees and to the Leadership of the Minority.

RESOLUTION ON OPEN HEARINGS

Whereas, the people of the nation have a right to be informed on the conduct of their government;

Whereas, the proceedings of the Senate and of Senate Committees are the business of the people of the nation; and

Whereas, the Legislative Reorganization Act of 1970 amended the Committee procedures to provide additional public disclosure of Committee hearings and Committee actions.

Resolved by the Democratic Majority in the Senate:

(1) That the Senate Committees and the Senate should conduct their proceedings in open session in the absence of overriding reasons to the contrary;

(2) That whenever the doors of the Senate or of a Senate Committee are closed, a public explanation of the reasons therefor should be forthcoming, respectively, from the Joint Leadership or the Chairmen of the Committee;

Resolved, further, that the Majority Leader is requested to communicate the text of this resolution to the Leadership of the Minority and to the Chairmen of all Committees.

REFUSAL OF CABINET AND OTHER OFFICIALS TO TESTIFY BEFORE SENATE COMMITTEES

Whereas, the Constitution of the United States, Article II, Section 2, vests the President with the power of appointment "by and with the Advice and Consent" of the Senate;

Whereas, on behalf of the Senate, Committees of the Senate are authorized to summon witnesses to appear and testify on the business of the Senate;

Whereas, appointed officials, subsequent to Senate confirmation, have refused on occasion to appear and testify before duly constituted Committees of the Senate:

Resolved by the Democratic Majority of the Senate:

(1) That a prerequisite to confirmation is the commitment of Presidential appointees to appear and testify before duly constituted Committees of the Senate in response to committee requests.

(2) That all Senate Committees bear a responsibility to determine, prior to confirmation, the commitment of Presidential appointees to comply with committee requests to appear and testify before Committees of the Senate:

(3) That Committee reports to the Senate on all cabinet designees and such other appointees as deemed appropriate should contain an evaluation of their commitment to respond to committee requests to appear and testify before duly constituted Senate Committees.

Resolved, further, that the Majority Leader is requested to report the adoption of this resolution to the Majority Conference and to communicate its contents to the Leadership of the Minority, to the Chairmen of the standing Committees and to the President of the United States and otherwise to seek cooperation in its executive.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

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

The PRESIDING OFFICER (Mr. GRIFFIN). The nominations on the Executive Calendar will be stated.

DEPARTMENT OF THE TREASURY

The legislative clerk read the nomination of William E. Simon, of New Jersey, to be Deputy Secretary of the Treasury.

Mr. MANSFIELD. Mr. President, I am in receipt of a copy of a letter to the Honorable RUSSELL B. LONG, chairman of the Committee on Finance, from William E. Simon, which reads as follows:

JANUARY 16, 1973.

DEAR MR. CHAIRMAN: Pursuant to our conversation regarding my availability to testify, let me assure you that if I am confirmed by the Senate, I will be available to testify with respect to any matters under my jurisdiction pertinent to my responsibilities as Deputy Secretary of the Treasury.

Sincerely yours,

WILLIAM E. SIMON,
Deputy Secretary Designate.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Edward L. Morgan, of Arizona, to be an Assistant Secretary of the Treasury.

Mr. MANSFIELD. Mr. President, I have received a similar communication from Mr. Edward L. Morgan, which reads as follows:

JANUARY 16, 1972.

RUSSELL B. LONG,
Chairman, Senate Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request regarding my availability to testify, let me assure you that if I am confirmed by the Senate, I will be available to testify with respect to any matters under my jurisdiction pertinent to my responsibilities as Assistant

Secretary for Enforcement, Tariff and Trade Affairs, and Operations.

Sincerely yours,

EDWARD L. MORGAN,
Assistant Secretary-Designate for Enforcement, Tariff and Trade Affairs, and Operations.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, may I say that following the hearings at which these two nominees were heard, the distinguished nominee of the President to be Secretary of HEW, Mr. Caspar Weinberger, appeared before the Finance Committee. The question was put to him about his desire to appear before committees and he answered wholeheartedly in the affirmative. These letters are put in only because the hearings were held before any action was taken by the Democratic conference.

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

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

Mr. SCOTT of Pennsylvania. Mr. President, before we go back into legislative session, I want to thank the distinguished majority leader for bringing these appointments up at this time for confirmation. I hope that other appointments of the President can be acted on promptly. I know that is the wish of the distinguished majority leader. He has made that very clear.

The President, who will be inaugurated next Saturday, will need to have the benefit of his appointees in order to carry on the work of the Government. I have talked with a number of these appointees who are coming up for full confirmation and they have given me similar assurances that they will be glad to testify before committee, upon reasonable and seasonable notice, in accordance with their duties.

It is not expected that executive privilege will be an issue in many cases or even, probably, in any cases, as it has been invoked only three times in the past 4 years. There has been no change in the executive privilege concept in the reorganization of the executive branch. There has been no enlargement of the President's power, and those who are either Cabinet officers or counselors will be free to appear and testify.

In the one instance cited in which a Cabinet officer was unable to appear, the fact is that this occurred the Friday or Saturday before New Year's Day, in the case of the Secretary of State, who was then in the Bahamas, in the belief that nothing would happen on New Year's Day. He was notified to appear on Tuesday before the former Committee on Foreign Relations, which had not yet been reconstituted as a new committee under the new Congress, and he was unable to appear at that time. It was for that reason and for other reasons he cited, which included the fact that at that time he was not prepared to discuss negotiations with the other side.

So I think that may clarify the one instance in which executive privilege was not invoked but a delay in testimony was requested. I do this only to clarify the record and to thank the distinguished majority leader for his, as always, thorough cooperation with the administration whenever it is proper and is a part of his duty as the majority leader. We much appreciate it.

Mr. MANSFIELD. Mr. President, in response, may I say that I, too, appreciate the remarks of the distinguished Republican leader. I am glad that he has stated for the RECORD the situation as it affected the number of executive privilege proposals over the past 4 years and the reason why the distinguished Secretary of State, Mr. Rogers, did not find it possible to appear before the Committee on Foreign Relaticns in response to a request from that committee to discuss a most important subject in evidence at that time.

May I say that it goes beyond the Committee on Foreign Relations, because it is my understanding that other committees, including the Joint Economic Committee, under the chairmanship of the distinguished Senator from Wisconsin (Mr. PROXMIRE), on more than one occasion requested individuals in the appointive branch of the Government—in these instances, I believe, in the Department of Defense primarily—to appear before the joint committee of which he is the chairman. Sometimes they refused, for no reasons at all. Other times they said they would send up subordinates, and other times they were outright discourteous—in fact, contemptuous—in paying no attention whatever to a chairman of a committee representing Members of both Houses of Congress.

After all, the Constitution does say that this is a coequal branch of the Government. We are not subordinate, and so far as the Senator from Montana, now speaking, is concerned, we will not be subordinate.

In the Democratic conference last week, we did consider the advise-and-consent clause of the Constitution, which gives us the right to pass on confirmations and gives us the right, may I say, to summon Cabinet officers and other appointees to appear before committees so that we can get the information we need to be able to legislate intelligently. This is purely a Senate function, under the Constitution; so there should be no argument about that.

But we would hope—and I anticipate, without question—that when requests are made, reasonable requests, to appropriate officials downtown, they will appear before the appropriate committees of the Senate.

So far as executive privilege is concerned, I am delighted that the distinguished Republican leader pointed out that it has been invoked only three times. However, in contrast to the advice-and-consent power on the confirmation of Presidential appointees, which is in a pure constitutional area—there is absolutely no question about it—the question of executive privilege is in another area, a gray area of the Constitution. It does have precedent, I think extending from the time of George Washington, perhaps not quite that far back but I am informed that it goes back very far, probably to Jefferson, if not to the first President of the United States. It has grown and grown, and sometimes precedent accrues to itself a certain type of legal strength.

But the purpose of the executive agreement proposal which is now being considered—not in the Senate but in the Democratic policy committee and in the Democratic conference—is not to impinge upon the President's prerogatives; we recognize that there must be a certain amount of confidentiality. I do not believe any committee is going to insist unreasonably on this point, because even we, as Senators, must have a certain amount of confidentiality, just as Governors of States must have it and as Presidents must have it on occasion. But we would not like to see it get out of hand, get out of control; because if we are going to legislate intelligently, I repeat, we must have the necessary information from the sources we think are best prepared to furnish it to the committees.

In this respect, may I say that a week ago last Friday, the distinguished Republican leader and I, the distinguished assistant Republican leader, and the distinguished assistant Democratic leader attended a breakfast at the White House, at which time the President discussed his appointment of three new counselors. If my memory serves me correctly, he stated at that time that they would be available to appear before congressional committees unless there were privileged communications between them and the President. That, of course, is understandable.

Mr. SCOTT of Pennsylvania. The Senator is correct. And upon reasonable notice.

Mr. MANSFIELD. And upon reasonable notice.

So I would hope that this matter would not be looked upon as a political issue. The Senate, as an institution, is the thing which is closest to our hearts, and it is an institution of great dignity and decorum; but it is an institution which has been losing too much of its powers ever since the days of Franklin D. Roosevelt, and we have no one to blame but ourselves.

We want the Senate to be treated as equals, and we intend to do all we can to see that this balance is restored between the executive and the legislative branches of government. I am sure that both Democrats and Republicans can unite as Senators in behalf of the institution of which they are Members and in behalf of the constitutional precept of equality and balance between the legislative and the executive branches of government.

Mr. SCOTT of Pennsylvania. I thank the Senator. He is, of course, quite right as to the equality of responsibility and of powers and as to the importance of securing the attendance of those persons who are subject to confirmation and advice and consent. I believe the President has made clear his entire willingness to cooperate.

I believe the Senator will recall the story of President George Washington,

who appeared before the Senate, and he was not pleased with his reception. He went back to the White House and said,

That's the last time I'll talk to those people.

Mr. MANSFIELD. He used stronger language.

Mr. SCOTT of Pennsylvania. He did. General Washington, like most of our recent Presidents, had the ability to express himself in quite colorful language. I do not think too much was lost by that, except to history.

But it is important that reasonable notice be given. The President has made the point that a rule of reason governs, and it is not seasonable for a committee chairman to notify a Cabinet officer that he is going to make him come up here seven times in 7 days, to state an extreme instance. It would not be seasonable for a chairman to notify the press on Monday evening that he is demanding the appearance of a Cabinet officer on Tuesday morning. That comes under the heading of showboating and I am sure none of our Senators would indulge in that kind of awkward performance.

So what is needed is reasonable and seasonable notice, and what is needed is some tolerance on both sides, some understanding that while the presence of a Cabinet officer may add to the headlines many times an Assistant Secretary or Under Secretary may furnish the information in more detail than the Cabinet officer. But some Cabinet officers spend one-half or two-thirds of their time in certain seasons of the year testifying before two appropriations committees and the common complaint is that they are given too little time to get their work done. We, too, have too little time to get our work done and I think we understand the difficulty.

I am sure the distinguished chairman of the Committee on Foreign Relations would be the last to complain about short notice because the notice unfortunately given the Secretary of State before New Years called for him to be here on Tuesday. We members of the Committee on Foreign Relations were notified there would be hearings this Tuesday. I believe we got the notice last Friday. The chairman is in Caneel Bay and canceled the hearings. I do not understand how he, of all people, would condemn a Cabinet officer when the same notice was not adequate for him, since both of them are out of the country.

It is important that we not give up our prerogatives. We are a proud and touchy body. We are 100 prima donnas. We value the opportunity to be here almost beyond anything except life itself, and our wives at times. I used that collectively but each of us has only one wife; that is enough but never too much.

So I hope we will apply this rule throughout. The distinguished majority leader always does. He is fair and just. But I hope the chairmen of the committees will give appointees an opportunity to do their work, and stay out of the Post and Star-News except occasionally, to get the work done. That is the point I make.

Mr. MANSFIELD. I will agree with the distinguished Republican leader that we are all prima donnas in one sense or another in this Chamber. But more important is that under the Constitution we have the responsibility to advise and consent on appointees of the President of the United States. We should never lose sight of the fact that although this is perhaps a body of prima donnas, it is also a body of equals and that this institution is far more important than any one of us. Our main problem is to maintain the balance and equality between the executive and legislative branches of Government. We have given up too much of our constitutional power already.

I repeat that we have no one to blame but ourselves. However, if this institution keeps on going down and down and down, this Republic will not last long thereafter.

Mr. SCOTT of Pennsylvania. I thank the distinguished majority leader. I had not meant to speak further but I add one mild disclaimer, because I have such pride in the institution. I do not believe the institution is going down and down and down, because if it were, why is it that we have generated most of the candidates for the Presidency of the United States and are already generating, as our speeches indicate, candidates for the Presidency in 1976, and perhaps we again will be the mother of presidential candidates. I again take this opportunity in the beginning of the session to urge presidential candidates, whether the number is 10, 30, or 50, to give some time to the Senate so that we may be busy about asserting our prerogatives.

Mr. MANSFIELD. With that I agree.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER (Mr. GRIFFIN). Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. The Senate will now continue with morning business, with speeches limited to 3 minutes.

ADDITIONAL STATEMENTS

PROLONGING THE WAR IN VIETNAM

Mr. BROCK. Mr. President, I believe the article by David Lawrence, published in the January 15 issue of U.S. News & World Report, will be of interest to Senators. I ask unanimous consent that the text be printed in the RECORD.

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

WILL CONGRESS BE PROLONGING THE VIETNAM WAR?

(By David Lawrence)

Is Congress getting ready to impair the power of the President of the United States to conduct foreign policy?

The resolution which the caucuses of the Democrats of both the House and Senate have adopted would cut off funds for combat operations in Indo-China subject only to the release of American prisoners and arrangements for the safe withdrawal of U.S. troops. Such a step by Congress would be in complete disregard of the fact that the Commander-in-Chief cannot function efficiently if money is intermittently withheld.

The United States would, in effect, be trapped in an involuntary surrender to the enemy.

Never before in American history has the Chief Executive, while negotiating at a crucial time with the nation's adversaries, been deliberately prevented from doing so from a position of strength. For the Congress would, by supporting the resolution, be announcing that the United States is indifferent to its alliance with South Vietnam and is abandoning the fight hitherto waged to sustain the objectives set forth in the Southeast Asia Treaty, which affirms South Vietnam's right to independence.

American forces totaling more than a half million men have been in Vietnam, and a large number of lives have been sacrificed for the basic principles that prompted the United States to help a little nation resist invasion. Now, after several years of warfare and the build-up of a "Vietnamization" program which affords an opportunity for the South Vietnamese people to defend themselves, peace negotiations are in a critical stage. But the Democrats in Congress indicate that the Washington Government will have to pull out and that it doesn't matter what the subsequent consequences will be to Indo-China and other parts of Southeast Asia.

The merit of America's military aid to the people of South Vietnam has been widely recognized. Small nations particularly feel that it is a deterrent against further acts of aggression anywhere.

But now, in the middle of negotiations for a settlement, the position of the United States is being weakened. For members of the legislative body in Washington are demanding that, as soon as American prisoners of war have been released and our troops brought home, the U.S. must withdraw entirely from the conflict.

As the North Vietnamese listen to the broadcasts of what is happening in Washington, they are not encouraged to make any concessions but merely to arrange a cease-fire and send back the prisoners. Hanoi presumably believes that whatever political settlement it wishes can be imposed thereafter.

The idea of applying a limitation on the powers of the President of the United States as Commander-in-Chief of the armed services is one which will be debated at length. For the Constitution doesn't give Congress authority to interfere with a right of a President to handle relations with foreign governments or to carry out a military mission for which, as Commander-in-Chief, he has full responsibility.

When legislation seeking to order a suspension of funds for the Vietnam operation comes up for action, will the two houses of Congress pass or defeat it?

Many members think that a vote ostensibly to end the Vietnam war is "popular." But they overlook the possible effects that might follow and the larger wars that may ensue as crises arise and the President's hands are tied at the very time negotiations with other governments are actually taking place.

In other parts of the world, what Congress is considering could cause much apprehension. Thus, there are more than 289,000 American troops in Western Europe. These have been provided under the North Atlantic Treaty, ratified by the U.S. Senate. If Congress cuts off funds in disregard of the advice of the Commander-in-Chief, who deems

the presence of our forces a necessity in the Vietnam area, would this not also meet with dismay among our friends in Europe?

Up to now, the United States has kept its pledges and has been faithful to its allies. In every war this country has held on until a satisfactory peace agreement has been reached.

Is Congress about to undermine the President's authority in negotiating with foreign governments? For if the diplomats of other nations think that the President of the United States doesn't speak for his own government and that Congress has the decisive voice in international relations, there will be a great deal of confusion around the globe as to where America really stands in world affairs.

The latest attempt in Congress to cut off funds at a fateful stage of the war could thwart the Presidents' efforts to get an effective peace settlement. The result could be more conflicts in Asia.

APPOINTMENT OF DR. CARY AS ATTENDING PHYSICIAN, U.S. CAPITOL

Mr. CHILES. Mr. President, Senators and their colleagues in the other body have a long history of constructive concern, sometimes vigorously expressed and debated, for the health of our Nation and its people. I am very glad to announce for the RECORD this morning that the Nation, speaking through the Surgeon General of the U.S. Navy, has once again shown that it reciprocates this concern and wishes its Members of Congress the best of health.

I refer to the recent appointment as Attending Physician, U.S. Capitol, of Rear Adm. Freeman Hamilton Cary, an extraordinarily able and distinguished physician and one of Florida's truly outstanding adopted sons.

Dr. Cary, who was born and educated in Georgia, has had his home and practice in Orlando, Fla., serving with distinction on medical faculties and medical association boards in both States. He has received numerous professional awards and honors for his work, which has been specialized in heart disease. He is a fellow of the American College of Physicians, of the American Heart Association's Council of Clinical Cardiology, and of the American Board of Internal Medicine and its subspecialty board in cardiovascular disease. Dr. Cary and his wife, Sara Ellen, have eight children.

I am sure that Senators share my satisfaction in Dr. Cary's appointment and join me in welcoming him to Capitol Hill.

SENESCENCE—THE INSIDE STORY

Mr. PERCY. Mr. President, a most interesting article dealing with what is commonly referred to as "sensility" came to my attention recently.

The article was written by Dr. Francis J. Braceland, senior consultant and chairman of planning and development at the Institute of Living in Hartford, Conn., and it appeared in the December 24, 1972, issue of the Hartford Courant magazine.

Mr. President, I commend Dr. Braceland's commentary on aging to the Senate, and ask unanimous consent that it be placed in the RECORD.

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

SENESCENCE—THE INSIDE STORY

(By Francis J. Braceland, M.D.)

Early in my life I thought that someday I would write a disquisition entitled "unpleasant people and their unfortunate tendency to longevity." Now I am glad I did not for it might have proven autobiographical. Having moved well past the time the psalmist promised man was his allotted span. however, I am stimulated to tell it like it is on this side of the barrier.

While recognizing that years alone do not make men sages, any more than laying eggs makes hens judges of omelets, nevertheless in this era of the consumer I consider myself a consumer of all plans for the aged. White House and otherwise, and find also an itch to write about it—the itch to be relieved only by the scratching of a pen. Confessedly, I will not be an authoritarian observer of broad personal feelings of the elderly for thus far I have missed the little tragedies which mar the lives of most of them. Presently I remain healthy, am employed and still have my family and friends. The lack of any one of these cherished possessions, as we shall see, distresses aged people more than anything else.

I must confess that my retirement was a failure. After retiring from my administrative post, I took on five other jobs.

The scriptures, the writings of the Bard and of ancient sages and dramatists are full of references to aging, many of them lugubrious. Cicero, Terence and Sanctorious regarded old age as a disease; Seneca, and Samuel Johnson after him, regarded it as an incurable disease. Cicero, in fact, thought old age was caused by the vices of youth. Socrates, condemned to death at 70, preferred execution to old age which he said was "the sink into which all miseries flowed." De Gaulle considered old age a shipwreck—he probably had in mind Petain, the distinguished marshal who ruined his career and died in jail. One statement much more earthy about old age was made by a lady patient of Dr. Heaton; she summed it all up by saying, "It stinks."

Fortunately things are not quite as bad as the ancients painted them. Contemporary psychiatric gerontologists such as Robert Butler, Alvin Goldfarb, Berezin, Greenblatt and Charles Aring paint old age with a lighter brush, though growing old is still nothing to make merry about. Aring recently noted that much attention has been paid in the past to immortality than to evaluating and restructuring life in order to improve it. He observed that "no word in English stands for mere increase of years (that is for aging) without deterioration and decay, unless it is senescence." Senescence thus is defined as the collective process of becoming old; currently it is considered normal. The term, unlike "senility," is not pejorative.

CONFESSIO ET APOLOGIA

The physiologic changes that even those of us assumed to be in good condition manifest, while slight, are yet noticeable. Fatigue occurs a bit earlier, one's legs do not function as tirelessly as in earlier days, there are definite visual changes and a realization that it is not wise to drive on the highways at night. (I disagreed with my ophthalmologist and asked him why he was so sure that the world was not fuzzy; he just changed my glasses and that ended that.) Insomnia plagues many of us and our memories play tricks on us. Names earnestly sought in memory pop up long after the need for them has passed. (I now have a whole crop of names in my mind, but I forget to whom they belong.) One other little distressing thing I have noticed about myself is found in *As You Like It*. Act 2, Scene 3: "His big manly voice, turning again to childish treble, pipes and whistles in his sound." Well, that's happening to me, and I don't like it. I am, however, thus far free of the other losses mentioned in the "Last Scene of All."

Retirement is a bit of a shock even when you choose it yourself. Others sit at your desk and undertake duties which were yours. Routines established over the years are now broken. Wards you were possessive about are manned by others. Nurses who no longer rise when addressing you whisper *sotto voce* "Who's he?" And on several occasions on my own old wards, mind you, I was asked if I were a doctor! Yet life goes on seemingly just as well as before—maybe even better—without you.

Jokingly, it is said retirement is when you settle back and see which is collected first—pension, annuities, social security or you; but the retirement in itself takes some getting used to.

If we are at all sensitive, we can detect in ourselves a mild tendency to garrulity, an inclination to move into the spotlight despite our best resolutions. People do not seem to be interested in the perfectly wonderful stories we have amassed and are ready to tell whether occasion arises or not. In general, people (especially young people) are polite, but they escape at the first opportunity. All of most of the things we learned and stood for now are regarded as being out of date; even the substantial culture and spiritual things upon which our characters were built are called into question. One has to be careful lest he becomes known as an old crab. It is axiomatic that if you want to be a dear old lady or a pleasant old man you have to begin to practice when you are 17 and keep at it.

STATISTICS: DULL BUT NECESSARY

One is brought up short when he views the 1970 U.S. census figures. Four thousand Americans reach the age of 65 every day, and every day 3,000 persons over the age of 65 die. The net gain is thus 1,000. There are now 20 million Americans over the age of 65; they constitute 10 per cent of the population. In 1903 they were only three per cent of it.

Old people are not living longer, however, in fact no longer than those in 1700. It is the young people who, escaping illnesses formerly fatal, are living longer. Wilder Penfield summed up the situation well when he wrote: "Science has not changed these things. The span of life for those who escape its early perils is about the same today as when David played on his harp before King Saul."

A few other statistics from the same census are of vital interest to us here for they enter into the fabric of the lives of people who have emotional problems. One fourth of the over-65 families have incomes of $3,000 per year or less; the median is $4,966 though financial reports of older persons are often inexact. Health care expenditures for this group are reported to be three-and-a-half times as large as for those under 65. Medicare pays 40 to 43 per cent of the bill. Although aging begins at birth, perhaps before, men apparently do pretty well until the age of 45 when the differences between the sexes begin to show up. Apparently one-third more of the "weaker sex" reach the older ages.

The stereotype of old age which is abroad in this youth-oriented culture is of old, decrepit, infirm, querulous, poor, useless people, but over 95 per cent of older people do not conform to it. Less than five per cent require custodial care, and there is little if any reason for the general gerontophobia which is abroad in the land. By and large, a major proportion of the population sails on as if aging had brought little or no change. Others note slight changes internally as the engine begins to sputter and fatigue and illness begin to appear. The main influences which distress the elderly are external, mostly

social, financial and emotional, as we shall see.

One can see as he gets older how men's lives are sharply influenced by external events. Generally men seem to sail along blissfully as if oblivious to age until or unless they are brought low by accident, acute illness or family tragedy. Some of these tragedies are devastating and almost too difficult to bear.

Loss of security (emotional, economic or both) is the lot of many individuals even in their forties and fifties, resulting in loneliness, despair, neglect and feelings of uselessness. All too often there seems to be no desire to strive and nothing to strive for; the individual feels alone and misunderstood in a gray no man's land. The rigidity assumed to be a landmark of old age is in part expression of the need to retain a world that used to be in which one had some self-respect. The rigidity is adopted as a defense against existential anxiety. Companions of a lifetime disappear from the lives of the elderly, reminding them of their own imminent dissolution: fear, rebellion, illness and despair are incited.

INTERNAL AND EXTERNAL CHANGES

We make a mistake, however, when we think of the elderly as a homogenous group. Some are rich, some are poor, some are sick and some are well. Most of them fall somewhere in between. Psychological and social pressures weigh heavily on all of them as they struggle to retain roles beyond their competence or positions denied them for other reasons. Sources of satisfaction evaporate yet their needs are as strong as ever and flow through channels cut long before.

The old person yearns for, needs and desires the same satisfactions as the young, differing not in quality though somewhat in degree. Yet the culture has a bias against their expression. What is virility at 25 is lechery at 65. "Ergo many older people are overwhelmed with guilt and feel pathologically oversexed." Actually sex in later years correlates strongly with sex in earlier years. It is a timeless drive throughout life, even in the 80s and 90s, especially if one's partner is alive.

PATHOLOGIC AGING: MILD AND EXTREME

That aging is not a uniform process affecting all men equally is obvious. The number of elderly individuals who have accomplished great things in later life is great enough to boggle the mind: Tolstoy, Goethe, Berenson, Titian, Tintoretto, on down to Grandma Moses. George Bernard Shaw found joy in being used for a purpose recognized as mighty before being thoroughly worn out and cast on the scrap heap. Becoming old gracefully, therefore, is essentially having accumulated experience and judgment whether intellectual or technical.

Acquiring or keeping these abilities, however, does not guarantee a calm or happy old age. Simone de Beauvoir writes of the outrageous and turbulent last days of Tolstoy's life, the jealousies and conflicts, the difficulties of his distracted psychotic wife and the tragic ending of this famous man. The same nightmarish happenings are to be found in other titans of art and literature for though great creative artists seem to find a divine spark that keeps them productive in their later years, under the externals there is often bitterness, resentfulness and pessimism. Any idea that old age is inevitably a period of calmness, tranquility and peace, a sort of perpetual picture of Whistler's mother, is a myth. Actually, stresses are greater in this period. There is less understanding, less than can be done independently to help the victim, and less accessibility to treatment than for any other age group.

Thus, even for the great ones who reach old age, consolations are meager. Like others of their age group, they are aware of an irrevocable course, and it is downward. Time seems to run out at an accelerated pace. All of one's accomplishments, degrees, acquisitions, medals and prizes become "things." The world cares little for them; in fact, the modern world, especially the young, dismisses most of them as worthless baubles. Young people are busy rearranging a world which they believe will be fair, just and idealistic. However, I fear saying too much about them for I realize that finding fault with young people has always been a pastime of the aged, assisting greatly in the circulation of their blood. The past is gone, the future is problematical for the senescent.

Until several decades ago, anyone over the age of 60 or 65 who showed emotional or mental symptoms was ipso facto regarded as being senile or arteriosclerotic although we were wrong often enough for us to learn better. The knowledge is only recent, therefore, that there is little correlation between the severity of the organic brain changes and the degree of mental and emotional difficulty which the older person shows in other words, some people who have definite organic change carry on in difficult business and social situations, while others, whose postmortem examinations show little organic change, have marked social and intellectual distress.

Complexes which lead to forgetting are just as active in old age as they are in other periods of life. The forgetting of proper names, for instance, is often due not only to lack of interest, but also to the fact that the memory is repressed some unconscious reason. There is definite difficulty in recall among this age group, however. It sometimes happens that old people are hospitalized because of disorientation, confusion and an apparent loss of retentive memory, looking for all the world as though serious organic brain changes are operative; yet under a program of attentive care and adequate stimulation, the failing faculties are soon restored. Thus even in senile dementia, which is presumably due to actual organic changes in the brain, psychosocial factors are of great importance.

Observers today are more and more impressed with the amount of depression we see even in the normal aging populace. This has, of course, numerous and varied causes. There may be predisposing constitutional factors, situational stress or various other hidden vectors, and it is often possible to arrest these depressions by means of psychotherapy, associated with physical treatment. Unfortunately, in the absence of a previous attack of this kind which would have alerted both doctor and family, the patient rarely comes to medical attention until well after the depression is established. Perhaps one of the most dramatic advances in modern psychiatry is the rapid and successful treatment of depressive disorders, even those in older age groups which looked for all the world like irreversible organic changes.

Some older patients perforce are impelled to draw into themselves, and this turning, unfortunately, often tends to fix attention on one's physical health and to slip easily into psychosomatic disorders. In some there is unconscious hope that through symptoms and suffering they will receive the sympathy and attention which otherwise would not be accorded them. Even elementary attention and psychotherapy are of help here, providing they are accompanied by real human interest.

The fear of being unable to care for one's self and of becoming a burden to others is a phobia ever present in the minds of many people, no matter how wealthy or powerful, because as a consequence of it they hazard social rejection and consequent loss of their own self-respect. Some rejection of the elderly is due to an unconscious fear that this will be the eventual lot of the rejector, the same fear that lies behind so much of the rejection of the mentally ill. Some of the social rejection has an esthetic basis for age sometimes brings with it a loss of social graces and various types of carelessness. These developments only serve to drive the individual more and more into self-centered, irritable and resentful modes of behavior.

SUICIDE INCIDENCE HIGHEST IN AGED

Suicide is the eleventh leading cause of death in the United States, and its incidence is highest in the aged. Depressed patients are often potentially suicidal. These gestures have been characterized as a kind of Russian Roulette in which the patient is prepared to gamble the chance of losing his life against the possibility that things will improve if he survives. (They often do.) Thus the possibility of suicide must always be kept in mind, especially in the depressed patient who sees no reason for going on and who has convinced himself that his departure would make life easier for others.

Just as all is not asthma that wheezes, all is not hopeless because a psychiatric condition is taking place in a person over the age of 65. The doctor's job is to see that older people receive searching medical and psychiatric examinations before final diagnosis and disposition are made. The all-inclusive wastebasket diagnosis of senility should be used sparingly. Older people do best in their own homes even if they prove to be a bit difficult, and the help and encouragement of the doctor is needed not only for the patient but also for the family. If the patient can definitely not be kept at home, then the general hospital and the private mental hospitals should be tried next.

Old people need evidence of real family life. They need a modicum of attention and a reasonably generous dose of being listened to. Efforts to keep them in contact with contemporary affairs are helpful; efforts to keep their lines of communication open are essential. Evidence of affection toward them are better than drugs. They need to know that they are still regarded as being in the land of the living.

A visit to a nursing home should strengthen the family's resolve to keep the patient home. The interminable boredom, the sitting, waiting for visitors who rarely come, make many of the nursing homes simply way stations to the cemetery. One woman in a Long Island home got dressed up every Sunday for 25 years awaiting a visitor, and her wait proved in vain.

TO RETURN TO THE PERSONAL

That is how the situation sizes up from the wrong side of the barrier. There is a befitting somberness to the recital, a realization that my warranty is nearly up. It is not depressing, mind you. I have had a wonderful ride and am ready for whatever comes. I earnestly hope, like all old folks, that I won't be a burden on anyone. I'm not even going to get lugubrious about that—I have too much faith. I'm certainly not in danger of mainlining Geritol in the near future.

I see that knowing how to live in these years and how to grow old is a master work of wisdom. It is a difficult chapter, but it can be accomplished. Holmes said that after 50 you can tell a man he is wise but you can't fool him by saying he is pretty. I have come to terms with that also.

James Thurber once said that with 60 staring him in the face he had developed inflammation of the sentence structure and hardening of the paragraphs. I'm busily trying to avoid that. I shall try to keep editing for a few more years and will keep quiet while I'm about the task. The last time I mentioned it the girls tried to assuage my fears by saying. "Don't worry Doctor, everybody here is going to pitch in and do your work, just as soon as we can find out what it is you have been doing."

In closing I leave you with a code I hope to follow. It is called "A Mother Superior's Prayer." Where and how I got it I don't know, but I've appropriated it because I like it, and I pass it on to you for your "Inside Story":

Lord, Thou knowest better than I know myself that I am growing older and will someday be old.

Keep me from getting talkative and particularly from the fatal habit of thinking I must say something on every subject and on every occasion.

Release me from craving to straighten out everybody's affairs. Keep my mind from the recital of endless details; give me wings to come to the point.

I ask for grace enough to listen to the tales of other's pains. Help me endure them with patience.

But seal my lips with my own aches and pains. They are increasing and my love of rehearsing them becomes sweeter as the years go by.

Teach me the glorious lesson that occasionally it is possible that I may be mistaken. Keep me reasonably sweet—I do not want to be a saint, some of them are so hard to live with—but a sour old woman is one of the crowning works of the devil.

Make me thoughtful but not moody, helpful but not bossy. With my vast store of wisdom it seems a pity not to use it all, but Thou knowest I want a few friends at the end.

THE POWER CRISIS AND ENVIRONMENTAL PROTECTION

Mr. McGOVERN. Mr. President, Dr. Shu-t'ien Li, professor emeritus, South Dakota School of Mines and Technology, at Rapid City, S. Dak., has authored a thoughtful article on the energy crisis and its relation to environmental concerns.

His article, which appeared as a letter-to-the-editor of the Rapid City Guide, is being widely read in my State, not only for its thoughtful message, but because it represents an objective view of the situation we face in this country today.

Mr. President, I ask unanimous consent that the article by Dr. Li be printed at this point in the RECORD.

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

PROFESSOR EMERITUS EXPLAINS DIFFICULTIES IN COPING WITH A DUAL POWER CRISIS AND ENVIRONMENTAL PROTECTION

(By Shu-T'ien Li)

Electric power and its growth have become an absolute necessity in these United States to enhance the present standards of living, to improve the quality of life, and to sustain the future vitality.

Power has been the foundation of this nation's economic growth. The ever expansion of population, ever expanding use of electrical appliances, ever widespread building of rapid transit systems, ever more commitment to waste treatment, etc., all add to the demands for electric power to the urgency for environmental protection, and to the need for cleaner, better, and more efficient ways for power production.

All concerned should not let EPA alone upkeep the environment, if aggregate savings are to be achieved for the entire nation, for the power companies, and for the consumer-taxpayers. The best approach would need citizens' full awareness, should recognize litigation's adversities, must emphasize engineers' technological obligations, ought to note the effects of environmental protection costs, and could be a shift of priorities to unconventional power resources.

CITIZENS' AWARENESS

Any move to alleviate existing pollution and to preserve the environmental quality will necessitate additional burdens on the consumer-taxpayers. Today, government environmental protection measures cost enormous sums of the taxpayers' income tax. Power industry's pollution control expenditures will also eventually reflect in consumer-rate increase to keep a fair return.

Environmental protection, like wage-price control, has been initiated too late and costs too much. Had the general awareness of environmental preservation been embarked immediately after World War II, public opinion alone could have served an effective way to keep today's air and water clean without spending huge sums of the taxpayers' money to enforce environmental protection.

It is, thus, the citizens' anti-pollution effort that will prove much more economical than the building up of a costly government environmental protection bureaucratic system. The stronger the citizens' antipollution effort, the less extensiveness will be needed in government effort. The more indifference on the part of the citizens about pollution control, the more will cost them in tax money as well as in the ultimate consumer prices.

LITIGATION'S ADVERSITIES

Environmental issues can be, and should be, settled with due reference to the National Environmental Policy Act of 1969 through meeting of the minds of the experts of EPA and the concerned power company without resorting to litigation. Any litigation in such issues will result in unnecessary burdens to the consumer-taxpayers.

As an outstanding example, reference may be made to the enforcement action of EPA against the Florida Power and Light Co. concerning its Turkey Point plant near Homestead. According to EPA Assistant Administrator for Enforcement and General Counsel, John R. Quarles, Jr., the Federal Government had spent between $1 and $2 million and, at one time, had as many as 60 persons working on that case, which was in litigation for a year and a half before being settled in September 1971. The company must have spent a more or less compatible sum. It still resulted in an abatement program approved by the Court, requiring company expenditures of about $35 million to mitigate the environmental damage, though not complete elimination.

Why can't engineers of both EPA and the company settle the problem to save government and company litigation expenses and their time? Why should technical issues be fostered into legal issues? The writer advocates "avoiding litigation" for the best interests of the government, the power companies, and the consumer-taxpayers.

ENGINEERS' TECHNOLOGICAL OBLIGATIONS

All power engineers should exercise their utmost effort and ingenuity in designing new plants or in backfitting existing plants to incorporate the most economical and efficient features for environmental protection. In new plants, in particular, the first vital issue is to formulate siting criteria and select the best site accordingly, to minimize future environmental problems. It must be recognized that the normal operation of a power plant can generate air, water, and thermal pollution—all should be reduced to the minimum possible under the light of present available technology, not merely meeting the stipulated requirements set by EPA.

In the area of air pollution, emission of particulate matter, sulfur dioxides, nitrogen oxides, and certain trace metals into the atmosphere must be reduced to a degree that will not do the least harm to human living in particular and ecology in general. Some of the polluting emissions can be reduced to levels permitted by Federal standards through conversion to better fuel sources. The rest may require installation of pollution control equipment such as electrostatic precipitators, wet scrubbers, and bag houses. The technology of wet scrubbers, especially in their effectiveness, their dependability, and their costs, lends opportunity for the power engineers to bring them to perfection.

As indicated in the New Source Performance Standards promulgated by EPA in 1972, the removal of sulfur dioxides constitutes a rather difficult problem. Estimates show that as much as 150 million metric tons of sulfur dioxides are emitted to the world atmosphere each year, of which 70 per cent is directly linked to the fossil-fuel combustion. There are two ways to achieve major reduction in sulfur-oxide emissions: (1) using the low-sulfur fuel wherever its limited supply is available, and (2) eliminating the sulfur through emission control technology before it leaves the stack. Although the latter does not represent an easy problem, it offers a good challenge to the ingenuity of power engineers.

The largest single source of sulfur oxide pollution is coal combustion. Some major representative U.S. coals can be treated with aqueous ferric solution to remove 40 to 75 per cent of the sulfur content through near quantitative oxidation of the pyritic sulfur contained in the coal matrix, and to recover elemental sulfur and iron sulfate as products of the reaction. Such a system of desulfurization of coal, when fully developed, will offer high potential for the economic abatement of sulfur oxide pollution.

In power generation, water pollution is in general associated with thermal pollution. The return of large amounts of cooling water to the natural streams, or lakes, or estuaries, can generate a thermal load high enough to be disruptive or destructive to a fragile aquatic environment. To protect the interests of power companies, it is good practice to establish an effective monitoring system to detect the degree of thermal pollution. As soon as the returned cooling water reaches the verge of causing damages to the water environment, plans for offstream cooling should be inaugurated.

ENVIRONMENTAL PROTECTION COSTS

Environmental protection, because of its late start, cannot be cheap. Besides the huge government budget for its jurisdiction, there are company costs and consumer costs.

According to John R. Quarles, Jr., the total investment by the electric power industry to meet environmental requirements will be $10.7 billion between 1972 and 1976. It could reach $17.8 billion by 1976 depending on requirements for back-fitting. Of course, the costs will vary widely from region to region. It is estimated that pollution control costs by 1976 will range from 2.8 to 10.65 per cent of 1970 revenues.

The additional cost for environmental protection will eventually be reflected in the bills to be paid by industrial and residential consumers. Because, traditionally, the cost of power occupies an insignificant part of the final products, except a few special industries, the impact on the price of manufactured goods will not be too pronounced. However, the average residential consumer would find his annual electricity bill in 1976 from $4.50 to $17.50 higher than it would be without any environmental protection, according to Quarles.

In a democratic republic, recognizing that the U.S. Congress had enacted the National Environmental Policy Act in 1969 and the

Clean Air Act in 1970, there leaves no doubt that they had reflected the citizens' desire to protect the environment. What remains is to carry it out in the best way possible and let the consumers pay the final bill in their living costs and sustain the government environmental protection cost through taxes.

UNCONVENTIONAL POWER SOURCES

Practically all the present environment-versus-power issues are the result of predominant use of conventional fossil-fuel or diesel fired generating plants or of increasing use of nuclear power, though the latter is much cleaner. The development of hydroelectric power which is inherently clean, has not yet exhausted available water power potentials.

Aside from an initial attempt in coal gasification, there is not the least effort by the federal government and industry to develop clean, non-wasteful energy sources. Vast solar power remains untapped. Wind power remains unharnessed. Tidal power remains undeveloped. Fusion power remains unutilized. Despite that some research and development has been introduced in magneto-hydrodynamic and fuel-cell energy sources in connection with the space program or otherwise, no substantial effort has yet been made toward their application for mass power production.

All these clean and nonwasteful energy sources, if economically harnessed and developed, will not only remove the scene of energy crisis but also provide almost unlimited energy resources. They are certainly the electric power sources for tomorrow if not today.

CONCLUDING REMARKS

Realizing that electrical power has been the backbone of American industry, the basis for keeping up the standards of living for the citizens, and the foundation for continued economic growth, all concerned must be aware of the impossibility for decreasing the use of power, nor is it possible to stabilize the growth of power, nor is it tolerable to leave the environment unprotected, nor is it good practice for the environmentalists suing polluters or for EPA suing power companies. The dual issue cannot escape from supplying the expanding need for power and from an accelerated environmental protection.

Basically, there is a need to develop citizens' full awareness, to instill an environmental ethic among power companies, to foster power engineers' capability to overcome the technological problems associated with clean power, and to embark farsighted new policies for developing, harnessing, and utilizing the unlimited clean, non-wasteful solar, wind, tidal, and fusion power sources.

FREEZE ON HOUSING COMMITMENTS

Mr. JAVITS. Mr. President, during the last several weeks, the administration has announced that no further commitments will be made in a large number of housing and related programs affecting both rural and urban areas. These include all subsidy programs and most community development programs. I feel very strongly that this "hold" is most harmful to the efforts that have been made over the last few years adequately to house the people of the Nation and Congress must act to move ahead on effective action to solve this dilemma.

I ask unanimous consent that the statement I made on this problem on January 9, 1973, and an excellent editorial from the New York Times today, commenting on the subject, be printed in the RECORD.

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

JAVITS STATEMENT ON HOUSING "HOLDS" ANNOUNCED BY HUD SECRETARY ROMNEY

WASHINGTON.—The announcement by HUD Secretary Romney of temporary holds on many areas of the federal housing programs is disturbing. In each case, it appears that the holds threaten housing for those most deprived economically and endanger programs which have been effective with no replacement programs in sight. I must ask: "How long is temporary? As of now, there is no answer."

It strains credulity under these circumstances to assert that there is enough money in the pipeline to maintain subsidized housing starts in FY '74 (which does not begin until July 1, 1973) at the same levels as those of FY '72 and FY '73.

The temporary holds on open space, water and sewer, public facilities loans, urban renewal and model cities are also deeply distressing. These are, after all, community development programs. I will, and I believe other members of Congress should, press the Administration to announce what programs will fill the vacuums which could follow Secretary Romney's announcement. It seems to herald the beginning of a community non-development program.

It is imperative that the Congress quickly review all these programs and determine whether they should be continued, modified, or halted or that Congress may insist that they not be dismantled by "holds" or any other device. Considering the crisis of the cities these programs demand a national priority without "holds."

[From the New York Times, Jan. 16, 1973]

HOUSING FREEZE

The Administration's decision to freeze new Federal commitments to subsidize construction of low and middle-income housing has drawn strong protests from home builders, mortgage lenders, state and local officials, and Democratic Congressmen. But the real hardship resulting from the cutoff will be to families of low and moderate-income hoping to find decent places to live that they can afford.

This is the central point that George Romney, the retiring Secretary of Housing and Urban Development, ignored in declaring that the protest of builders "just goes to show you how quickly people can feel deprived if their pipelines to the public treasury are affected in any way." The Administration has apparently thought of the major programs of housing assistance—the home ownership and rental assistance programs—as essentially a device for turning on or turning off the fiscal pump to the building industry. To check inflation, it is now turning off the pump.

But these programs have done more to provide decent housing for low-income people than any legislation in the country's history. The Housing Act of 1968 set high goals for the nation—26 million homes to be constructed over the decade 1969–1978, with six million units to be built for low-income people through Federal assistance.

The performance has fallen short of that goal, but has still been excellent by all historical standards. Housing starts have averaged over two million per year since 1969, and of the eight million units built, one and a half million have been for low-income families. By the early part of the next year, when the housing funds still in the pipeline run out, another 250,000 assisted units will have been built. But thereafter, unless the Administration's actual is reversed, the effect on low-income housing in New York City and other major population centers will be severe. It should not be supposed, however, that the freeze on new funding for housing and other public facilities will only hurt center cities; suburbs and smaller towns will also be hurt, and so will rural areas.

The Administration's chief excuse for the freeze is that the program has been a mess of scandals and corruption. Admittedly, there have been serious instances of fraud and poor administration—which Secretary Romney appears to think as the fault of everybody except his own department in Washington—but the scope of those scandals, deplorable as they are, should not be exaggerated. Even less should it be used to impugn the value of the entire program.

There is every justification for experimenting with new approaches to improving the housing of the poor and near-poor. More should be done to test the value of housing allowances to individual families as an alternative or supplement to subsidized construction. Housing allowances may help to avoid some of the greatest problems that existing low-income housing has encountered—especially the problem of site selection, when established communities resist the incursion of black or other low-income groups. And much more attention needs to be paid not just to housing construction itself but to the larger problem of neighborhood decay. Decent housing will soon rot in a rotting slum, as recent experience in the South Bronx has again demonstrated.

With all the faults of existing housing and urban development programs, however, it makes no sense to throw out a program that has done so much to help low-income families when nothing at all is being provided to take its place.

PRESIDENTIAL MONARCHY?

Mr. CHURCH. Mr. President, the noted and erudite historian, Arthur Schlesinger, Jr., has written an essay on the shaky state of constitutional government in our land.

Schlesinger writes:

Today President Nixon has equipped himself with so expansive a theory of defensive war, that he can freely, on his own initiative, without a national emergency, as a routine employment of Presidential power, go to war against any country containing any troops that might in any conceivable circumstance be used in an attack on American forces. Hence the new cogency of (President) Lincoln's old question: "Study to see if you can fix any limits to his power in this respect."

This is the basic theme, I submit, for the 93d Congress—retrieving lost powers long ago given up and asserting rightful constitutional powers long ago laid dormant.

I ask unanimous consent that Professor Schlesinger's article entitled "Presidential War: 'See If You Can Fix Any Limit to His Power,'" from the New York Times Sunday Magazine, be printed in the RECORD.

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

PRESIDENTIAL WAR

"SEE IF YOU CAN FIX ANY LIMIT TO HIS POWER"

(By Arthur Schlesinger, Jr.)

(Allow the President to invade a neighboring nation, whenever he shall deem it neces-

sary to repel an invasion, and you allow him to do so, whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect. . . . If, today, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, "I see no probability of the British invading us" but he will say to you "be silent; I see it, if you don't."—ABRAHAM LINCOLN to W. H. HERNDON, Feb. 15, 1848)

"Study to see if you can fix *any limit* to his power"—when he thus advised his friend Herndon, Congressman Lincoln of course had President Polk in mind. Yet by contemporary standards Polk would be in the clear. He had meticulously observed the constitutional forms: he had asked Congress to declare war against Mexico, and Congress had done so. But the situation Lincoln imagined a century and a quarter ago has now come much closer to the fact. For war at Presidential pleasure, nourished by the crises of the 20th century, waged by a series of activist Presidents and removed from processes of Congressional consent, has by 1973 made the American President on issues of war and peace the most absolute monarch (with the possible exception of Mao Tse-tung of China) among the great powers of the world.

President Nixon did not invent Presidential war, nor did President Johnson. In their conceptions of Presidential authority, they drew on theories evolved long before they entered the White House and defended in general terms by many political scientists and historians, this writer among them. But they went further than any of their predecessors in claiming the unlimited right of the American chief executive to commit American forces to combat on his own unilateral will; and President Nixon has gone further in this respect than President Johnson.

In 1970, without the consent of Congress, without even consultation or notification, President Nixon ordered the American ground invasion of Cambodia. In 1971, again without consent or consultation, he ordered an American aerial invasion of Laos. In December, 1972, exhilarated by what he doubtless saw as an overwhelming vote of personal confidence in the 1972 election, he renewed and intensified the bombing of North Vietnam, carrying it now to such murderous extremes as to make his predecessor seem in retrospect a model of sobriety and restraint—all this again on his personal say-so. And so assured and confirmed does President Nixon now evidently feel in the unilateral exercise of such powers that he does not bother any longer (as he did for a moment in 1970) to argue the constitutional issue. If he should now choose to say he thinks it necessary to invade North Vietnam in order to prevent the North Vietnamese from attacking American troops, how can anyone stop him? Congress might see no threat in North Vietnam to the security of the United States, but: "Be silent; I see it, if you don't."

How have we reached this point? For throughout American history Presidents have acknowledged restraints, written and unwritten, on their unilateral power to bring the nation into war. The written restraints are to be found in the Constitution; the unwritten restraints in the nature of the democratic process. Why, after nearly two centuries of independence, should there now seem to be no visible checks on the personal power of an American President to send troops into combat?

This was plainly not the idea of the Constitution. The provision in Article I, Section 8, conferring on Congress the power to declare war was carefully and specifically designed to deny the American President what Blackstone had assigned the British King—"the sole prerogative of making war and peace." As Lincoln went on to say in his letter to Herndon, it was this power of kings to involve their people in wars that "our [Constitutional] Convention understood to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that *no one man* should hold the power of bringing this oppression upon us. But your view destroys the whole matter, and places our President where Kings have always stood."

How did we get from Lincoln's *no-one-man* doctrine to the position propounded by President Johnson in 1966: "There are many, many who can recommend, advise, and sometimes a few of them consent. But there is only one that has been chosen by the American people to decide"? The process of placing our Presidents where kings had always stood has been gradual. In the early 19th century most Presidents respected the role of Congress in decisions of war and peace against sovereign states. Even a President like Jackson, otherwise so dedicated to enlarging the executive power, referred the recognition of the Republic of Texas to Congress as a question "probably leading to war" and therefore a proper subject for "previous understanding with that body by whom war can alone be declared and by whom all the provisions for sustaining its perils must be furnished." Polk may have presented Congress with a *fait accompli* when he provoked a Mexican attack on American forces in disputed terrtiory, but he did not claim that his authority as Commander in Chief allowed him to wage war against Mexico without Congressional authorization (*cf.*, President Nixon explaining why such authorization was not required for his invasion of Cambodia; he was only meeting his "responsibility as Commander in Chief of our armed forces to take the action I consider necessary to defend the security of our American men").

In the course of the 19th century, however, the Congressional power to declare war began to ebb in two opposite directions—in cases where the threat seemed too trivial to require Congressional consent and in cases where the threat seemed too urgent to permit Congressional consent. Thus, many 19th-century Presidents found themselves confronted by minor situations that called for forcible response but appeared beneath the dignity of formal Congressional declaration or authorization—police actions in defense of American honor, lives, law or property against roving groups of Indians, slave traders, smugglers, pirates, frontier ruffians or foreign brigands. So the habit developed of the limited executive employment of military force without reference to Congress. Then in the early 20th century McKinley and Theodore Roosevelt began to commit military force without Congressional authorization not only against private groups but against sovereign states—McKinley in China, T.R. in the Caribbean. Since Congress agreed with most of these uses of force, it acquiesced in initiatives that soon began to accumulate as formidable precedents.

As far as cases where the threat seemed too urgent to permit the delay involved in summoning Congressmen and Senators from far corners of a sprawling nation, this was a possibility that the framers of the Constitution themselves had envisaged. Madison had thus persuaded the Constitutional Convention to give Congress the power not to "make" but to "declare" war in order to have the executive "the power to repel sudden attacks." Given the hazards and unpredictabilities of life, no sensible person wanted to put the American President into a constitutional straitjacket. No one wrote more eloquently about the virtues of strict construction than Jefferson. Yet Jefferson, who was at bottom a realist, also wrote: "To lose our country by a scrupulous adherence to written law, would be to lose the law itself, with life, liberty, property and all those who are enjoying them with us; thus absurdly sacrificing the ends to the means. . . . The line of discrimination between cases may be difficult; but the good officer is bound to draw it at his own peril, and throw himself on the justice of his country and the rectitude of his motives." In other words, when the life of the nation is at stake, Presidents might be compelled to take extraconstitutional or unconstitutional action. But, in doing so, they were placing themselves and their reputations under the judgment of history. They must not believe, or pretend to the nation, that they were simply executing the Constitution

So when Lincoln in the most dreadful crisis of American history took a series of actions of dubious legality in the 10 weeks after the attack on Fort Sumter, he fully recognized what he was doing and subsequently explained to Congress that these measures, "whether strictly legal or not, were ventured upon under what appeared to be a popular demand and a public necessity; trusting then as now that Congress would readily ratify them." Though he derived his authority to take such actions from his constitutional role as Commander in Chief, he was always conscious of the distinction between what was constitutionally normal and what might be justified only by a most extraordinary emergency. "I felt that measures, otherwise unconstitutional," he wrote in 1864, "might become lawful by becoming indispensable to the preservation of the Constitution, through the preservation of the nation."

So, too, when Franklin Roosevelt in our second most acute national crisis took a series of actions designed to enable England to survive against Hitler, he obtained in the case of the destroyer deal not only a favorable interpretation of a Congressional statute but the private approval of the Republican candidate for President, he went to Congress. In the case of his North Atlantic "shoot-at-sight" policy, though the threat to the United States from Nazi Germany could be persuasively deemed somewhat greater than that emanating 30 years later from Cambodia or Laos, and though his commitment of American forces was far more conditional, Roosevelt did not claim in the Nixon style that he was merely meeting his responsibility as Commander in Chief. Knowing that Congress, which would renew Selective Service by a single vote in the House, would hardly approve an undeclared naval war in the North Atlantic, Roosevelt in effect, like Jefferson and Lincoln, did what he thought was necessary to save the life of the nation and, proclaiming an "unlimited national emergency," threw himself upon the justice of his country and the rectitude of his motives. Since the Second World War there have been only two emergencies requiring immediate response. In the first, Harry Truman, confronted by the North Korean invasion of South Korea, secured a mandate from the United Nations; in the second, John Kennedy, confronted by Soviet nuclear missiles in Cuba, secured a mandate from the Organization of American States.

Only Presidents Johnson and Nixon have made the claim that inherent Presidential authority, unaccompanied by emergencies threatening the life of the nation, unaccompanied by the authorization of Congress or of an international organization, permits a President to order troops into combat at his unilateral pleasure. President Johnson, it is true, liked to tease Congress by flourishing the Tonkin Gulf Resolution. But he did not really believe, as he said in an unguarded moment, that "the resolution was necessary to do what we did and what we're doing." President Nixon has abandoned even that constitutional fig leaf. William Rehn-

quist, then in the Department of Justice and later elevated to the Supreme Court as what President Nixon hilariously called a strict-constructionist appointee, said on behalf of his benefactor that the invasion of Cambodia was no more than "a valid exercise of his constitutional authority as Commander in Chief to secure the safety of American forces." One somehow doubts that if Brezhnev used the identical proposition to justify the invasion of a neutral country by the Red Army, it would be received with entire satisfaction in Washington. Today President Nixon has equipped himself with so expansive a theory of the powers of the Commander in Chief, and so elastic a theory of defensive war, that he can freely, on his own initiative, without a national emergency, as a routine employment of Presidential power, go to war against any country containing any troops that might in any conceivable circumstance be used in an attack on American forces. Hence the new cogency of Lincoln's old question: "Study to see if you can fix *any limits* to his power in this respect."

In short, President Nixon has effectively liquidated the 11th paragraph of Article I, Section 8 of the Constitution. He has thereby removed the most solemn written check on Presidential war. He has sought to establish as a normal Presidential power what previous Presidents had regarded as power justified only by extreme emergencies and to be used only at their own peril. He does not, like Lincoln, confess to doubts about the legality of his course, or, like Franklin Roosevelt, seek to involve Congress when such involvement would not threaten the life of the nation. Nor has his accomplishment been limited to the exclusion of Congress from its constitutional role in the matter of war and peace. For he has also taken a series of unprecedented steps to liquidate the unwritten as well as the written checks on the Presidential war power.

What are these unwritten checks? The first is the role of the President himself. President Nixon has progressively withdrawn from public scrutiny. He was an invisible candidate in the 1972 campaign, and he promises to be an invisible President in his second term—invisible on all but carefully staged occasions. Franklin Roosevelt used to hold press conferences twice a week; President Nixon holds them hardly at all and has virtually succeeded in destroying them as a regular means of public information. As William V. Shannon of The Times has written, he "has come as close to abolishing direct contact with reporters as he can." Even on matters of the highest significance he declines to expose himself to questioning by the press. Consider, for example, the Indochina peace negotiation. Does anyone suppose that if this had taken place in the previous Administration President Johnson would have trotted out Walt Rostow to discuss it with the media? Can anyone imagine Presidents Kennedy or Eisenhower or Truman dodging their personal responsibility in such momentous matters? Does anyone recall Franklin Roosevelt returning from a wartime summit, asking Harry Hopkins or Admiral Leahy to explain it all to the press? Yet we have acquiesced so long in the Nixon withdrawal from Presidential responsibility that virtually no surprise is expressed when on such occasions he repeatedly retreats behind Dr. Kissinger (who, for his part, is permitted to undergo searching interrogation by Oriana Fallaci, but not by the Senate Foreign Relations Committee). Moreover, President Nixon, by flinching from press conferences, not only deprives the American people of opinions and information to which they are surely entitled from their President but deprives himself of an important means of learning the concerns and anxieties of the nation. Obviously, he simply does not recognize much in the way of Presidential accountability to the people. As he recently put it: "The average American is just like the child in the family." And, presumably, father knows best.

A second check on Presidential war-making has often come from the executive establishment. Genuinely strong Presidents are not afraid to surround themselves with genuinely strong men and on occasion cannot escape the chore of listening to them. Historically, the Cabinet, for example, has generally contained men with their own views and their own constituencies—men with whom the President must in some sense come to terms. Lincoln had to deal with Seward, Chase, Stanton and Welles; Wilson with Bryan, McAdoo, Baker, Daniels and Houston; Roosevelt with Stimson, Hull, Wallace, Ickes, Biddle and Morgenthau; Truman with Marshall, Acheson, Byrnes, Vinson, Harriman, Forrestal and Patterson. But who in President Nixon's Cabinet will talk back to him—assuming that is, they could get past the palace janissaries and into the Oval Office? The fate of those who have tried to talk back in the past is doubtless instructive: Where are Messrs. Hickel, Romney, Laird and Peterson now? In his first term, President Nixon kept his Cabinet at arm's length; and in his second term he has put together what, with one or two exceptions, is the most anonymous Cabinet within memory, a Cabinet of clerks, of compliant and faceless men who stand for nothing, have no independent national position and are guaranteed not to defy Presidential whim. Most alarming of all in connection with Presidential war has been the deletion, so far as high policy is concerned, of the Department of State. In short, President Nixon, instead of exposing himself to the tempering influence of a serious exchange of views within the Government, has organized his executive establishment in a way to eliminate as far as humanly possible internal question or challenge about his foreign policy. And to complete his insulation from debate, the President does not even tell most of his associates what he intends to do.

A third check in the past has come from the media of opinion—from the newspapers and, in more recent years, from television. With all its manifest imperfections, the American press has played an indispensable role through our history in keeping government honest. President Nixon, however, not only hides himself from the press and television, except on elaborately controlled occasions, but has launched a well-orchestrated campaign to weaken the mass media as sources of information and criticism.

He has tried a variety of methods—prior restraint on the publication of news; Vice-Presidential denunciations of erring newspapers and reporters; proposals to condition the renewal of television licenses on the elimination of anti-Administration material from network programs; subpoenas to compel reporters to surrender raw notes; even jailing newspapermen who decline to betray confidential sources to grand juries—this last a practice which would not be constitutional had it not been for the Nixon appointments to the Supreme Court.

The Nixon Administration has tried to justify such actions by complaining that it has been the target of exceptional persecution by the media. Why it should suppose this is hard to fathom. Not only has 80 per cent of the press backed Mr. Nixon in two elections, but the Presidency has supreme resources of its own in the field of communications, and no previous President has used them more systematically. In his relationship to he media, President Nixon can hardly be described as a pitiful, helpless giant. No President enjoys criticism, but mature Presidents recognize that, however distasteful a free press may on occasion be, it is, as Tocqueville said long ago, "the chief democratic instrument of freedom" and that in the long run government itself benefits from a healthy adversary relationship. But this is clearly not President Nixon's view. If his Administration has its way, the American press and television will become as compliant and as faceless as the President's own Cabinet.

Still another check on Presidential war has been a President's concern for public opinion. Here again, President Nixon differs sharply from his predecessors. He explained his peculiar idea of the role of public opinion in a democracy last Oct. 12 when he scolded what he termed 'the so-called opinion leaders of this country" for not responding to "the necessity to stand by the President of the United States when he makes a terribly difficult, potentially unpopular decision." It is hard to imagine an idea that would have more astounded the framers of the American Constitution. Indeed, who before President Nixon would have defined the obligation, "the necessity," of American citizens, in peacetime and outside the Government, as that of automatically approving whatever a President wants to do? In the past it was naively supposed that the American system would work best when American citizens spoke their minds and consciences.

If President Nixon dismisses public opinion in the United States as disobedient and refractory when it dares dissent from the President, he is even more scornful of what in the past has served as another check on Presidential war—that is, the opinion of foreign nations. The authors of "The Federalist" emphasized the indispensability of "an attention to the judgment of other nations. . . . In doubtful cases, particularly where the national councils may be warped by some strong passion or momentary interest, the presumed or known opinion of the impartial world may be the best guide that can be followed. What has not America lost by her want of character with foreign nations; and how many errors and follies would she not have avoided, if the justice and propriety of her measures had, in every instance, been previously tried by the light in which they would probably appear to the unbiased part of mankind?" President Nixon's attitude could not be more different. It is concisely revealed by the studied contempt with which he has treated the United Nations. Only recently he made it perfectly clear that he regards the post of United States Ambassador to the United Nations as less important than that of chairman of the Republican National Committee; at least one supposes that he thought he was promoting, not demoting, George Bush.

I began by suggesting that on issues of war and peace the American President is very likely the most absolute monarch in the world of great powers. The Soviet Union is in other respects a dictatorship, but, before Brezhnev makes a new move in foreign affairs, he must touch base with a diversity of forces in the Government and the party. It would be hard to name anyone with whom President Nixon touched base before he invaded Cambodia or resumed the obliteration of North Vietnam. Moreover, in other countries, dictatorships as well as democracies, failure in foreign policy can lead to political oblivion: Anthony Eden could not survive Suez, and in time the Cuban missile crisis did in Khrushchev. But Nixon, his tenure assured by the rigidity of the quadrennial election, will be running things in the United States until January, 1977.

With checks both written and unwritten inoperative, with Congress impotent, the executive establishment feeble and subservient, press and television intimidated, national opinion disdained, foreign opinion rejected, the fear of dismissal eliminated, our President is free to indulge his most private resentments and rages in the conduct

of foreign affairs, and to do so without a word of accounting to Congress and the American people. Thus, on Dec. 18 he began the heaviest bombing of the whole ghastly war, but had not, by the time this article went to press, nearly a fortnight later, personally vouchsafed any form of explanation to the nation or to the world. Unidentified White House officials did say, however, to The New York Times, that the President intended the terror to convey to Hanoi "the extent of his anger over what the officials say he regards as an 11th-hour reneging on peace terms believed to be settled." Historians will have to settle the point as to which side started reneging first, though strong evidence suggests that it was the Americans. But we will all have to suffer the consequences of a President whose policy, in the curt summation of that sober Scotsman, Mr. Reston of The Times, has become that of "war by tantrum."

Four more years? Is the American democracy really unable to fix any limits to the President's power to make war? The first line of defense must be the United States Congress, whose abdication over the years has contributed so much to the trouble we are in. The Senate passed a so-called War Powers Bill in April, 1972, but Vietnam was specifically exempted from its operations. In any case, though its objective is admirable, the bill itself is both unduly rigid and unduly permissive. Had it been on the statute book in past years, it would have prevented Roosevelt from protecting the British lifeline in the North Atlantic in 1941, and it would not have prevented Johnson from escalating the war in Vietnam. Given the power of any President to dominate the scene with his own version of a *casus belli*, the War Powers Bill, if it is ever enacted, would be more likely to become a means of inducing formal Congressional approval of warlike Presidential acts than of preventing such acts.

Congress must find another route to end American involvement in Indochina. But does Congress really possess the courage to assert those rights the loss of which has been such a constant and tedious theme of Congressional lamentation and self-pity? Perhaps it will at long last make a determined effort to reclaim its constitutional authority. The issue here is not (as some opponents of the war mistakenly suppose) the question of formal declaration of war. Even in the 18th century, as Hamilton wrote in "The Federalist," the ceremony of formal declaration "has of late fallen into disuse." A decade after the adoption of the Constitution, Congress without a declaration but by legislative action brought the United States into naval war with France. As Chief Justice Marshall put it in deciding a case that arose out of the war: "The Congress may authorize general hostilities . . . or partial war." But, whether the hostilities be general or limited, war was considered to require Congressional authorization, and this is the issue today. It has been argued that Congress has implicitly authorized the Indochina war by voting appropriations in support of the war, and that argument is not without plausibility. But it is within the power of Congress to counter and cancel that argument by asserting a conflicting claim of authority.

Moreover, Congress can cut off funds for the continued prosecution of the war. But will even this restrain the President? Mr. Nixon has shown in other contexts his indifference to Congressional action. He has, for example, refused to expend funds appropriated by Congress for duly-enacted legislation. Senator Ervin recently estimated that Presidential impoundment has now reached the staggering sum of $12.7-billion. In his state of postelection euphoria, as well as in his righteous wrath over the refusal of the North Vietnamese to roll over and cry uncle, President Nixon might conceivably ignore end-the-war legislation. He might even, I suppose, try to use impounded funds to continue the war.

Should this happen, the constitutional remedy would be impeachment. Certainly such conduct would represent a considerably more serious transgression than poor Andrew Johnson's defiance of a law—the Tenure-of-Office Act—which the Supreme Court itself eventually found to be unconstitutional. The House would have to adopt an impeachment resolution; a two-thirds vote of the Senate is required for conviction, with the Chief Justice presiding over the trial. If it seems unlikely that a President elected with more than 60 per cent of the vote should find himself in such a plight, one has only to reflect on the fate of the three other Presidents this century who also took more than 60 per cent—Harding, Franklin Roosevelt and Johnson, all of whom were in serious political trouble a year or two after their triumphs. Still, at this point, impeachment hardly seems a usable remedy or a probable outcome.

The inability to control Presidential war is now revealed as the great failure of the Constitution. That failure has not brought disaster to the nation through most of our history because most of our Presidents have been reasonably sensitive, in Justice Robert H. Jackson's great phrase, "to the political judgments of their contemporaries and to the moral judgments of history." When they have not been particularly responsive to the Constitution, the unwritten checks—above all, the power of opinion—have made them so. If no structural solution is now visible, the best hope is to reinvigorate the unwritten checks. Not only must Congress assert itself, but newspapers and television, governors and mayors, Mr. Nixon's "so-called opinion leaders" and plain citizens must demand an end to Presidential war. Where, for example, are all those virtuous conservative pillars of business and the bar who have spent most of their adult lives wailing about the Constitution? Where are they when what is threatened is not their money but the peace of the world? Where are they when the Constitution really needs them? Perhaps President Nixon is right, and in the end Americans are just like children in the family. Or perhaps Lincoln was right when he said: "No man is good enough to govern another man without that other's consent."

THE GENOCIDE CONVENTION AND EXTRADITION

Mr. PROXMIRE. Mr. President, opponents of the Genocide Convention have often expressed the fear that U.S. ratification of this document would result in the extradition of American citizens to foreign countries for trial if they are accused of genocide.

There is in fact no basis for the charge that the Genocide Convention would establish a situation which does not already exist. Even with no treaty in force an American citizen can be charged in a foreign country with any offense from loitering to murder and tried on that charge if he is physically present in the foreign nation. The Genocide Treaty does not alter this and does not extend the jurisdiction of foreign courts in any way. Furthermore, under the Genocide Convention, extradition would take place only in accordance with laws and treaties already in force. The United States does not make extradition treaties with countries whose legal systems do not afford basic procedural safeguards. Moreover, we do not grant extradition in any event unless a prima facie case is established against the person charged and unless the accused will be afforded by the requesting state the due process provided by our own law.

Article VII of the Genocide Convention states:

> The contracting parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

What this means is that the Genocide Convention itself does not alter extradition procedures; it says they will be conducted the way our existing treaties specify. At present, we have no extradition treaties dealing with genocide, and they would be made in the future with the advice and consent of the Senate on the condition that basic procedural protections would have to be built into the treaty at the beginning.

As a further safeguard, according to George Aldrich, Deputy Legal Adviser of the Department of State:

> Any extradition treaty will require the state requesting extradition to produce sufficient evidence that the person sought would be held for trial under U.S. law if the offense had been committed here.

The Genocide treaty is, then, not in itself an extradition treaty. Mr. President, we already have extradition arrangements with 97 nations. Since there is no reason to think that the extradition arrangements we would make concerning genocide would particularly differ from those existing treaties either in form or effect, criticism of the Genocide Convention on these grounds is unfounded.

I urge the Senate to ratify the Genocide Convention without further delay.

BUDGET CONTROL AND CONGRESS

Mr. HUMPHREY. Mr. President, in 1966, the Research and Policy Committee of the Committee for Economic Development issued a report on executive and congressional roles in the budgeting process.

Many of the recommendations of the committee have a certain pertinence today—especially at a time when Congress is beginning to grapple with such crucial questions as budget control, expediture analysis, and the impoundment of congressionally appropriated funds by the executive branch.

The Committee for Economic Development noted in clear language some of the critical problems with the congressional budgetary procedures: failure to debate and decide national fiscal policy on broad overall terms, piecemeal approach to appropriations, short-term authorizations, and so forth.

Mr. President, I find many of these criticisms still valid in 1973. I also find many of the solutions offered by the committee as worthy of consideration by the newly created Joint Committee on the Operation of the Budget.

It is my firm judgment that Congress will never be able to consider the budget on an equal basis with the executive

branch until it organizes itself to do so. This is a priority—and in the future I will address myself toward making specific proposals for budget control and analysis.

For now, I recommend this 1966 report to the Senate and I ask unanimous consent that it be printed in the RECORD.

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

BUDGETING FOR NATIONAL OBJECTIVES—EXECUTIVE AND CONGRESSIONAL ROLES IN PROGRAM PLANNING AND PERFORMANCE

(A statement on national policy by the Research and Policy Committee of the Committee for Economic Development)

CONGRESS AND THE BUDGET

Congress has a vital role in the federal budgetary process. That role should not be diminished; it should be strengthened. The primary function of Congress is to decide major issues of public policy, reconciling and compromising divergent interests in a forum of open debate to the end that the informed will of the people may prevail. A second major function is to provide continuous review of program execution and agency performance in order to check any tendency toward exercise of improper authority in the executive branch. Both functions bear on the budgetary process, and their effective performance is essential to the Republic.

On the other hand, there are vital functions of government that no legislative body can be expected to perform. Administration is one such function. Detailed operations are not likely to be well managed by a committee—one of the lessons learned under the Articles of Confederation. Good management requires administrative freedom and flexibility, with clear lines of authority and responsibility running from a single chief executive to his supporting executives and on to every element. Wihout this, no manager can be held accountable for effective execution of policy decisions. Congressional review of program execution to assure adherence to legislative intent is a proper function, but excessive interest in administrative minutiae disrupts effective management while it distracts congressional attention from major policy matters.

Policy issues are inherently political, and Congress—as a representative body—is expected to resolve them, either by ratification, modification, or rejection of executive proposals, or through its own initiative. Congress cannot perform this function properly, however, without adjustment to the heavier burdens imposed by changing conditions of the nation and the world. The burdens on Congress, each committee, and each member increase with the complexity of our society, the expansion of the economy, and the broadening scope of federal activities. The rate of change, moreover, is not slackening; it is rising. Adaptation to change is prerequisite to restoration of the key congressional role in issues of major policy.

Dissatisfaction with present congressional budgetary procedures is shared by most observers and by many members. Among the criticisms are these: (1) failure to debate and decide national fiscal policy on broad, over-all terms, (2) a piecemeal approach to appropriations, (3) undue attention to short-term authorizations rather than longer-range considerations, (4) emphasis on things and services to be purchased rather than on functions performed or purposes served, (5) excessive delegation of authority to subcommittees and to their chairmen, and (6) improper interference with administrative operations. We believe that grounds for such criticism can be overcome without fundamental changes in the functions or basic structures of Congress.

Setting budget policy

Congress needs to develop better means for broad discussion and consistent action on the comprehensive presidential programs submitted each January. The state of the Union message, the economic report, and the annual budget form a total plan for all programs—based on judgments concerning the nation's needs and the effects of the whole fiscal design on the national economy. Discussion of this comprehensive plan in its broad outlines is discouraged by division of its parts among the revenue committees, the appropriations subcommittees, and those legislative subcommittees concerned with authorizations.

A Joint Budget Committee—composed of key members of the revenue and appropriations committees and designed to conduct an overall review—was provided by law in 1946, but came to naught. The reasons for failure of this seemingly obvious solution must be recognized. The House of Representatives is reluctant to share its constitutional and traditional prerogatives in financial matters on a basis of equality with the Senate. Each of the committees and subcommittees concerned is zealous in preserving its jurisdiction, and dislikes subordination to any other body. All are hesitant to accept fixed ceilings or other limitations affecting autonomy.

A more workable means for achieving broad fiscal review would be for the House Appropriations Committee to invite the House Ways and Means Committee to sit with it in hearing broad initial testimony from the Budget Director and such other key officials as the Chairman of the Council of Economic Advisers. At the conclusion of these hearings—conducted immediately after receipt of the executive budget—the two Committees could adopt a joint resolution, or two separate resolutions, outlining revenue and expenditure *targets* for the coming year.

These targets would help to guide the Ways and Means Committee in revising the tax laws. They would assist the Appropriations Committee in setting total spending levels, and in establishing consistent patterns among its subcommittees. They would also be useful to the legislative committees in evaluating the nation's ability to afford new programs. The House would have a mechanism for establishing a rational relationship between revenues and expenditures, and an effective forum for reviewing the impact of the budget on national economy.

This proposal recognizes the House of Representatives' traditional initiative in financial measures. The Senate has equal responsibility, usually exercised in an appeal-and-review capacity. Formal liaison may be impossible because of the practical difficulties mentioned above, but invitations to key Senators to attend the House joint committee hearings would help to improve communications and mutual understanding on fundamental issues.

1. We recommend that the House Appropriations Committee and the Ways and Means Committee meet together each January to examine the over-all fiscal implications of the President's plans, and subsequently to adopt revenue and expenditure targets related to each other and to the needs of the economy.

Authorizing program plans

The legislative committees—and their subcommittees—provide an essential service in reviewing agency program plans. It is through these committees that Congress can participate most actively in goal-setting for the nation, and in defining governmental objectives. New program proposals and changes in old programs require informed and intensive examination. And, if the new planning-programing-budgeting system becomes fully effective, deletion of outmoded programs will receive more attention.

The legitimate functions of the committees have been distorted in several ways. The trend toward annual authorizations prevents intensive program review; the attempt to examine everything in detail forecloses meaningful analysis of main issues. Since appropriations cannot be passed by either House until authorizations are approved, the frequent delays postpone appropriations deep into the fiscal year, with crippling effects on government operations.

The Military Construction Authorization Act for fiscal 1964 was not signed until November 7, 1963, and the appropriation did not become effective until December 21, almost six months after the fiscal year had begun. This is one of the more extreme examples, but it has become customary to defer final enactment of most appropriations—in part because of authorization delays—until one, two, or three months after the start of the fiscal year (see Appendix). The departments, consequently, waste time and money as momentum is lost. Nothing could be much more disruptive of program improvement. In this way, the Congress has made conduct of its own operations a major obstacle to effective management.

More effective congressional control of fiscal matters would result if annual authorizations were limited to one-time or short-term projects. For all major programs, the legislative committees should initiate long-range program authorizations for not less than three to five years. These might be linked directly with the periodic review process suggested for the Bureau of the Budget. Ideally, they would be based on long-range agency program plans. Effective control over agency activities would be maintained on an annual basis through the appropriations process.

2. We recommend that the trend toward annual authorizations be checked, and that either permanent or three-to-five year program authorizations be employed wherever possible.

Funds are often authorized on a piecemeal basis for a construction project. Congressional support is easier to obtain if only 10 percent—rather than all—of the estimated cost is initially requested. This procedure commits Congress to a multitude of "pork barrel" projects with little recognition of what each is likely to cost in the end. Consequently not enough attention is given to evaluating alternatives to cost-benefit analyses or to long-range program planning.

3. We recommend that Congress authorize specific public works and other projects of similar nature on a "full-funding" basis, as estimated, so that each item may be carried to completion with the eventual appropriation and expenditure of funds initially authorized. When actual costs are found to exceed original estimates, the agency would have to request revision of the authorization.

President Johnson vetoed two major bills in 1965—one on public works projects and the other on military construction—because of attempted infringement on executive authority. Both sought to require congressional committee approval before specific administrative actions otherwise in accordance with law could be taken, such as the closure of obsolete military installations. The pork barrel aspects of these subject fields are obvious, with the individual committee member sometimes more concerned about federal actions in his home district than with the national interest.

Many attempts have been made to impose a precondition of committee approval before administrative action can be taken. These have been sometimes vetoed by the President, sometimes held to be unconstitutional in Opinions of the Attorney General, sometimes approved but with strong presidential dissent at time of bill signature. One early example is found in an Act of April 1944 (58 Stat.

189), approved by the President without objection but subsequently repealed (65 Stat. 366).

"Prior to the acquisition or disposal, by lease or otherwise, of any land acquired for naval use under the authority of this, or any other Act, the Secretary of the Navy shall come into agreement with the Naval Affairs Committees of the Senate and of the House of Representatives with respect to the terms of such prospective acquisitions or disposals."

4. We recommend that the Congress abandon efforts to control details of administration through "coming into agreement" clauses or any other requirement of committee approval for specific steps taken in execution of enacted programs.

The appropriation process

After the House Appropriations Committee meets with the Ways and Means Committee to develop targets on revenues and expenditures, as we have recommended, the Appropriations Committee should hold hearings on the presidential allocations of resources between functions and agencies. The practice of inviting the Budget Director to appear before this Committee to give a broad overview was re-instituted in 1965, after a lapse of many years. Similar action had been taken in the Senate in 1963. Although such presentations have been considered helpful, the practice has been sporadic.

Heads of the executive departments rarely testify before the full Appropriations Committee either in the House or Senate. Their testimony, early in the year, would help committee members to evaluate subcommittee reports more objectively and would ensure better use of funds along program lines. Such occasions would provide an ideal opportunity for joint House-Senate committee hearings. Spending more time considering the functional and program aspects of the budget would require specially qualified professional staff to serve each of the two full Committees. Presently, most of the staff—particularly in the House Appropriations Committee—is assigned to work with specific subcommittees. Few devote all their efforts to the work of the full Committee.

5. We recommend that both the House and Senate Appropriations Committees schedule regular annual hearings on the functional and program aspects of the budget as a whole and for major agencies, either jointly or separately, and that strong professional staff be provided to assist the two full Committees in handling these responsibilities.

Appropriations are currently made on an agency-by-agency "object" or item-of-expense classification basis. Obviously, to secure accountability appropriations must be made to specific organizational units, but they do not have to be made on an object basis. Successful installation of the proposed program budget system will give Congress a logical opportunity to appropriate on a functional basis. The classification of federal expenditures according to functions and programs would be far more useful in making congressional policy choices than the present agency-by-agency approach. The role of the appropriations subcommittees could thus be elevated from that of detailed supervision to the level of broad policy decisions. The change would put further pressure on the executive branch for rational structural reorganization.

This approach calls for a corresponding realignment of appropriations subcommittees on a functional basis. The current functional groupings used in the administrative budget might serve as a basis for subcommittee reorganization. The realignment might be accomplished in stages with initial attention to the urgent needs in transportation, education, and natural resources.

6. We recommend that so far as feasible appropriations be based on functions and programs rather than on objects, and that appropriations subcommitttees in both Houses be organized on functional (not agency) lines to conform with the program budget approach.

Present practice of the House appropriations subcommittees is to hold hearings in "executive session." This is contrary to the Senate Appropriations Committee practice of conducting hearings *open to public attendance* on matters not involving national security. Defense of the House practice rests on the ground that these are working sessions where candid exchange of views, without publicity, has value. The hearings are attended only by agency and divisional personnel and subcommittee members and staff, with representatives of interest groups sometimes present. Subcommittee hearings are published subsequently, but usually too late to be of much help to other members of Congress or to the general public. Subcommittee decisions are seldom changed, either in the Appropriations Committee as a whole or on the floor of the House.

Decisions made in this way are not always in the public interest. Funds are often provided in excess of the presidential estimate of needs. Moreover, agency officials must repeat their testimony before subcommittees of the Senate Appropriations Committee when seeking revisions in expenditure levels approved by the House. Senators could be better informed on the issues (at considerable time savings to agency officials) if they—or their committee staff members—were permitted to monitor House Appropriation hearings.

7. We recommend that the House Appropriations Committee limit executive subcommittee sessions to detailed bill-drafting (described as "marking up" the original version) and to matters where national security is involved. Hearings should be open to public attendance when receiving testimony from the Budget Director. Cabinet members, and heads of other agencies, Senators, their staffs, and representatives of the Bureau of the Budget should be permitted to attend other hearings as observers.

Since they are fewer in number, Senators have assumed many more subcommittee assignments than their House counterparts. As a result, Senate appropriations subcommittee hearings are largely "courts of appeal," where the agencies (often with the aid of the Bureau of the Budget) seek restoration of House reductions in the executive budget. Commonly, the only witnesses are agency officials. Committee importance would be strengthened and better informed decisions would result if Senate appropriations subcommittees were reduced in number to enable better attendance.

8. We recommend that reduction in the number of the Senate appropriations subcommittees be seriously considered.

An appropriation act gives authority to spend, but it should not be regarded as a command to spend every dollar allowed. On the contrary, agencies should be encouraged to accomplish their objectives at lowest cost, and to allow unused appropriations to lapse. There is general agreement that the President may and should prevent expenditures wherever congressional intent may be achieved without the use of the full appropriation. But we should support further use of executive discretion. We do not believe that the President should be required to spend appropriated funds for projects found to be unnecessary, wasteful, or against the public interest.

9. We recommend that the President be given clear statutory authority to withhold from the agencies funds appropriated to them when these are found not to be essential.

Congressional review

Effective review and appraisal of agency performance in executing congressional policy decisions is required for the successful operation of our system of government. We believe that present congressional organization and procedures in this field leave much to be desired. Most oversight operations should logically be handled by the legislative committees and subcommittees responsible for long-term program authorizations and not by the appropriations subcommittees. Attention should focus on program achievement—the effectiveness with which agencies manage their programs—and not on administrative minutiae.

The two Government Operations Committees could be most useful in reviewing interagency programs and functions since each legislative committee has limited jurisdiction. If they are to play a significant role, we believe these two committees will be required to agree on explicit directions to the Comptroller General to guide him in the use of his staff on matters of primary importance to Congress.

Both Government Operations Committees send reports to the legislative and appropriations committees of each House, but not much use is presently made of their findings and recommendations. These reports might be given more attention if the ranking majority member of each appropriations committee were to sit with the Government Operations Committee in order to report knowledgeably to the appropriations committees. When an operations committee is dealing with a matter of particular interest to several legislative committees, members of those committees might be invited to sit in.

10. We recommend that congressional oversight be largely entrusted to the cognizant legislative committees—and subcommittees—and that the Committees on Government Operations concern themselves chiefly with review of interagency matters.

If these proposals are carried into effect—along with the major changes now in progress within the executive branch—we believe that Congress can perform its major budgetary functions more effectively. It will be able to debate and to make informed decisions on major policy issues, reflecting and representing national rather than parochial interests. It will also be able to maintain close and effective oversight as budget decisions are executed. Yet, these improvements can be made without structural reorganization or any basic shift in power relationships between the two Houses or the committees with primary budgetary responsibilities.

AUSA RESOLUTIONS ADOPTED AT ANNUAL 1972 MEETING

Mr. THURMOND. Mr. President, the Association of the U.S. Army has issued the resolutions it adopted at the annual meeting of the association late last year.

As Members of the Congress know, AUSA is one of our most outstanding associations in its dedication to the preservation of a strong national defense.

The resolutions adopted at the last meeting touch on the key issues facing our national defense and as usual are well stated and concise.

Mr. President, I ask unanimous consent that a copy of these resolutions be included in the RECORD.

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

AUSA RESOLUTIONS—ADOPTED AT 1972 ANNUAL MEETING, 11 OCTOBER 1972

1972 RESOLUTIONS COMMITTEE

Chairman: BG J. A. Seitz, USA Ret., Fort Riley Central Kansas—1st Infantry, Division Chapter.

Chairman, BG Edward I. Creed, USAR.

Subcommittee A: Central Ohio Chapter.

Members: SMA George W. Dunaway, USA Ret.; Mr. Harry M. Hunke, Jr., Tacoma-Fort Lewis-Olympia Chapter; Mr. Ira W. Nichol, Detroit Chapter; Mr. E. E. Towson, Jr., Frankfurt Chapter; and Col. Fred R. Ulrich, USA Ret. Dallas Chapter.

Chairman, BG Thomas K. Turnage, CaARNG.

Subcommittee B: Mother Lode Chapter.

Members: Mr. Joseph Barr, Braxton Bragg Chapter; Mr. William J. Ellis, Greater Augusta-Fort Gordon Chapter; SGM William R. Lowe, Jr., USA Ret., Virginia Peninsula Chapter; Col. Thomas J. Makal, Sr., WIARNG Ret., Milwaukee Chapter; and Mr. Earl W. Tews, Ark-O-Tex Chapter.

I certify that the Preamble and Resolution Numbers 1 through 14 were adopted at the Annual Business Meeting of the Association of the United States Army held this date.

Resolutions from previous years, specified in Resolution Number 15, follow that Resolution.

FRANCIS S. CONATY, Jr.,
Colonel, USA, Retired,
Secretary.

PREAMBLE

Four years ago, in the preamble to its 1968 resolutions, the Association warned "that the time following the end of the (Vietnam) war will be a period of great challenge and turmoil" and of the need to "be prepared to counteract an expected clamor for imprudent reductions in our armed forces." A year ago, recognizing the compelling necessity to alert the American people to the disturbing trend in this country's strategic posture, the Association stated, "The task at hand is to reduce the apathy and create an awareness of the essentiality for an adequate defense posture, if the freedoms and liberties we now enjoy are to be preserved."

This is a crucial period for national defense. The recent Strategic Arms Limitations agreements represent a major milestone in the significant shifts in the balance of world strategic power which have continued since World War II. The Association supports those agreements as being in the best interests of the United States, provided that the United States (1) continues to improve the technological superiority of its strategic weapons capability, and (2) improves its capability to deal with threats below the nuclear threshold.

The past two years have witnessed the most drastic and rapid reduction of our fighting forces since World War II in the face of growing capabilities of those whose goals are the antithesis of ours. For the first time in American history, real defense appropriations and manpower at the close of a war have been cut below prewar levels. Taking into account rising costs, the trend of defense spending continues downward. General purpose forces are at the lowest point since 1950. This could be interpreted by the rest of the world as a drastic decline in America's will and ability to protect her interests or to honor her international commitments.

Our preoccupation with internal problems, a "boredom" with the international scene, the complexity of the present world situation and the absence of a galvanizing confrontation have created a dangerous and illusory attitude of isolationism in our country. Neither hysteria, apathy nor boredom can be permitted to erode our ability to defend the United States and her national interests. The central objective of the United States military power is to deter war by having sufficient and credible power to keep the peace. The cost in personal service, as well as resources, is high but the Association believes an informed American people will pay the price. The United States cannot afford to be without this power. To this end the Association of the United States Army adopts the following resolutions.

1. NATIONAL DEFENSE IN THE SALT ENVIRONMENT

The Strategic Arms Limitations Talks represent a major milestone in the significant shifts in the balance of world power that have taken place since World War II. The Association of the United States Army supports the agreements reached, noting that both the United States and the Soviet Union have now more than a sufficiency of strategic nuclear weapons for mutual destruction. While this country must maintain and consistently update its strategic weapons capability, we must also improve our capability to deal with threats below the strategic nuclear threshold. Since 1945, the birth of the nuclear era, this is the area where the most dangerous and destructive military adventurism has been practiced.

In this changing and complex world, the basic conflicting objectives of the two principal antagonists, the United States and the Soviet Union, remain constant. The Soviet Union clearly seeks a world of communist states economically and politically committed to the USSR. The prime international objective of the United States is global stability, characterized by peaceful cooperation and normal social evolution in which the people of the world can enhance their personal dignity and improve their economic condition. The primary purpose of the armed forces of the United States is to prevent this conflict of objectives from erupting into war.

The Army plays a key role in assuring ultimate success of war prevention by contributing to the building of a viable structure of peace based on the United States policy of adequate strength, true partnership and meaningful negotiations.

A strong United States Army, with its conventional combat capability, is an essential foundation of war deterrence under current world conditions. By forward deployments the Army provides visible evidence of United States intent and is a bulwark of free world military capability.

In the partnership role, the Army is an indispensable contributor to the global security arrangements which constitute the reality of a deterrent posture. Moreover, the Army's role is vital in assisting our defense partners in improving their contribution to both national and collective defense through the management of military assistance programs.

The SALT proposals have evolved because the Soviet Union respected United States strength. A strong Army, in cooperation with the armed forces of the free world, will continue to provide an essential precondition for future negotiations on mutual and balanced force reductions.

We therefore resolve to continue support of a strategy of realistic deterrence with stress on a strong Army in the attainment of United States national security and foreign policy objectives.

2. OUR COMMITMENT TO NATO

Since 1949, the effective obstacle to Soviet expansion in Europe has been the United States and the North Atlantic Treaty Organization (NATO). Militarily, NATO acts as a barrier to Soviet advancement, and, politically, it provides cohesion and a degree of unity to all anti-Communist forces in Western Europe. Under its shield, a climate of stability has developed, permitting member countries to regain economic and military strength. A primary Soviet Union aim is the weakening of NATO by any means. Removal or reduction of U.S. forces within NATO would be welcomed by the USSR.

American forces are not in Europe merely to protect Europeans, but are there to assure our own security as well. We are committed to help defend Western Europe, not only because our cultural, economic and political interests are so closely allied, but, more importantly, because with a Soviet controlled Europe the political, economic and military power of the Soviet Union would surpass that of the United States.

A strong NATO offers a barrier to Soviet expansion either through political coercion backed by the threat of Soviet power or by the direct military application of such power.

Our ground forces in Europe must be strong enough to maintain in the minds of Soviet leaders the realization that aggressive action against Western Europe would not be free from severe costs and that the outcome could not be predicted with assurance. Any unilateral withdrawal of U.S. forces from NATO would be contrary to our national interests and to those of the free Western world. A weakened NATO would upset the present stability and tempt the Soviet Union to aggression.

We therefore resolve that the Association of the United States Army strongly supports retention of sufficient U.S. forces in Europe to enable NATO to remain a strong and viable deterrent to Communist aggression.

3. ONE ARMY: ACTIVE, RESERVE, AND NATIONAL GUARD

The leadership of our nation has repeatedly affirmed the United States' resolve to honor its international commitments and obligations.

Stated national policy is to place principal reliance on the National Guard and Reserves, rather than continued reliance on draftees, if a major expansion of United States armed forces is required in the future. This policy recognizes that National Guard and Reserves must be upgraded in personnel, equipment, training and availability for immediate transition from reserve status to active service in an acceptable degree of readiness.

Greater responsibility for the National Guard and the Reserves is appropriate, provided the assigned missions and degree of readiness of these forces are realistic and attainable. The concept that the mission of active forces can be accomplished by reserve forces in the same time frame requires a more searching examination.

We therefore resolve that One Army, deriving its strength and flexibility from the size, quality, readiness and dedication of its component parts—the active Army, Army Reserve and Army National Guard—is essential to the effectiveness deterrence of any military threat against the United States.

We further resolve to support vigorously a program of recruiting incentives sufficient to maintain the Army National Guard and Army Reserve at their authorized strengths and provide the modern equipment and support required to accomplish their greatly expanded national defense role.

We further resolve to urge a realistic appraisal of Army National Guard and Army Reserve forces readiness to ensure that missions assigned are within capabilities.

4. A VOLUNTEER ARMY

The Association of the United States Army fully supports all measures designed to improve the attractiveness of military careers and to encourage the maximum number of volunteers to serve in our armed forces.

The volunteer Army program seeks to enhance professionalism, improve service life and attractiveness, and increase public understanding and support.

Professionalism requires individuals of

sound qualifications and good potential for development.

The quality of Army life is related both to the Army's image and its purpose of protecting America. Society cannot disparage the value or need of armed forces to protect our national interest and, at the same time, expect its members to volunteer for service. The public must regard a military career as a worthwhile and honorable profession. Those who serve must know that in serving they have the public's respect and support.

In turn, the image of the Army is projected by the appearance of its members, their performance of duty and their way of life. For example, no one will find an organization attractive which cannot adequately care for its members and their families.

We therefore resolve that the Association of the United States Army shall devote its efforts to the continuing improvement of public understanding, appreciation and esteem for the individuals in the uniformed services so that the public will support actively a volunteer Army.

5. STRENGTH OF THE ARMY

The active Army is undergoing a reduction in size as a result of the withdrawal from Vietnam, budgetary limitations and changes in national security strategy, and now stands at its lowest strength in over twenty years. There is a real danger that these decreases may be so drastic as to endanger the security of this country.

The Army can anticipate continued operations under conditions of an international parity of nuclear force that intensifies the need for a flexible response to conventional threats. While intentions in the fall of 1972 tend toward a sense of euphoria, the potential and capability of hostile forces have not diminished in any way.

The Army must be prepared to meet force requirements created by existing treaty commitments and the unforeseen contingencies that will arise in a divided and troubled world, while at the same time assuring the continued security of the United States. Strong active Army, Army National Guard and Army Reserve forces are indispensable ingredients of our conventional defense posture and the strategy of realistic deterrence.

We therefore resolve to continue our vigorous support of an active Army strength level of not less than nine hundred thousand (900,000) men and women and an Army total force of 1.6 million and strongly urge restoration of these minimum strengths, fully supported by necessary budgetary action.

6. EXTENSION OF SELECTIVE SERVICE INDUCTION AUTHORITY

It is vital that the armed forces of the United States be maintained at an adequate strength to be an effective instrument of national policy.

Induction authority under the Selective Service Act—the primary instrument which has provided, directly or indirectly, the requisite manpower for the maintenance of this strength—expires on 30 June 1973.

There have been laudable increases in voluntary enlistments over the past year as the result of innovative recruiting programs, increased incentives and improvements in military life. However, it has not been conclusively demonstrated that the nation can maintain adequate strengths in the armed forces for extended periods of time without depending upon the draft.

Budgetary support for some of the incentives designed to attract more volunteers, including those affecting the Army Reserve and the Army National Guard, has not yet been provided by the Congress.

Official concern over the ramifications has been expressed by the Secretary of Defense who, in reporting to the President on progress toward an all-volunteer Army, warned that "some may be tempted to compromise the strength of our forces in the haste to eliminate the draft."

Failure to continue induction authority without first clearly establishing our ability to maintain adequate military forces without it, would be accepting risks to our national security that are both unwise and unnecessary.

We therefore resolve to support vigorously continuation of Selective Service induction authority as a necessary ingredient to the solution of the nation's military manpower requirements.

7. RESEARCH, DEVELOPMENT, AND MODERNIZATION

Emerging from a period of prolonged armed conflict, the Army is entering an era in which its combat capabilities must be reinforced with the most modern equipment our nation can provide.

The long-range research and development program must be revitalized and maintained, if the United States is to retain its position of leadership as a world power, to ensure that the active Army, Army National Guard and Army Reserve are properly prepared to meet the threat of any potential enemy.

Among the Army's most urgent needs are:

A modern tank;

An infantry armored combat vehicle;

A versatile attack helicopter;

An improved tactical utility helicopter; and

An adequate field army air-defense system.

We therefore resolve to urge that sufficient resources be provided to support a realistic research and development program and to equip and maintain a truly modern Army force.

8. LOSS OF TRAINING AREAS

The objectives of Executive Order 11508, providing for identification and prompt release of unneeded or under-utilized federal real property, has been consistently supported by the Army. Indeed, the Army recognizes and helps fulfill the need for qualitative ecological and environmental control and many installations have received national recognition for their efforts in these areas.

The rules for real property utilization as developed by the General Services Administration tend to ignore training needs and are resulting in loss of ranges and training areas essential to the readiness requirements of the active Army, the Army Reserve and the Army National Guard.

Although the status of equipment and materiel issued to the Army Reserve and Army National Guard is improving significantly, land available for training is being removed at a rapid rate, reducing the capabilities of these components to adequately train and thus maintain their unit readiness.

Army Reserve and Army National Guard units often, of necessity, are tied to areas near their armories or Reserve centers. Further withdrawal of federal land would greatly handicap these units in achieving prescribed readiness standards.

We therefore resolve to urge retention of the necessary ranges and training areas to enable the active Army, the Army Reserve and the Army National Guard to accomplish their training missions.

We further resolve that we encourage and endorse the forthright action of the Army in pursuing objectives and programs of conservation and environmental protection within its assigned and adjoining land areas.

9. EMPLOYER SUPPORT OF ARMY NATIONAL GUARD AND ARMY RESERVE

Current national security policy recognizes the increased vital role of the Army National Guard and Army Reserve ready forces in augmenting the nation's military strength for future emergencies.

One of the major problems in keeping the Army National Guard and Army Reserve fully manned and trained to meet such augmentation requirements in any future emergency is employer resistance to membership by their employees in the reserve components.

We therefore resolve that the Association of the United States Army urges all employers to recognize the increased and vital role of the Army National Guard and Army Reserve, and to support without discrimination all Guardsmen and Reservists who voluntarily devote their time to the national defense.

10. EQUITY IN SERVICE PAY

The Association of the United States Army recognizes and appreciates that the pay for active armed forces has been increased during the past few years. However, certain problems still exist in the discontinuance in 1958 of recomputing retired pay as active-duty pay increased. This diluted a level of retirement income for those with active-duty service prior to 1958 based on today's cost-of-living index.

The Dual Compensation Act discourages qualified Regular officers from seeking employment in the federal government since they lose a substantial part of previously gained retirement pay. Retired pay is earned income and should not be subjected to limitation as a result of employment in a second and differing field of endeavor. As citizens and taxpayers they should be entitled to compete for such jobs without being penalized.

We therefore resolve that the Association of the United States Army favors and will support appropriate actions to obtain reasonable revisions pertaining to the following:

(1) Computation of retired pay for personnel with pre-1958 active-duty service.

(2) Permission for enlisted personnel to receive credit for inactive Reserve duty prior to 1 June 1958 for retirement purposes.

(3) Repeal of that portion of the Dual Compensation Act which pertains to retired Regular officers employed by the federal government.

11. GOVERNMENT HOUSING

The successful achievement of a volunteer Army depends largely on measures and conditions which will attract and retain qualified men and women. A vital aspect of Army life which affects all uniformed men and women and their families is the adequacy of housing.

Family, troop and transient government housing, world-wide, is limited. Much of the desirable off-post housing cannot be rented by service personnel due to limited availability, excessive cost and landlord policies.

We threfore resolve to support strongly additional world-wide family, troop and transient housing programs, and urge that special efforts be made to undertake leasing or similar arrangements in areas where construction of government housing is neither feasible nor desirable.

12. BENEFITS FOR RETIRED RESERVISTS

Under existing laws retired reservists under age sixty (60) are not entitled to certain medical, commissary, exchange and other benefits associated with full retired status.

These benefits should be made available during the period between active reserve participation and attainment of age sixty (60). Further, it would be an incentive for current reservists to continue service until they reach retirement eligibility.

We therefore resolve that the Association of the United States Army supports the granting of medical, commissary, exchange and other benefits of retired military personnel to reserve personnel as soon as they have attained retired status in all respects except attainment of age sixty (60).

13. U.S. PRISONERS OF WAR AND MISSING IN ACTION

The United States Government has never ceased in its efforts to impress upon the Democratic Republic of Vietnam (DRV) and the National Liberation Front (Viet Cong) leadership their responsibility to abide by the Geneva Conventions, to which the DRV is a signatory, for the treatment of prisoners of war. Their categorical rejection of obligations to prisoners of war under the Conventions, as enunciated in 1965 to the International Red Cross, remains unchanged.

The shocking and cruel treatment of many prisoners held by the DRV and the Viet Cong has been well documented. The most basic consideration accorded prisoners of war by the civilized nations of the world is frequently and flagrantly denied. Even identification and the fate of prisoners known to be in enemy hands have been withheld. Families and other loved ones of these U.S. servicemen have been left to live in the agony of uncertainty, ignorant as to their whereabouts, health or very existence.

We therefore resolve that the Association of the United States Army supports the federal government in its continuing effort to:

(1) Obtain the most humanitarian treatment possible for all prisoners of war in the Vietnam conflict.

(2) Secure a reasonable and responsible accounting of all prisoners of war and missing in action servicemen.

(3) Hasten the honorable return of prisoners of war to their homes.

(4) Focus world opinion on the plight of prisoners of war held by the Democratic Republic of Vietnam, the National Liberation Front and the Pathet Lao.

14. AMNESTY

Although the war in Vietnam is not yet over and selective service continues, the prospect of amnesty for draft evaders and armed forces deserters is being advocated in some quarters. In view of the millions of young Americans who served honorably in the armed forces under extremely difficult conditions during the Vietnam conflict, the hundreds of thousands who shed their blood, the tens of thousands who paid the supreme sacrifice and the 1700 men in a prisoner or missing status, this advocacy is ill-considered. The duties that these individuals avoided—duties that they knew would have exposed them to some measure of hardship and danger—ultimately had to be performed by other young men with a higher sense of duty and responsibility to their country.

General amnesty by legislative action for draft evaders and resisters or for servicemen in a desertion or AWOL status is inappropriate. Each offender who has violated civil or military law and each should, with full rights protected, be adjudged within the applicable judicial system on a case-by-case basis. Any subsequent recommendation for amnesty should be considered on the same individual case basis.

We therefore resolve that the Association of the United States Army declares its firm opposition to any action which would grant general amnesty to those who have unlawfully avoided military service.

We further resolve that each case of unlawful avoidance of military service be adjudicated in accordance with applicable military or civilian law and regulation.

15. CONTINUING RESOLUTIONS

Seven resolutions adopted at preceding annual meetings are still valid and remain in force.

We therefore resolve that the following continuing resolutions receive the full support of every member of the Association of the United States Army:

Dependent dental care
Strategic airlift and sealift
Support of the ROTC
Commissaries and Post Exchanges
United States Military Academy
Army civilian employees
National and post cemeteries

DEPENDENT DENTAL CARE

We therefore resolve to support necessary action to provide adequate dental care for all dependents of active duty personnel and eligible retired personnel, and that appropriate facilities be made available for this purpose. (Resolution No. 9, 1971.

STRATEGIC AIRLIFT AND SEALIFT

We therefore resolve that action be taken to provide continued support for programs designed to expand and modernize the merchant marine and to support the improvement in, and obtainment of, sufficient amounts of strategic airlift, multipurpose ships and other sealift, together with their supporting facilities, required to meet the operational needs of our ground forces. (Resolution No. 7, 1970)

SUPPORT OF THE ROTC

We therefore resolve to continue support of the ROTC program and to urge that institutions of higher learning be encouraged to cooperate with military services to upgrade their ROTC programs and encourage student participation in them by giving academic credit for course work completed.

We further resolve to urge that institutions continue to provide the military services with an acceptable climate of institutional support for the ROTC program on campus, and to accept the responsibility for education of our military leaders comparable to their responsibility of educating leaders of other segments of our society. (Resolution No. 8, 1970)

COMMISSARIES AND POST EXCHANGES

We therefore resolve that the Association of the United States Army support expansion of the facilities of commissaries and post exchanges, and, further, that these services provide adequate personnel to properly maintain efficient operation. (Resolution No. 13, 1970)

U.S. MILITARY ACADEMY

We therefore resolve to continue and emphasize a program to encourage outstanding youth to seek appointments to the United States Military Academy and to search for new ideas leading to its further development and effectiveness. (Resolution No. 8, 1968)

ARMY CIVILIAN EMPLOYEES

Now, therefore, be it resolved, that this Association extends special commendation and gratitude to the civilian employees of the Army and recommends that dynamic career programs be maintained to recruit, retain and encourage the continued service of dedicated public servants in consonance with the command responsibilities and missions of the U.S. Army. (Resolution No. 11, 1967)

NATIONAL AND POST CEMETERIES

Now, therefore, be it resolved, that it is the considered opinion of the Association of the United States Army that the best interests of the nation and the members of our armed forces and their dependents will be served by the expansion of national and post cemetery facilities immediately, to insure that the members of our armed forces who have served honorably will be provided a resting place in a military cemetery as a tribute to their service. (Resolution No. 14, 1967)

THE WILDERNESS ACT APPLIES TO THE EAST

Mr. CHURCH. Mr. President, it is a pleasure for me to join the Senator from Washington (Mr. JACKSON) and the Senator from New York (Mr. BUCKLEY) in sponsoring S. 316, the Eastern Wilderness Area Act, which was introduced on January 11.

As the Senator from Washington, who serves as the able chairman of the Committee on Interior and Insular Affairs, stated at the time of introduction, we must deal with a serious question of distortions of the Wilderness Act. I, too, know something about what we went through to get that act passed. If it is, as is so widely said, one of the half-dozen landmarks in the history of American conservation policy, it is also a landmark to the persistent, untiring, patient efforts of so many of our colleagues. The names of Senator Clinton Anderson, Senator Richard Neuberger, Senator James Murray, Senator HUBERT HUMPHREY, and Senator HENRY JACKSON stand high on the list of those who gave so much effort and expertise to the development and consideration of this act, together with many legislators of equal stature in the other body.

It is a matter of personal satisfaction to me that I was able to play a role in the enactment of this landmark conservation law. As floor leader for the wilderness bill, I was deeply involved in its construction and in the full debate it received before passing the Senate by an overwhelming margin. It is thus a cause of great personal concern to me that this important law is being misinterpreted by some officials in the very agencies which have the duty and responsibility to apply it.

We had a meaningful and productive session on this subject just last year, when the Subcommittee on Public Lands held discussions with Assistant Secretary of the Interior Nathaniel Reed concerning certain policy distortions which had crept into wilderness proposals from the National Park Service and Bureau of Sport Fisheries and Wildlife. With Secretary Reed's able assistance, we have been able to correct most of these problems.

Now, as the Senator from Washington has elaborated, we face a similar problem within the Forest Service, which would have us believe that no lands ever subject to past human impact can qualify as wilderness, now or ever. Nothing could be more contrary to the meaning and intent of the Wilderness Act. The effect of such an interpretation would be to automatically disqualify almost everything, for few if any lands on this continent—or any other—have escaped man's imprint to some degree. I shall join the Senator from Washington in probing this matter with a great deal of interest.

Mr. President, it was my pleasure to be a cosponsor of a bill similar to S. 316 in the last session of Congress. It was thus somewhat surprising to me to learn that the Forest Service found our bill "a serious handicap." Yet that is precisely what the eastern region of the Forest Service said about our bill, in an internal memorandum submitted on August 16, 1972 to the Chief of the Forest Service.

This memorandum purports to be a summary of the comments of the public at a series of what the Forest Service

calls listening sessions which were held throughout the eastern region of the Forest Service. Nine such sessions were held, from Philadelphia to Marquette, Mich. The Forest Service mailed out "well over 3,000 invitations to individual and concerned organizations," and each invitation included a four-page outline of the problem under discussion. What the public was asked to comment about was not so much what wilderness areas they thought should be preserved in the east, but the altogether abstract question of what alternative mechanism should be developed in order to supplant the Wilderness Act. This was, of course, because the two eastern regional foresters had long since decided that:

The criteria for adding wilderness to the National Wilderness Preservation System do not fit conditions in the South and East.

Well, the Forest Service got back a lot of the carbon copy they had spooned out in advance of their "invitations." A great many people, according to this summary, were all for something called a "wild areas system," as a sort of eastern counterpart to the national wilderness preservation system, which the Forest Service has apparently refashioned into a western wilderness preservation system. Yet, the agency's internal summary reveals that:

About 50% of those who supported a Wild Area System did so only to the extent that it should be included under the 1964 Wilderness Act.

What concerns me particularly about this summary—which presumably is all the information the Chief of the Forest Service has to work from concerning the views of the millions of people who live in the east—is its blatant and obvious bias. At the time of the meetings reported on, there had been introduced in the House of Representatives a bill called the wild areas system bill. This, I might add, is a bill which was developed with Forest Service drafting, in part, as a result of the agency's secret report from the eastern and southeastern regional foresters, which has already been quoted by the Senator from Washington.

The summary of the listening sessions, after giving some of the statistics, goes on to make the following remark about last year's version of the bill Senator JACKSON, Senator BUCKLEY, and I have reintroduced:

The introduction of the Jackson omnibus bill (S. 3792) was a serious handicap for the Forest personnel at a couple of meetings. This was particularly true with the West Virginia sessions in Elkins and Charleston. It was also brought up at a couple of the other meetings that were held in the latter part of the month of July.

This is the comment in its entirety, or almost. What disturbs me is the brash allegation that somehow the bill sponsored by the chairman of the Committee on Interior and Insular Affairs, which has jurisdiction over all wilderness policy, was a "serious handicap." But we hear nothing bad about the wild areas systems bill which had been introduced in the House of Representatives, partly at the instigation of the Forest Service.

A final selection from this document is instructive, because it refers to a number of interesting points, including the discussions I had earlier held with the National Park Service about that agency's misinterpretations of the Wilderness Act. Says the Forest Service summary:

Many people expressed real concern that the Forest Service was too strict in their interpretation of the 1964 (Wilderness) Act. The introduction of Jackson bill, Senator Church's statements and the Park Service's introduction of Eastern Wildernesses were cited as examples of where the 1964 Act could apply to areas in the East.

Mr. President, it is not hard for me to appreciate the complaints we hear every day from ordinary citizens about the bigness, remoteness, and nonresponsiveness of the Federal Government. The arrogance of power has so many examples, large and small. But here is a case that simply defies understanding. There are internal documents, of course, and we are not supposed to know that this is what the Forest Service is thinking and doing behind the scenes. The Forest Service is the first to tell us, when the subject of wilderness comes up, that they invented the very idea and established the very first areas. That may be true. But those early sturdy individuals within the Forest Service who fought for wilderness would be surprised today to see this kind of antiwilderness maneuvering coming from the agency which simultaneously wants to be known as the conservationists par excellence.

In recent years, the Forest Service has suffered some serious setbacks in public confidence. The pressures upon this agency are, of course, strong and conflicting. But public confidence has to be built on a record of solid accomplishment, not the image. I know many people within the Forest Service, and I know them to be fine, hard-working, honest, and dedicated public servants. But the agency line, when it gets established, is hard to change, even if it makes no sense.

This is what is at the root of the new line we are asked to swallow about the "purity" of the Wilderness Act. The Forest Service has said there is no wilderness in the East, or precious little. They have said that the criteria of the Wilderness Act simply do not apply to conditions in the eastern half of the country.

Let me simply repeat what I have said before on this subject:

The Wilderness Act fully allows the designation for permanent protection of land which, though once abused by various disturbances decades ago, has now recovered, or will recover, under the restorative powers of natural forces, to the point where it "generally appears to have been affected primarily by forces of nature, with the imprint of man's work substantially unnoticeable."

This is one of the great promises of the Wilderness Act. We can dedicate formerly abused areas where the primeval scene can be restored by natural forces. In this way, we can have a truly national wilderness system.

Some who are simply ill-informed have said that no areas in the Eastern United States can meet the test of qualification under the definition of wilderness in the Wilderness Act. This is just not so. In enacting the Wilderness Act—and I know something about this—we placed three eastern areas into the national wilderness preservation system. These areas had a former history of some past land abuse. This was by no means a so-called grandfathering arrangement. It was, and is, a standing and intentional precedent to encourage such areas to be found and designated under the act in other eastern locations.

Since the 1964 act, following the procedure it established, the Congress has passed legislation designating a number of additional wilderness areas within national wildlife refuges in the east and south. Included were such areas as the 25,000 acres Seney Wildlife Refuge wilderness in northern Michigan—all once cut over and burned, but now well restored to a fine wilderness quality.

There are similar kinds of areas in the eastern national forests which will certainly be found to merit wilderness protection. Some of these are included in our bills today. The Forest Service will, I suppose, object to these bills and recommend against them. Still, I hope they will not. I hope they will stop staging prefed "listening sessions" and do some real listening instead, paying attention to what the public wants. We shall have a fine and valuable wilderness system, and it will have eastern national forest lands within it, one way or the other. But there will be a lot less scar tissue, and a great deal more public approval, if the Forest Service will approach this subject with less regard for shibboleths about "purity" and more respect for the commonsense of the public, not to mention the Members of Congress who wrote and enacted the Wilderness Act they presume to set aside.

Mr. President, I am delighted to be a sponsor of these bills, and I shall cooperate in every way to achieve their enactment.

I ask unanimous consent to have printed in the RECORD an article on this subject, published in the conservation journal Not Man Apart.

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

ANTIWILDERNESS PLOT REVEALED

(By George Alderson, legislative director, Friends of the Earth)

Forest Service documents that have been provided to Friends of the Earth show that the Aiken-Talmadge "Wild Areas" bill, which is opposed by Friends of the Earth, is the result of a scheme by the U.S. Forest Service, intended to thwart the growing demand for wilderness areas in the eastern states.

During 1971, Alabamians were reaching a peak in their campaign, led by the Alabama Conservancy, to establish the Sipsey Wilderness in the Bankhead National Forest. The Senators and Congressmen from Alabama had gradually joined the effort, and they had introduced bills to add the area to the National Wilderness Preservation System. Victory was in sight for the citizens. This provoked a hasty counter-reaction in the Forest Service.

On September 3, 1971, the two regional foresters for the East and Midwest, T. A. Schlapfer and Jay H. Cravens, sent a memo, marked "official use only," to the Chief of the Forest Service in Washington, D.C., citing increasing pressures for primitive recrea-

tion in the East. The memo said that as these pressures "are increasingly translated into proposals for new wilderness classifications, we are persistently reminded that there are simply no remaining candidate areas for wilderness classification in this part of the national forest system."

Schlapfer and Cravens suggested that the Forest Service propose a system of "Wildwood-Heritage areas" for the eastern states, and they listed alternative titles such as "Pioneer Area, Frontier Natural Area, Wild Areas, etc." The two officials wrote, "We feel a great sense of urgency to act on this proposal, and if, after your review, you feel it appropriate, we believe the upcoming Sierra Club session will provide a good opportunity for the proposal."

Indeed, later in September, Associate Chief John McGuire, speaking at the Sierra Club Wilderness Conference in Washington, D.C., argued that the Wilderness Act was inappropriate for eastern areas, and called for suggestions on a way to protect eastern wild lands under an alternative system. However, he refrained from making a specific proposal.

The fallacy in the Forest Service argument is a simple one. The Forest Service invokes a standard of "purity" that does not appear in the Wilderness Act of 1964. The Act, in Section 4, sets rigorous standards for protection of areas once admitted to the National Wilderness Preservation System. But the Act prescribes a completely different set of criteria, in Section 2(c), on the suitability of a candidate area for addition to the Wilderness System. For example, under Section 2(c), evidence of an old, abandoned woods road would not bar an area from being admitted to the Wilderness System, but under Section 4, no new roads or motor vehicle traffic would be permitted. This is a highly pragmatic distinction, because the Wilderness Act thereby makes restored areas eligible for the strict protection of wilderness status, thus insuring that natural restoration continue without the threat of new disturbance by man.

The Forest Service seems to see itself as a higher authority than Congress, as the former head of its recreation division, Richard J. Costley, made clear in his memo of August 27, 1971. Mr. Costley made no secret of his own viewpoint, stating that the Wilderness System, "by most conventional criteria, is a luxury." He said, "Much has happened since the Wilderness Act became law. Out of it has emerged a progressively firmer 'wilderness posture' on the part of the Forest Service." Mr. Costley went on, "Slowly, but surely, as the Forest Service wilderness management posture took shape, it began to emerge as increasingly 'pure.'" He concluded, "From the Forest Service point of view . . . classification criteria (standards) and management criteria (standards) must be the same."

In adopting this view, the Forest Service has interposed its own judgment, without any basis in the Wilderness Act. Senator Frank Church (D-Idaho), chairman of the Senate's Public Lands Subcommittee and the floor leader when the Wilderness Act first passed the Senate in 1961, also contests the Forest Service argument. Last May 5, at a subcommittee hearing, he said, "This is one of the great promises of the Wilderness Act, that we can dedicate formerly abused areas where the primeval scene can be restored by natural forces . . . Indeed, we placed three national forest wilderness units into the National Wilderness Preservation System in the 1964 Act, all of which lie in the East, all of which had a former history of some land abuse."

Despite these words of opposition, the Forest Service has continued to press its own twisted interpretation of the Wilderness Act. The Aiken-Talmadge "Wild Areas" bill (S. 3973 in the 92nd Congress), if enacted, would confirm this error, indeed writing into law the statement in the bill, "Few areas of the national forest system located in the eastern United States, which were acquired largely from private ownerships, meet the criteria set forth for wilderness by the Wilderness Act of 1964 because of the past works of man."

Although the Forest Service officially took no position on the Aiken-Talmadge bill, its employees have actively pushed it among representatives of environmental groups. I was present at one meeting early in 1972 at which Forest Service spokesmen sought the support of Friends of the Earth, The Wilderness Society, Sierra Club, and the Izaak Walton League, for an early version of the bill which was being drafted by the Forest Service. Leaders of groups throughout the eastern states have reported persistent efforts by Forest Service officials at the local level to seek support for "wild areas" instead of wilderness.

The most significant counter-move against the "wild areas" scheme was the introduction, in June, 1972, of the Jackson-Buckley bill (S. 3792), to establish eleven wilderness areas in the eastern national forests. The Forest Service reaction to this appeared in a memo of August 16, 1972, from its Midwest Region, reporting on a series of informal public meetings staged by the Service to sample public opinion about "wild areas." The memo said, "The introduction of the Jackson omnibus bill (S. 3792) was a serious handicap for the Forest personnel at a couple of meetings." Nothing was said about the Aiken-Talmadge bill.

The Forest Service will undoubtedly continue pushing its unfounded interpretation of the Wilderness Act during the coming year, and attempting to sow dissension among environmentalists. The efforts of the Forest Service have already set back the movement for eastern wilderness by a year, and kept the foresters' hands untrammeled by the strict management standards of the Wilderness Act.

This is not solely an eastern phenomenon, because the Forest Service has consistently opposed new wilderness areas in the West as well, except where they had previously been reserved by the Forest Service as "primitive areas." In 1972, Congress overrode the Forest Service in creating the Scapegoat Wilderness in Montana, which was not part of any primitive area, and in adding part of the Minam River valley to the Eagle Cap Wilderness in Oregon. When the public demands wilderness areas in the East, Congress will respond thereto, overruling the Forest Service's specious argument. Let's not let the bureaucrats dictate national policy—that should be left to the Congress and the public.

PROJECTED HEALTH CUTS

Mr. JAVITS. Mr. President, I am deeply concerned by reported health budget cuts. While I commend HEW initiatives to assure a Federal policy which would have federally initiated and supported demonstration health service programs seeking the most efficient way to obtain maximum reimbursement from third-party resources and, the most effective in their management policies. The implementation of such a policy must not, through precipitate budget cutbacks, deprive the people of vitally needed health care. The devastating effect of drastic slashes in Federal funding support has already been felt in New York where the Gouverneur Hospital Health Center budget was cut by $260,000 and the Lower East Side NENA Neighborhood Health Center budget has been cut by more than 13 percent. The tragic significance of such Federal action is in itself denial to people of health care services.

Until we have a national health insurance program which guarantees a minimum standard of health care benefits, we cannot deprive millions of Americans of their right to health care by pennywise, pound foolish budget cuts. Unfortunately, it is estimated that the promise of medicaid to all in need of health care does not reach more than 20 million of the poor and medically indigent. Therefore, in the interim, existing Federal project grant programs targeted to povide health care to those people cannot be permitted to vanish through budget-cutting magic.

Moreover, if this were to happen, the people served by these programs will have no place to go but to the already overburdened, outmoded, and obsolete public hospitals—hospitals whose lives are already in critical danger of extinction due to their fiscal crisis.

In addition, many of the vitally needed services provided by federally supported health programs include nutrition and health education, outreach, and manpower training, for which no third-party reimbursement mechanism presently exists.

I have, also, grave concerns about drastic reductions in funds for the programs of the National Institutes of Health. Inadequate support for biomedical research and health profession education would be false economy. All our efforts at the Federal level to reduce skyrocketing health care costs become inconsequential in the face of the cost benefits realized through lifesaving biomedical research. Jonas Salk's research virtually eliminated polio as a dread disease, and the importance of this discovery in human terms for all Americans can also be measured in economic dimensions by merely targeting in on the previously more than 50,000 annual polio victims, for whom there are now no medical or hospital bills or costly rehabilitative therapy for the treatment of polio and whose working life is saved for the Nation.

GENOCIDE CONVENTION

Mr. CHURCH. Mr. President, unfinished business of the Senate is to provide consent to ratification of the Genocide Convention. The Committee on Foreign Relations will soon reconsider this Convention, and most probably report favorably, as it did in the 92d Congress, to this body its belief, which President Nixon and his advisers share, that the United States be a contracting party to this international treaty concerning human rights.

I ask unanimous consent that an article, entitled "What Hope for the Genocide Convention," written by William Korey, be printed in the RECORD.

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

[From VISTA, November–December 1972]

WHAT HOPE FOR THE GENOCIDE CONVENTION?

(By William Korey) *

Opposition in the United States to ratification of the Genocide Convention has been featured by a remarkable irony, scarcely noticed by those who have focused upon the constitutional and legal issues of the debate. Critics of ratification have endowed the Convention with extraordinary powers which would somehow be wielded by an undefined international community at the expense of sovereign states, especially the United States. Hysteria has run especially rampant in ultra-right circles. The Liberty Lobby, for example, in its "Emergency Liberty Letter No. 28" (April 23, 1971) warned that if the Convention is ratified, American war veterans *"could be hauled overseas, tried and hanged by foreigners for alleged 'war crimes' of years ago!"* The *Bulletin* of the John Birch Society, on April 1, 1971, suggested that ratification would mean the "surrender of the Constitutional rights of American citizens," presumably to some international authority. The Manion Forum called the treaty "an internationalist booby-trap."

Experience with the Convention on the Prevention and Punishment of the Crime of Genocide since its unanimous adoption by the United Nations General Assembly in 1948—and its coming into force in 1951—in no ways conforms with these fears. Indeed, reality has been the very opposite of that which was imagined. What has been so striking about the experience with the treaty was not that the international community and contracting parties to the Convention made hasty or ill-advised demands for international action against alleged violators of the treaty provisions, but rather that there existed an extraordinary reluctance to use the UN machinery at all, even under the most pressing and tragic circumstances.

The Genocide Convention, whose purpose is to prevent and punish certain acts intended to destroy a national, ethnic, racial or religious group, requires the contracting parties to pass necessary laws to implement its purposes. But in 1965, in the light of increasing allegations of genocide in various parts of the world, the Commission on Human Rights was asked to consider further measures to strengthen and widen the effect of the Convention.

It is perhaps not surprising that the International Court of Justice has never been seized with the issue of genocide even though, under Article IX, "disputes" between the contracting parties "relating to the interpretation, application or fulfillment" of the treaty could be submitted to the Court by a party to the disputes. At least a dozen contracting parties, including all European Communist governments, have inserted reservations stating that they would not be bound by Article IX. Typical of such reservations was the one by Albania:

"The People's Republic of Albania does not consider as binding upon itself the provisions of article IX. . . . The People's Republic of Albania declares that, as regards the International Court's jurisdiction . . . Albania will, as hitherto, maintain the position that in each particular case the agreement of all parties to the dispute is essential for submission of any particular dispute to the International Court for decision."

The Court's non-involvement with the genocide treaty was by no means unique. With the exception of the International Labor Organization's Convention on the Abolition of Forced Labor, no international human rights treaty has been brought to its attention. For that matter, little else has been submitted to the Court's jurisdiction. Its docket is today almost empty, hardly an indication of a throbbing internationalist consciousness among the sovereign states of the world.

No United Nations organ has ever taken upon itself the task of investigating a possible case of genocide, despite the fact that Article VIII provides that "any Contracting Party may call upon the competent organs" of the UN "to take such action under the Charter . . . as they consider appropriate for the prevention and suppression of acts of genocide". Outer Mongolia, prompted by the USSR, did propose in late June 1963 that the General Assembly the following fall discuss "the policy of genocide carried out by the Government of the Republic of Iraq against the Kurdish people". At the time, the Soviet Union was angered by the indiscriminate killing of Communists by the new Left Baathist regime in Iraq. But within a few months the USSR developed second thoughts and Outer Mongolia withdrew its proposal before the opening of the General Assembly session.

The Economic and Social Council meeting in Geneva in July 1963 was also asked by the USSR to include on its agenda the "policy of genocide" against the Kurds in Iraq. But the Soviet proposal found little support. It was argued that specific instances of genocide did not fall within the competence of the Council. Its function, under Article 62, was declared to be "recommendations of a general character for the promotion of human rights" not "particular cases." There was a certain irony in this position since the Genocide Convention was actually drafted under the authority of the Economic and Social Council. The decision of the Council not to include the proposed item could be anticipated. And the USSR, as noted, was less than enthusiastic about pursuing the matter.

There were, of course, incidental references to genocide in the General Assembly during the 1950's. But the references were brief, not clearly documented, and carried a certain "cold war" overtone. Thus, following a discussion of the Soviet military intervention in Hungary in the fall of 1956, the Assembly adopted a resolution which recalled the "principles" of the Genocide Convention. Again, during a debate on the Tibetan question in the fall of 1959, the representatives of El Salvador and Venezuela referred briefly to genocide. A resolution proposed by Malaya and Ireland which concluded the debate (and was adopted) did not address itself to genocide at all; instead it called "for respect for the fundamental human rights of the Tibetan people and their distinctive cultural and religious life."

If, with the mid-1960's, genocide increasingly became an item on the agenda of the world conscience, concern about it found no reflection in the chambers of the United Nations. Egregious examples of wholesale butchery of peoples went unnoticed. When, in the fall of 1965, the nationalist Army leadership in Indonesia overthrew Sukarno and embarked upon mass killings of Communists (then under Maoist influence) as well as of Chinese in Indonesian cities, not a single power raised its voice in UN circles. The political interests of none of the UN powers, it appeared, would be served by such an airing, and a moral concern was not to be expected from those exclusively devoted to the furtherance of state interests. A similar silence blanketed the massacre of Ibos in Nigeria in 1968. If numerous international civic and religious groups were deeply concerned with the issue and newspapers throughout the West provided ghastly details of violence, the chambers of the UN carried not even a subdued echo of concern let alone remorse. Nor was anything said about the ruthless suppression of the Negro inhabitants of south Sudan by the Arab rulers in that country.

Perhaps the classic case of UN indifference was offered in the spring of 1971. Tens of thousands of civilian Bengalis living in East Pakistan, including the critical strata of educated elite, were summarily shot by troops of the Pakistan Government. The Parliament of India accurately defined the reign of terror as "a massacre of defenseless people which amounts to genocide." But even as the carnage was a subject of passionate discussion in the mass media and on various forums everywhere, not a word about the plight of the Bengalis was sounded in the United Nations Commission on Human Rights, then meeting in Geneva.

Further testimony was scarcely needed to demonstrate the transformation of the Commission on Human Rights from its early years when on it sat such distinguished and dedicated figures as Eleanor Roosevelt and René Cassin, the French Nobel Laureate who was one of the major architects of the Universal Declaration of Human Rights. Today, this 32-member body is composed mainly of political or bureaucratic appointees whose commitment to human rights is somewhat less than their commitment to the political interests of the governments they represent. Aside from repeated ringing denunciations of that abhorrent evil, apartheid, the throbbing human rights issues of the day are neglected. A series of studies prepared by its Sub-Commission on Prevention of Discrimination and Protection of Minorities, together with a host of other agenda items, are annually bypassed and then formally postponed to a subsequent session.

Politics remains the order of the day. The 1972 session of the Commission, for example, was devoted, to a significant degree, to discussion of the treatment of the Arabs in the territories occupied by Israel. The Arab powers, supported by Soviet bloc and Moslem countries, inevitably determined the character and quality of the debate. A resolution was ultimately adopted which charged Israel with committing "war crimes." International nongovernmental organizations, sensitive to the mental associations evoked by these words, could not but react with stunned dismay. If they feared challenging governments by a sharp attack upon the action taken, twenty voluntary groups at least felt obligated to question procedures of the UN body that had the consequences of avoiding vital human rights problems, including the problem of slavery.

On April 29, 1972, massive killings of Hutus in Burundi were launched by the dominant Tutsi in what a leading Belgian statesman called "veritable genocide." The massacres were sparked by an attempted *coup d'état* engineered by Hutu tribesmen. That the latter's intentions were hardly beyond reproach is suggested by statements in pamphlets found upon them: "Kill every man, woman and child. Do not take prisoners. Do not judge. Kill every Tutsi." But the retaliatory slaughter was even more grisly. With the death toll estimated at 120,000 and news stories in major organs suddenly targeted upon Burundi, its government felt compelled to issue through its UN delegation a "white paper" on June 7. If earlier the government spokesman at the UN denied the existence of tribal warfare, the official account now acknowledged the killings, throwing all blame upon the Hutus.

Governments, as usual, were reluctant to raise the question of the carnage in international forums. Senator Edward M. Kennedy, chairman of a Senate subcommittee on refugees, publicly charged that the Burundi massacres were "being swept under the rug," but UN Secretary-General Kurt Waldheim, a deeply compassionate man committed to humanitarian purposes, quietly dispatched a three-man mission to investigate the situation with the agreement of the Burundi government. Headed by an Under-

*William Korey is an official of B'nai B'rith and a former Chairman of the Conference of UN Representatives of UNA-USA.

secretary-General who is an adviser on African matters, the mission spent seven days in Burundi—June 22–28. A UN report based upon the mission, issued on July 28, called the dimensions of the tragedy "staggering." With the need to bring relief to the local inhabitants uppermost in the minds of UN officials, the watchword was caution. As one UN delegate observed, the UN was "walking a political tightrope." Noninterference in internal affairs remained a principal consideration.

That the holocaust of the Nazi era which had prompted the adoption of the Genocide Convention was no longer regarded as a vital moral concern, at least in some areas of the globe, was made manifest in the early fall of 1972. The President of Uganda, General Idi Amin, on September 12 sent the following identical telegrams to Dr. Waldheim, Premier Golda Meir of Israel, and Yasir Arafat, the head of the Palestine Liberation Organization:

"Germany is the right place where, when Hitler was the Prime Minister and supreme commander, he burnt over six million Jews.

"This is because Hitler and all German people knew that the Israelis are not people who are working in the interest of the people of the world and that is why they burnt the Israelis alive with gas in the soil of Germany."

If the Ugandan chief of state had already displayed a maliciously racist view by his announced plan to expel all Asians from his country, the apologia for genocide was nonetheless startling. Had the past been so quickly forgotten? Was genocide now considered in some quarters a morally justifiable convenience? Was it to be tolerated in other places? The current session of the General Assembly opened a week after the Amin assertion and observers could not but be struck with the absence of outrage about the Amin statement in the speeches of delegates. (Even the cruel expulsion of Asians received comment in but a few delegation statements.)

Since instances of genocide have been unable to obtain even a modest airing, let alone some form of deterrence, in the organs of the United Nations, some international legal specialists, who were intimately connected with the Nuremberg Tribunal, have begun drawing attention to a neglected provision of the Genocide Convention. Article VI of the treaty projected the idea of establishing an "international penal tribunal" to try "persons charged with genocide." Its jurisdiction would, of course, be limited to those contracting parties who formally agreed to accept its decisions.

In the early 1950's, there had taken place in the General Assembly some discussion about creating an international penal tribunal, but progress came to a halt when it was linked with the awkward and complex question of defining aggression. The Assembly, in 1950, established a 17-member committee which, the following year, formulated "proposals" regarding an international criminal court but concluded that they "did not wish to give their proposals any appearance of finality."

The Assembly proceeded in 1952 to appoint a second committee to examine the matter. After twenty-three meetings in 1953, it submitted the following stunning comment:

"Some members expressed the conviction that, in the present stage of international relations and international organizations, any attempt to establish an international criminal jurisdiction would meet with insurmountable obstacles. As an ultimate objective an international criminal court would be desirable, but its establishment at the present time *would do more harm than good. The rigid maintenance of criminal justice was likely to endanger the maintenance of peace.*" (Emphasis added.)

In December 1957 the Assembly finally decided to defer any further consideration of establishing an international criminal court until it took up the question of defining aggression as well as related question of drafting a Code of Offenses Against the Peace and Security of Mankind.

Few are sanguine about the UN adopting a definition of aggression, although the Assembly, during its 1951 session, considered that such a definition was possible by focusing upon "the elements which constitute" aggression. In numerous meetings of a 35-member committee appointed by the General Assembly, fundamental differences between the great powers about a definition have remained unresolved. An inevitable result is the veritable pigeonholing of the projected international criminal court to a distant and indefinite future.

Professor John Humphrey, the former director of the UN Division on Human Rights, suggested to the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1967 (he sat on the body as a Canadian "expert") that the creation of an international criminal court be considered even in the absence of a definition of aggression. The Sub-Commission, in a resolution, queried higher UN bodies as to whether such a course could be pursued. The response of the General Assembly in 1968 was negative.

Another constructive proposal was advanced in the Sub-Commission in 1965 by the able Indian "expert," Arcot Krishnaswami. He suggested that it was less important to establish the controversial international criminal court than it was to form a presumably independent international body "which would endeavor to prevent the crime of genocide before it actually occurred on a massive scale. Such a body should be able to investigate and to assess allegations of genocide, and to take the steps necessary to halt at its outset the deliberate destruction of a national racial, religious or ethnic group. "Nothing definite with regard to this proposal has emerged.

Yet it is increasingly clear in UN circles that some international machinery is essential if the Genocide Convention, now ratified by 75 countries, is to take on life and meaning. Currently, the Sub-Commission on Prevention of Discrimination is sponsoring a study "of the question of the prevention and punishment of the crime of genocide," on the basis of an Economic and Social Council resolution adopted in June 1969. The Special Rapporteur conducting the study, Nicodeme Ruhashyankiko, has indicated in a "preliminary report" that he intends to explore the ideas proposed by both Humphrey and Krishnaswami as well as examine "the possibility of taking further international action, in particular by the adoption of new international instruments." It is encouraging to note that when he posed to the Sub-Commission this past August the query as to whether he should include in his study specified "allegations of acts of genocide committed in various parts of the world," no negative response was forthcoming.

The fact that at least a beginning has been made in the international community to consider some form of machinery to deter or halt acts of genocide makes it all the more essential that the United States Senate provide its consent to ratification of the treaty. For too long, and at the cost of considerable diplomatic embarrassment, the United States has not been a contracting party to the Genocide Convention. The rationale for this reluctance has been twofold—that genocide is largely a domestic matter and therefore not appropriate to the treaty-making power; and that ratification could alter the balance of authority between the States and the Federal Government. If, however, the United States is to play a constructive and effective role in the practical discussions that may emerge from the Sub-Commission study, ratification would seem to be a move whose time has finally come.

December 9, 1973, will mark the 25th anniversary of the Genocide Convention. The great moral legacy of Raphael Lemkin, the brilliant former public prosecutor of Warsaw who first defined the crime of genocide in the UN's early days, will have been seriously undermined if by then a total vacuum still remains in the international community with respect to the treaty's implementation. A leading British jurist who participated in the Nuremberg proceedings, Sir Elwyn Jones, recently emphasized that the lessons of Nuremberg have yet to be acted upon. "Humanity ignores them at its peril," he warned.

AWARD TO ALONZO G. DECKER, JR.

Mr. MATHIAS. Mr. President, I was pleased and proud to be present last night in Washington when one of Maryland's outstanding citizens, Alonzo G. Decker, Jr., was presented with the American Machinist Award for 1972. As chairman and chief executive officer of the Black & Decker Manufacturing Co. of Towson, Md., Alonzo Decker has lent his considerable skills and talents toward making the labors of millions of Americans more productive.

Our country has achieved its place in the world today through the creative efforts of those such as Alonzo Decker whose tireless pursuit of excellence has again and again produced laborsaving products which enhance the workmanship of individual workers and benefit the American economy as well.

The December 25, 1972, issue of American Machinist magazine contains an article outlining Alonzo Decker's distinguished career and paying tribute to him as an unequaled example of American intelligence and ingenuity. I ask unanimous consent that this article be printed in the RECORD.

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

THE AM AWARD

Alonzo G. Decker, Jr., for showing how the right combination of people, equipment, and leadership can repeatedly break through accepted "limits" to offset rising productivity.

The AM Award is presented annually by the editors of American Machinist for distinguished contributions to manufacturing:

1965—Charles H. Patterson.
1966—Donald C. Burnham.
1967—C. Warren Drake.
1968—Arthur B. Lundahl.
1969—William W. Gilbert.
1970—Robert L. Roderick.
1971—Fred E. Parker.
1972—Alonzo G. Decker, Jr.

Alonzo G. Decker, Jr. believes in managing *people,* not just a company. His vital management philosophy is one of human involvement and exciting challenge-sounds old-fashioned, pehaps, yet it's often the talk of progessive management seminars.

But this man is no graybeard in an ivory tower. Al Decker lives his philosophy every day of his life as the leader of a burgeoning, one-third-billon-dollar corporation that's earned itself a world-wide reputation—for both its quality, helpful products and its bullish performance in the stock market.

To maintain this reputation, the firm uses advanced technology and the active participation of its people—so successfully that its

productivity gains more than offset rising costs.

Al Decker says this about the company he's been intimately connected with throughout his life: "We manufacture a needed product that saves millions of hours of physical labor every year. We've done well by our stockholders. And we gainfully employ a lot of people who are happy in their work and are well paid for it, too.

"We want to continue doing this for a long time, and there seems to be no limit to what we can achieve through improvements in productivity."

Al Decker is the chairman and chief executive officer of the Black & Decker Manufacturing Company, headquartered in Towson, Maryland. Founded in 1910 by Al Decker's father and a fellow engineer, S. Duncan Black, Black & Decker has become the world's leading maker of portable electric, air, and cordless tools.

WHAT IT MEANS TO YOU

If you do work around your home—either in a basement workshop or out in the yard—chances are your work is easier because you use Black & Decker power tools. What you may not realize is that the ¼-in. drill you bought this year for $7.99 cost $16.95 when it was introduced to the home handyman more than 25 years ago. That would be about $35 in current dollars, but productivity (in marketing as well as in engineering and manufacturing) got the price down.

If you are a B&D stockholder, you received the 1972 annual report a couple of weeks ago, and you know that net sales ($346 million) and net earnings ($26.6 million) were both up 21% from 1971. What's remarkable about these figures is that this has not been a year of recovery as it's been for so many companies. Instead, 1972 was the *fourteenth* year of continuous growth for the power-tool manufacturer. That's another result of productivity.

If you're a safety-conscious do-it-yourselfer, you'll be glad to know that early next year Black & Decker is introducing an entirely redesigned line of eleven home tools—drills, jigsaws, and sanders—that provides an extra "double insulation" feature at no increase in price. And B&D's popular battery-powered grass shears will cost 25% less than they did when placed on the market last spring. These are results of *specific* productivity programs.

The photographs on these and the following pages illustrate some of the means—both machines and people—by which Black & Decker is increasing productivity at three of its plants so it can continue to lower prices, boost sales, and improve profits. (Photographs not reproduced in RECORD.)

Asked about the fiscal year ended Sept. 24, Al Decker replied with his usual modesty, "I'm proud of what our people have done, of course, but we have to have such years to offset years like 1971 when industrial and professional sales were on the down cycle."

Last year, sales increased by 12% but were below the company's past and projected average yearly growth rate of 15%. Nevertheless, net earnings came through as forecast, 13% above the year-earlier level and a healthy 7.7% of net sales.

It's also worth noting that Black & Decker's investment ratio—capital spending as a percentage of gross plant—was 17.6% in 1971, higher than its 15-year average of 14.6% and far above the average for other manufacturing companies (AM—Jun. 26, '72, p. 71).

Year-end financial results tell a lot about how well a man's—and a company's—philosophy is working. So do all those labor-saving power tools that are successfully resisting foreign competition because they've been consistently improved and reduced in price at the same time. But they don't tell us how the man or the company got where it is today.

Black & Decker has achieved its success as a company because Al Decker has been successful with people. And it was during his two dozen years of direct involvement in the manufacturing side of the business that he learned about people, about the potential of productivity programs, and about the importance of setting specific goals.

Al Decker still knows many people in the Towson R&D labs and in the Hampstead, Md., plant by their first names. He finds it's easy to talk to people: "I've been there myself, and I know what they think about their jobs."

Just as he tries to get managers involved in each other's problems, Decker also encourages communication between managers and their subordinates. Talk to any manager there, and you'll hear that Black & Decker is a "people-oriented" or a "people-to-people" company with an involved, "shirt-sleeves" management.

Black & Decker has always been in the forefront of manufacturing technology, yet the company tries never to lay off anyone because of automation. Al Decker knows what it's like to work in a factory—and to be laid off, too.

After spending most of his high school and college summers doing odd jobs on the shop floor, Decker (E.E., Cornell '29) was hired as an engineer and traveled overseas demonstrating B&D industrial power tools.

"Those trips really gave me a thrill," Decker says. "They opened up the world for me. I toured all through Europe and ended up in Russia for two months trying to set up a service center.

"We had barely scratched the U.S. market, yet we were already thinking and acting like an international operation with manufacturing in Canada, England, and Australia. We have always tried to make our tools where we sell them." Today, 12 of B&D's 18 plants—and about half its 13,000 employees—are outside the United States.

The company came very close to bankruptcy when the second wave of the depression hit in late 1930, and young Decker was laid off with a lot of other people. When he returned—this time to stay—in February of '33, there wasn't any money for engineers; so he worked as a laborer for 25¢ an hour.

STARTING OVER AT THE BOTTOM

"At first we were working only four days every other week. I did whatever needed to be done, deburring castings, operating a milling machine. I worked on gear cutters and screw machines and punch presses. I literally went through all the manufacturing departments.

"Soon we needed more labor than the company could pay for, so they asked if we would work three nights a week for no pay if they put us on a full five-day week with pay.

"I'll tell you we all did it with alacrity! And I don't think we, as a group of working people, ever had more fun. We could see the company was coming to life again, and we all wanted to do our share to get it going. I guess you could call that an *early* productivity program.

"Having grown up with them, I already knew a lot of people—our whole U.S. operation was in Towson then—and I worked side by side with a lot more. It was a good experience to work with my hands and to be involved with the workers—as one of them.

"I learned manufacturing from the bottom up, and learned people, too—how they want to be treated and respected as individuals.

"But you've got to be fair and see that each man does what he's supposed to do, too. Most of all, you have to make it clear that you recognize each person's contribution.

"This was the spirit passed down by the founding families, the Blacks and the Deckers. They always made it their business to know everybody, their families, and their backgrounds.

"Of course, it's not easy to keep that atmosphere today. So we have to take a little extra time with those coming up through the organization to be sure they give attention to it."

Decker had moved up to production control when he was asked to take over the development of an electric hammer for "drilling" holes in stone and masonry. "Anytime anybody has ever come to me with a difficult job, I've always said *sure*. The design needed some touching up, and we ran extensive tests. Anyway, the design has lasted—they're still in the catalog today. The 'lunar drill' we designed for the Apollo project is essentially a cordless version of that electric hammer."

He was assistant chief engineer when, in 1938, Decker was made assistant general manager, reporting to his father who was vice president and general manager. Then in 1940, Black & Decker created two new positions. Al Decker was appointed vice president of manufacturing, and Robert D. Black, S. D. Black's younger brother, became vice president of sales, following the traditional division of labor of the two founders.

Al Decker headed up the company's manufacturing activities throughout World War II and for a decade after that. The war effort strained Black & Decker's plant capacity to its limit, as the aircraft manufacturers and other industries clamored for drills and screwdrivers by the thousands.

Nevertheless, the company was looking ahead to the end of the war and the possibility of a depression of the sort that followed WW I. In 1942, Decker and the other members of the "postwar planning committee" started meeting one day each month to discuss future projects.

One result, although the lull never came, was the "world's first line of popularly priced drills" right at the beginning of the do-it-yourself boom. During the next half-dozen years, portable circular saws, jigsaws, and sanders were added to the "Home-Utility" line.

The Black & Decker work force had been putting in six and seven days a week during the war, and, Al Decker says, "They were just plain tired. So I said, 'We all want to go back to the five-day week, but none of us wants to go back to five day's pay. I'll bet we can do as much in five days as we did in six.'

"I discussed it with all the supervisory people right down the line. We went to a five-day week with six day's pay and didn't lose one iota of production. That was a seat-of-the-pants productivity program, but it worked.

"Productivity goals became a regular thing after that. I said to the people in manufacturing, 'If we want to continue getting wage increases—and we sure as hell do—then we want to have a way of paying for it.'

"We announced a 4% general wage increase and then budgeted each manufacturing operation for a 4% reduction in costs. It was the foremen and the operators, however, who came up with the specific ways of increasing efficiency to meet that budget.

"All improvements were measured against the time and cost standards established at the beginning of the year. So each department was able to demonstrate its rising efficiency throughout the year. At year-end, all the standards were updated, and we returned to zero.

"From that philosophical beginning in 1946, we have continued stressing productivity. However, now we have to meet inflation costs of 8% or 10% a year, and the dollar savings are measured in millions rather than in hundreds of thousands."

Today, Al Decker's goal, stated simply but specifically, is "to keep increasing productivity so that sales and earnings continue growing at 15% a year." This goal is being achieved year after year largely because of Al Decker's influences on the company. A major influence is his relaxed style of participative management that "turns on" his people at all levels within the company.

As dedicated and determined as Al Decker is, he is also a considerate, gentle man, and he understands the strengths and limitations of human nature. He senses that, above all, people need to work and that they work best in an atmosphere of respect and honesty. He also believes that people want to fulfill their responsibilities.

Alonzo G. Decker, Al's father and mentor, was president from 1951 (when cofounder S. D. Black died) until his death in 1956. At that time Bob Black became president and chairman of the board, and Al Decker moved toward the top management spot in regular intervals: executive vice president (1956), president (1960), president and chief executive officer (1964), and president, chief executive, and chairman (1968) when Bob Black retired.

This October, as a first step toward retirement some years from now, Decker (65 next month) and the other directors passed the presidency on to Frank P. Lucier, 45, the first president not named Black or Decker.

Lucier, who had been vice president and general manager of U.S. Operations for the past five years, says, "Al has tremendous skill with people. He realizes that, as the company keeps growing, he has to keep his people playing together, and he manages his team of superstars very well.

"We are all very different types of people here, and Al appreciates the viewpoints of others. But he also has very high expectations of others—as he has of himself. And, although his wishes are very strongly felt, he holds the reins very loosely."

Regarding his working relationship with Al Decker, Lucier says, "We've based our personal group rules on always leveling with each other. We say it as tactfully as possible, but we say it. We don't hide things, we keep things open. And that's the way this company operates right down the line."

"High expectations" and "loose reins" are what participative management is all about—managing by objectives rather than by directives. To these add honesty and openness, and you start to get some idea of how it's practiced at Black & Decker.

Realizing that memos from his office are likely to be interpreted as law at lower levels of management, Decker prefers to develop his goals in conversation. He says, "I sit and listen, and then I ask a few questions and make a few suggestions. I believe in giving people responsibilities—and the authority to carry them out. I let a fellow run his own show. I've been there, and I want to give him the satisfaction I've had through the years with this company."

Because management by objectives, like growth through productivity, is "a way of life" at Black & Decker, it gets a little more structured as the top-level goals filter down through the company.

Robert L. Swam, vice president of manufacturing for the Power Tool Group, says, "Many people from other companies come to us and inquire about our productivity programs. We explain the details—standard costs, variable budgets, time-motion studies—but it usually ends up as a discussion of our philosophy of management and how it works.

"A very important element is our 'overall performance worksheet,' the communication tool that assures a continuing dialog between supervisors and their subordinates and between one department and another."

In use at Black & Decker since 1967, the worksheet is a four-page form with a detailed set of instructions. Its objectives are also spelled out: to help the individual improve his knowledge and skills, to promote communication between the individual and his supervisor, to convert company goals into job targets for the individual, and to help appraise the individual's performance.

Briefly, here's how the performance worksheet program works; Near the beginning of the fiscal year, each manager meets with his people to discuss group targets for the coming year and how they should be divided up. Each individual reviews the group's targets and jots down a few words about his personal goals and his job targets and responsibilities and about those of each person that reports to him.

Then each individual meets one-to-one with his supervisor and each of his subordinates to agree on the next year's projects, including specific improvements sought, priorities, completion dates, and how to *measure* improvements. Finally, duplicate working copies of the worksheet are filled in—the supervisor's copy becomes part of company files at the end of the year.

Progress is measured and reviewed, usually quarterly, and at the end of the fourth quarter, all managers evaluate each subordinate's job performance and make recommendations for his future.

It all sounds very complicated and time-consuming, and the B&D managers agree that it is. But the disinterested discipline imposed by this "cascade" of worksheets helps people come up with results, not just claims. And while Black & Decker is documenting the successes of its productivity and profit improvement programs, each manager is telling the company about his own aspirators, and his boss is giving him feedback about his performance.

Bob Swam, who's responsible for the overall operations of Black & Decker's plants in Hampstead, Md., Fayetteville, N.C., and Tarboro, N.C., stresses, "It's not just the mechanics of it. It's the total environment, the whole philosophy of what we're about. To be able to offer quality tools and sell them in volume, we always have to seek cost leadership. And to do that we have to have a climate where people can feel free to come up with better ideas, new ways to do things. Out of that we get projects that save a few cents here, a few minutes there."

James F. Barcus, Jr., plant manager at Hampstead, is an example—as are Swam and many others—of another facet of Al Decker's management philosophy. At Black & Decker, it's believed that managers can best broaden their skills by experiencing a variety of working situations, often across traditional lines.

Jim Barcus was a systems man just 2½ years ago. As division manager of B&D's Management Information Services, Barcus helped design for the Hampstead plant a computerized shopfloor reporting system called SCOPE (Scheduling and Control of Orders for Production Economy) (AM—Jun. 29 '70, p68). This is a data-collection and communication system designed to provide B&D's manufacturing management with the current information it needs for optimum scheduling, dispatching, coordination, and control of work as it flows through the plant.

Barcus then spent two years as general manager of the company's DeWalt Div. in Lancaster, Pa., where he used many of the systems he helped design. Now at Hampstead, he says, "SCOPE was a critical productivity program here because you have to have the day-to-day flow of material under control before any of the sophisticated process controls like NC can pay off."

Hampstead, which has been expanded from its original, 1951 size of 110,000 sq. ft. to one million sq. ft., is basically a huge job-lot shop where most of Black & Decker's extensive line of industrial and professional tools is made plus do-it-yourself circular saws.

SCOPE SHARPENS OPERATIONS

Barcus says, "Here's what SCOPE—and the people using it—have accomplished since the system was fully implemented in Sep., 1970: The lateness of manufacturing orders has been reduced from 1.8 weeks to 0.64. Leadtimes are now 1.22 weeks shorter than they were. Plant output has increased by 19%, but the number of people supporting the shop-floor reporting system has decreased by 17%.

"Most important, the turnover of inventory has improved by 31%. Quicker inventory turns mean that a lot less money is tied up in raw materials."

The system is working so well, Swam and Barcus agree, because the manufacturing people involved in its planning also did a good job of preparing their workers for it. Besides a lot of advance communication about its benefits, the system was implemented one department at a time and turned on only when the shop people gave their OK.

In line with other people-oriented experiments at Hampstead (such as the abandonment of timeclocks 1½ years ago), the labor-efficiency-reporting capability of SCOPE has never been implemented. "Worker efficiency should remain the job of first-line supervision," Swam says. "The payback isn't whether an employee is working at 92% or 96% efficiency, but that he's working on the part most needed to get finished products out to meet the demand."

Many productivity programs at Hampstead are examples of "vertical integration," put into effect when quantities and expertise reach a level where it's cheaper to make a part than buy it.

Barcus says, "We have started making four or five high-quantity gears using our own powder-metallurgy process, which includes two PM compacting presses feeding a continuous, conveyorized sintering furnace."

Hampstead also makes three-fourths of its plastic moldings in a variety of resins—glass-reinforced thermosets as well as thermoplastic polycarbonate, nylon, polypropylene, and ABS.

The mold shop machines about 40% of the molds for the plastic parts, and the toolroom makes 60% of all dies, jigs, and fixtures used throughout the plant.

Most of Black & Decker's accessory products such as saw blades are manufactured at Hampstead, and they are processed on an automated salt-bath heat-treating line and a bank of automated saw-blade sharpeners. Other cost-saving processes include semi-automated assembly lines, automated packaging, and automated winding of motor fields and armatures.

The automated assembly of motors, however, reaches its most advanced state at the Fayetteville plant. George E. Maffey, manager of the five-year-old facility, says, "To a large extent, we are a motor-manufacturing outfit here. We make literally millions of motors, many of them for our low-cost drills and jig-saws made here and in Tarboro.

"Field and armature winding have gone through a step-by-step evolution until today they are the most automated of our processes. We have a person at one end checking supplies of laminations, shafts, insulating materials, magnet wire, and so on.

"At the other end another worker is stacking the completed armatures or fields, and, of course, we have a few people along the line keeping an eye on the conveyor-connected machines."

For the company's lower-quantity motors, there are still long lines of people winding coils on semiautomatic equipment, and the contrast in manpower requirements is very striking.

NEW LINE, A CHALLENGE

The automatically produced fields and armatures are being installed in Black & Decker's new, redesigned Home Products tools being introduced early next year. George Maffey says, "This line has been a major part of our engineering effort for the last 2½ years, and it's a good example of how this company turns a problem into a successful productivity program.

"Our studies indicated that adding a double layer of insulation between all electrical components and the user would add 10% to our manufacturing costs. The goal that came down to us was to add this safety feature at no increase in cost to the consumer.

"So we took this opportunity to completely redesign the line for maximum part and process standardization. By increasing the quantities on families of parts—and by many other methods—we have been able, we think, to override the extra manufacturing and materials content so that we can keep prices at their old levels."

As part of the redesign, the engineers removed a taper from the motor shafts, which are being run through a new centerless grinder in one-fourth the former grinding time. Another new machine cuts gear teeth on one end of each shaft with carbide hobs at a much faster rate than the old machine could with high-speed-steel hobs.

The company is now manufacturing about 20% of the chucks used on its low-cost drills and expects to be making all of them within the next year.

Maffey adds, "We've also effectively increased our usable manufacturing space simply by rearranging our shop for a better flow of materials with the view toward automating our materials handling sometime in the future."

Automated materials handling is the most eye-catching feature at the Tarboro plant, which celebrates its second anniversary next month. Here the accent is heavily on assembly with six lines currently in operation—four for various jigsaw models and two for hedge trimmers.

Thomas T. Beeson, plant manager at Tarboro, says, "Speed and movement of materials is the name of our game. Parts that arrived at the back door yesterday are going out as finished products today. Sometimes, speeding up the turnover of inventory can save more money than reducing direct-labor content."

Tarboro, also deeply committed to the redesigned Home Products line, machines the diecast intermediate plates and bearings for the new jigsaws and assembles all cord sets used there and in Fayetteville. And a dozen-plus injection molding machines produce the high-precision polycarbonate motor housings and other plastic components.

"We push the threshold of technology here," Tom Beeson says. "We haven't done anything the same way twice. For example, we have the first nonsynchronous assembly conveyors in the company's history, designed and built by our own people to do our thing."

Many of the home products are assembled at Tarboro and other B&D plants on synchronous lines with engineered assembly jigs that move at a slow, steady pace. The advantage of Tarboro's newer, power-and-free lines is that the pallet moves to the worker and stops while he performs his operation. Then an automatic timer releases the fixture to the next station.

These power-and-free assembly conveyors are also readily adapted to automation equipment such as automatic screwdrivers and grease applicators. "It's those operations that are repetitive and monotonous, the most demeaning to people, that are the easiest to automate," Beeson says. "And our people are happy, active participants in these projects because they know their job won't be eliminated, it'll be upgraded."

Black & Decker's plants in North Carolina and Maryland illustrate the company's "rural" philosophy, which actually began in 1916 when the founders moved the firm from Baltimore to the farm community of Towson.

Al Decker says, "We try to locate all of our plants in the country because we've found that farmers and the children of farmers are responsive and responsible people. Most of them are mechanically inclined, but, more important, they have a lot of integrity and a lot of independence. You can't push them; you have to lead them."

Al Decker has his own bit of country, a 400-acre farm on Maryland's Eastern Shore where he raises and releases thousands of ducks each year, partly to restock the countryside for the avid duck hunters on the B&D staff.

He has been spending more weekends on the farm since he sold his 83-ft boat six years ago. "That was *my* do-it-yourself project for twenty years. My wife and I and friends from the company completely refitted the interior of a war-surplus patrol boat. And with a crew of one or two I explored much of the coastline of the Chesapeake Bay and its tributaries."

In a very real sense, however, Black & Decker has been and is Al Decker's life. "I was fortunate in that I never had to wonder what my life was going to be. I didn't think to myself, I'm going to be president of Black & Decker, but I never thought of being anything anywhere else. I've devoted many years to it and traveled all over the world for it, but I've never regretted anything I've done for this company."

TRIBUTE TO HARRY S TRUMAN

Mr. WILLIAMS. Mr. President, when the Nation lost Harry S Truman, we lost a giant. The United States and the world will surely miss the Statesman from Missouri and will long remember his success and accomplishments.

I have had the honor of knowing and admiring Harry Truman throughout the years and will always treasure the personal moments of our acquaintance.

Harry Truman was not only a man capable of effectively dealing with the enormous responsibilities of the Presidency, he was a man of great strength and courage and mastered every task before him with undiminished understanding and knowledge. His zest for life and his compassion for people continually prevailed in his handling of many difficult national and world affairs.

His work as President was eloquently described by The Very Reverend Francis Sayre, Dean of Washington Cathedral, when he stated at the Memorial Services for President Truman on January 5:

Sometimes it must seem to every President as if the path ahead is blocked by an impenetrable wall, a river impassable, the mendaciousness of man in all his affairs makes prisoner of that leader who must see beyond; who may not allow the world to quench the spark of truth God has given to his keeping.

Harry Truman faced his decisions with truth and courage. As Dean Sayre also reflected in his eulogy:

Many of us remember still the dark days that Harry Truman faced, the loneliness of his responsibility and the generous impulse he ever brought to it.

We are reminded of this vast loneliness as we remember that during his Presidency, Harry Truman was faced with a decision unequaled to that of any other world leader. Choosing to prevent the loss of thousands of American soldiers who would have been killed in the attack on Japan in 1945, President Truman, alone, ordered the dropping of the bomb that has since shaped the world.

President Truman, however, should not only be remembered for this one grave but vital act. We should appropriately reflect on his concern for all citizens of this Nation and the world. The Marshall plan executed under his administration helped to provide for war-torn Europe the salvation of lives and homes. And lost amidst the historical notations on his decisions and judgments in foreign affairs, are the works and achievements of Harry Truman in domestic matters. His undaunted endeavors in major civil rights and social welfare reform were remarkably effective, and serve to further demonstrate his understanding of the misfortunate and his compassion for the poor.

Again, in the words of Dean Sayre:

In the eyes of his countrymen, Harry Truman was found to be such a man. Earthy plain, there were no wrinkles in his honesty; when the time came, he stepped to the anvil humble but not afraid, relying always in his independent way upon the goodness of the Lord, in whose hand is the hammer of our fate.

In addition to the courage, vitality, and self-confidence commonly noted in the character of Mr. Truman, this man possessed immeasurable wit and charm. His warmth and humor is evident in a personal notation he made at the bottom of a cordial note to me following my election to the Senate in 1958. He reflected on a story he remembered from when he first entered the Senate, by writing:

When I went to the Senate January 3, 1935, Ham Lewis was whip. He came and sat by me a day or two after I was sworn in and said to me, "Harry, don't you get an inferiority complex. You'll sit here about six months and wonder how you arrived and after that you'll wonder how the hell the rest of us got here."

Mr. President, to a great extent, Mr. Truman was what America is all about—a humble man rising to the highest office in this land. He was a man who at first glance appeared to be ordinary, but in the final analysis turned out to be a most extraordinary man and a great President. In remarks written to his daughter, Margaret, he partially summed up himself when he wrote:

Your Dad will never be reckoned among the great but you can be sure he did his level best and gave all he had to his country.

However, Harry S Truman not only "did his level best and gave all he had to his country," but he achieved a greatness that will long be admired and respected by people throughout the world. He will be missed.

STUDY BY HARVARD MEDICAL SCHOOL AND BOSTON CITY HOSPITAL

Mr. COOK. Mr. President, it appears that the 93d Congress will witness a resumption of attempts to employ the unfounded allegations of the dangers in cigarette smoking in a continuing attack on the tobacco industry. Although I have never hesitated to defend against this constant barrage of misstatements, and attempts to impose guilt by association, I am becoming weary of defending against contentions which have no statistical basis or factual foundation.

Others, however, are attempting to fill this void by subsidizing extensive re-

search into all environmental influences on the pulmonary and cardiovascular systems. In doing so they are putting their very corporate lives on the line. I refer to the recent announcement by the Harvard Medical School that seven major tobacco companies and a large association of tobacco growers have made an original grant of $2,800,000 to finance a study to be conducted by the Harvard medical unit and the Channing Laboratory of Boston City Hospital. Dr. Franklin H. Epstein, a member of the team which will conduct the study, explained that:

Although cigarette smoking may, and is thought by many to be, a major cause of lung cancer, emphysema, and chronic bronchitis, many other factors may be equally or more important in the pathogenesis of these diseases.

The supposition that there are many varying factors contributing to heart and lung disease is to be the basis for this major research effort. The research is properly aimed at identifying all causal factors rather than at proving that any one factor is the primary cause. Although this Senator does not proclaim to have any medical expertise, he is certainly aware of the great potential value in this undertaking. I would like to commend the tobacco industry for its contribution to the impending study and hope that its conclusions will be of major assistance in analyzing the causes of serious pulmonary and cardiovascular diseases.

I ask unanimous consent that the news release from Harvard University announcing this study be printed in the RECORD.

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

NEWS RELEASE ISSUED BY HARVARD UNIVERSITY

A five year investigation into pulmonary and cardiovascular diseases has been launched by the Harvard Medical School with a grant from the following tobacco companies: American Brands, Inc., Brown and Williamson Tobacco Corp., Larus and Brothers, Inc., Liggett and Meyers, Inc., Lorillard Inc., a division of Loew's Theatres, Inc., Philip Morris, Inc., R. J. Reynolds Industries, Inc., the United States Tobacco Company, and the Tobacco Associates, an association of tobacco growers.

The study will be conducted in the Harvard Medical Unit and the Channing Laboratory of the Boston City Hospital with Gary L. Huber, M.D., Assistant Professor of Medicine, as the principal investigator. Franklin H. Epstein, M.D., Professor of Medicine, is head of the Medical Unit and Edward H. Kass, M.D., Professor of Medicine, is director of the Channing Laboratory. Drs. Epstein and Kass, with Ramzi S. Cotran, M.D., the Frank Burr Mallory Professor of Pathology and Head of the Department of Pathology at the Hospital, will serve as project consultants.

Some 23 other investigators are now working with Dr. Huber. "At this time, we already have an extensive research program concerned with the effects of environmental influences on the lung," Dr. Huber said. "Among a variety of other environmental influences to be studied, attention will now also be given to any specific effects cigarette smoke may have in the development of such pulmonary diseases as emphysema, chronic bronchitis, and lung cancer, and in the development of heart and vascular diseases. While it is common knowledge that cigarette smoking has been alleged to be a major cause of these diseases, many other factors, not so well publicized, may be important. These include exposure to air pollutants, the genetic differences in host susceptibility, and so on.

A direct casual relationship for any of these or other environmental factors has not been clearly demonstrated. Our proposal will provide a research program relative to tobacco and health, one of whose goals is to provide contributions of significant data to help resolve some of the questions that now exist concerning the effects of cigarette smoking. In addition, studies on differences in host susceptibility and the effect of other environmental influences on the lung will be undertaken.

Dr. Epstein noted that "though cigarette smoking may, and is thought by many to be, a major cause of lung cancer, emphysema, and chronic bronchitis, many other factors may be equally or more important in the pathogenesis of these diseases."

"There are nearly six hundred billion cigarettes sold in this country per year," said Dr. Huber. "That represents over four thousand cigarettes per year for every adult member of our population. No one knows how many people in this country smoke. Estimates on the percentage of adults who smoke run from forty to sixty per cent. With that many people smoking," he emphasized, "it is of the utmost importance that any question relative to tobacco and health be clarified beyond any question of doubt. This controversy must be resolved."

Speaking on behalf of the donors, Mr. Alexander H. Galloway, chairman of the Executive Committee for the tobacco companies, said that Harvard is the logical institution in which to continue what he called "the insistence of the tobacco industry to help find answers to many questions about smoking and health."

"The Channing Laboratory at the Boston City Hospital," said Dr. Kass, "has a long and outstanding history of interest in the influence of environmental factors and therapeutic agents on the defense mechanisms of the hosts. It is well equipped for a multi-disciplined and comprehensive approach to this complex problem."

The resources of the Harvard Medical Unit at the Boston City Hospital, the Mallory Institute of Pathology and the Thorndike Memorial Laboratory also will be available to the project investigators, as will the scientific knowhow of neighboring institutions. Since his medical school days, Dr. Huber has been interested in pulmonary diseases. After undergraduate training at Washington State University, Dr. Huber received his M.D. degree in 1966 and the M.S. degree in electron microscopy in 1970 from the University of Washington School of Medicine in Seattle. Presently, he is Chief of the Division of Respiratory Diseases, Thorndike Memorial Laboratory and Harvard Medical Unit, and Director of the Respiratory Diseases Clinic, Department of Health and Hospitals at the Boston City Hospital. Dr. Huber is a member of the Pulmonary Diseases Advisory Committee of the National Heart and Lung Institute and a member of the Cardiopulmonary Council of the American Heart Association. He is also a member of the Board of Trustees of the Tuberculosis and Respiratory Disease Association in Boston. Dr. Huber served his internship and residency in medicine on the Harvard Medical Services at the Boston City Hospital. In the two year period of 1968 to 1970, Dr. Huber was a research fellow in the Department of Physiology, Harvard School of Public Health, and a research associate in the Department of Health, Education and Welfare's National Air Pollution Control Administration in Cincinnati, Ohio and Durham, North Carolina. During these years he investigated the role of certain environmental pollutants on pulmonary structure and function and the capacity of the lung to clear a bacterial challenge.

Dr. Huber is a native of Spokane, Washington, where he was born on January 30, 1939. Among his professional memberships he lists the American Federation for Clinical Research, the American Society for Microbiology, the American Thoracic Society, the American Physiologic Society, the American College of Physicians, the American College of Chest Physicians and several other organizations.

The Huber home is now in Milton, Massachusetts.

RULES OF COMMITTEE ON COMMERCE

Mr. COTTON. Mr. President, the following committee rules were adopted by the Committee on Commerce at its executive organizational session on January 15, 1973. As required by Public Law 91-510—The Legislative Reorganization Act of 1970—these rules must be printed in the CONGRESSIONAL RECORD. I ask unanimous consent that they be so printed.

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

COMMITTEE RULES

I—MEETING OF THE COMMITTEE

Regular meeting days are the first and third Tuesdays of each month.

II—QUORUMS

1. Ten members shall constitute a quorum for official action of the Committee when reporting a bill or nomination; provided, that proxies shall not be counted in making a quorum.

2. For the purpose of taking sworn testimony a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III—PROXIES

When a record vote is taken in Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone or through personal instructions.

IV—BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any Subcommittee thereof, shall be televised or broadcast only when authorized by the chairman and the ranking minority member of the full committee.

V—SUBCOMMITTEES

Subcommittees shall be considered *de novo* whenever there is a change in the chairmanship and seniority on the particular Subcommittee shall not necessarily apply.

EXPANSION OF MAST PROGRAMS

Mr. TOWER. Mr. President, I am pleased to join with the Senator from South Carolina (Mr. HOLLINGS) in pursuit of a matter I initiated in the last Congress. I urge Senators to act expeditiously in authorizing the Department of Defense to continue present MAST programs as well as authorizing the Department of Defense to expand the MAST program consistent with military objectives and priorities.

One of the first MAST programs in the Nation was initiated at Fort Sam Houston, serving the area surrounding San Antonio. The program has significantly upgraded the emergency medical capability to serve the rural areas. The use of military personnel and resources, under the program, has dramatically reduced the length of time between injury and hospitalization by airlifting victims

directly from accident scenes to large hospitals where specialized personnel and treatment facilities are readily available.

I feel that there are several points which need to be made. First, the MAST program would only be conducted or expanded to the extent that it did not impair the military mission of the medical or helicopter units. Studies have shown that MAST should be consistent with the availability of personnel and resources. Hence, MAST programs would only be available to communities where aeromedical evacuation or search and rescue units are deployed presently.

Rather than impair the military mission, the five MAST programs presently operating have complemented, supplemented and enhanced military objectives. The programs have provided excellent training opportunities—the life and death purpose of the missions has provided the incentive necessary to attain a high level of proficency and to maintain a continuous state of readiness for military requirements. Further, because the MAST program is operational, it is an excellent practical evaluation of our medical evacuation capabilities, as well as being a valuable method of refining even further our emergency medical techniques.

Second, this legislation does not preempt the responsibility of other agencies to provide programs for emergency medical services. This responsibility for civilian aeromedical evacuation should remain in the Department of Transportation and Department of Health, Education, and Welfare, to include programing and funding for the programs. Department of Defense participation is intended solely as an interim supplement to the services provided by the other agencies. This legislation simply represents an attempt to fully utilize our Nation's resources to meet the health needs of the people.

Third, this legislation is being requested by the Department of Defense. The findings of several indepth studies have demonstrated the value of the program to the armed services as well as the civilian communities. This legislation is essential, for without authorization, the Department of Defense will be unable to expand the MAST program. Presently, the National Highway Safety Administration of the Department of Transportation lists the following military installations which are capable of providing a MAST program and in which the civilian community has submitted an acceptable proposal: Fort Bragg, N.C.; Fort Jackson, S.C.; Fort Stewart, Ga.; Fort Riley, Kans.; Fort Sill, Okla.; Fort Bliss, Tex.; Fort Hood, Tex.; McDill Air Force Base, Fla.; and Nellis Air Force Base, Nev. This legislation is necessary to activate these acceptable programs.

A final comment is that this legislation does not provide for any authorization of funds, for the past programs have demonstrated that the cost is covered by normal expenditures for training. If additional expenditures are required, the legislation provides the Department of Defense with the authority to enter into agreements with other agencies, such as the civilian community or the Department of Health, Education, and Welfare for reimbursement. This legislation does not contemplate new personnel or equipment, but merely, the utilization of existing available resources.

I wholeheartedly endorse the MAST program and urge the passage of this measure to permit and encourage the growth of this successful defense-civilian cooperative effort to save lives.

GOVERNMENT IN THE SUNSHINE

Mr. MUSKIE. Mr. President, I am pleased that the able junior Senator from Florida has reintroduced his Government in the Sunshine bill. This bill reminds the Congress of its responsibility to open its committee procedures to public view and links that requirement of legislating in candor to the effort to abate improper and secretive influence on the regulatory process. I wholeheartedly endorse the principle that Congress cannot require full disclosure of executive activities without, simultaneously, inviting the broadest public examination of its own behavior.

At both ends of Pennsylvania Avenue, the premium Government puts on efficiency has been made an excuse for limiting access to and information about the process by which decisions are made. We have seen this penchant for secrecy operate tragically in decisions about the conduct of the war in Indochina, improperly in the ITT antitrust case, and, almost compulsively, in the automatic decision of most congressional committees to exclude the public from those crucial sessions where legislation is marked up. Neither the Congress nor the administration can go on automatically assuming that the people in whose name we govern should be deprived of the chance to judge our performance intelligently.

Only good and open administration and constant public scrutiny can make Government responsive to all its constituents, instead of just the privileged and expert few. As we are men ruled by human laws, we are certain to make errors in attempting to build a stronger and fairer society. What we may lose in efficiency, however, we will cretainly gain through a more responsive democratic process. Opening up our conduct of office means closing out a future of alienation and discord.

In this complicated area I am convinced of the need for the most precise legislative language in order to assure that maximum disclosure imposes minimum hardship on the efficient working of Government. For instance, we must take care that open Government legislation does not inadvertently promote the further abuse of a system of classified information contrived without congressional control. And we must be certain to have language that regulates but does not stifle private communications between Government and its constituents.

I applaud Senator CHILES' initiative in reintroducing his important bill, and I look forward to working with him to develop this legislation into final form.

THE SOVIET UNION'S EXIT FEE

Mr. PACKWOOD. Mr. President, recently Dave Brody, director of the Washington Office of the Anti-Defamation League of B'nai B'rith, wrote a letter to the editor of the Washington Evening Star which was published on December 26.

Mr. Brody comments on the unconscionable exit fee—allegedly levied to support education—which has been assessed on Jews seeking to leave the Soviet Union for Israel. His letter demonstrates beyond any doubt that the purpose of this tax is to prevent the emigration of Soviet Jews to Israel rather than to support Soviet education.

This is a dramatic human issue involving the fundamental human rights of thousands of Soviet Jews. Accordingly, I ask unanimous consent that the letter be printed in the RECORD.

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

ALREADY PAID FOR EDUCATION

SIR: On a recent visit to Radio Liberty headquarters in Munich I picked up some information there which bears on a recent AP dispatch carried by The Star-News reporting that the Soviets have resumed general application of the education tax imposed on Jews leaving for Israel.

This unconscionable exit fee, which is nothing less than a form of ransom, is defended by the Soviets on the ground that a person who has received an education at the expense of the state should be required to pay back that cost before being allowed to emigrate. The many flaws in this explanation have already been exposed in the press and elsewhere; but one fact which has not been brought out is that education in the Soviet Union has not always been free.

From Sept. 1, 1940, to June 6, 1956, students attending the three upper grades of secondary schools and institutions of higher education were required to pay for their education. In Moscow and Leningrad, for example, the cost of a secondary education was 200 rubles per year and that of a college education 400, a substantial portion of a Soviet family's annual income. For those attending art, theatrical and musical institutions of higher education, the tuition was even higher—500 rubles per year.

Clearly, with respect to those who received their education during that period, the Soviet justification for the tax is without foundation. In addition, anyone who finished his education during these years, even if it had been free, would by this time have more than paid the cost of that education by his contributions to the Soviet economy and Soviet society.

PRESCOTT BUSH

Mr. WEICKER. Mr. President, at the request of the distinguished Senator from Arizona (Mr. GOLDWATER), I ask unanimous consent to have printed in the RECORD a statement by him relative to the death of former Senator Prescott Bush, of Connecticut.

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

STATEMENT BY SENATOR GOLDWATER

Rarely in life does a man have the opportunity of meeting a man like Prescott Bush, and even more rare is the occasion to serve with him in any group. Senator Bush and

I were members of the same class and we worked together throughout the years he was in the Senate and worked together in the causes of America across this country. He was a gentleman in every sense of the word, a highly educated, articulate man with a warm compassion for his fellows. He is going to be missed not just by his family and by those close to him in his state of Connecticut, but missed by thousands of people across this country who might never have known him but who lived a better life because of what he has contributed to America.

THE OIL CRISIS

Mr. MUSKIE. Mr. President, the fuel oil situation in New England is growing worse, and the administration still has made no response. If Maine and New England are to be spared the crisis which has affected the Midwest, the President must act immediately to increase needed supplies of home-heating oil.

Last week, the U.S. Office of Emergency Preparedness in Boston was told flatly by oil dealers that unless immediate action was taken there would be a full-blown crisis in February. The response from OEP spokesmen in Washington was, "We feel that up in the New England area they're getting along fairly well."

New Englanders are fed up with this kind of answer. There is no reason for further delay. There are no more excuses for inaction. As each day goes by, evidence mounts that the oil crisis we predicted has arrived.

The fact of the matter is that President Nixon has the power to end this crisis if he wants to. He need not wait for congressional authorization. He does not need to spend a single penny of the taxpayers' money. In a single stroke he can abolish the import restrictions which have created this crisis, and allow oil distributors to seek supplies from every available source. Are the pocketbooks of a few rich oilmen more important than the comfort, safety, and peace of mind of hundreds of thousands of American families?

The President can—indeed, he must—act at once. In the past few days, my office has received dozens of phone calls from Maine indicating that the major distributors are rationing oil to their wholesale customers, that supplies are limited, and that some dealers have been cut off completely until February 1.

Until now, retail customers have not been affected. But do we have to wait for the first home or the first hospital to run out of oil? For years, New Englanders have had to come to the President, hat in hand, to ask, "Please, Mr. Nixon, let us heat our homes, let us keep our children warm, let us keep our schools and factories open."

For years, we have sought a sensible oil policy, but the President has either ignored our pleas or responded with halfway measures.

The message does not seem to be getting through.

We are not asking any longer. We demand that the President end this system which is discriminatory and irresponsible.

THE BOMBING HALT

Mr. JAVITS. Mr. President, the new halt of bombing and shelling of North Vietnam is a clear indication that we are now on what hopefully will be an irreversible road to a cease-fire and peace. As this is a development to be devoutly sought, all our efforts should be directed toward seeing that nothing is done to derail all humanity's desire for peace.

The confrontation between Congress and the President, which will surely ensue if a cease-fire and peace are not consummated very shortly, is something which the American people should certainly hope to avoid. If it is inevitable, then it must be faced. But, let us hope that the latest developments mean two things:

First. That the President is at long last determined to conclude a cease-fire agreement whether or not President Thieu chooses to sign; and

Second. That President Nixon's determinations are based solely upon American interests which dictate that now is the time to enter into a cease-fire in Indochina.

RURAL SOUTH DAKOTA SPEAKS OUT

Mr. McGOVERN. Mr. President, more than 2,000 South Dakotans—farmers, farm wives, farm organization leaders, small businessmen, public officials, people from every walk of life—jammed into every available space in the Huron High auditorium in Huron, S. Dak., last Saturday to meet with their congressional delegation.

They came to voice their despair and dissatisfaction at what they clearly regarded as a breech of public trust by the Nixon administration.

This was not a partisan meeting. This was an assembly of Democrats and Republicans and the unaffiliated, united in their outrage over the actions of the Nixon administration during the past 30 days. They are hurting because of the cutbacks and terminations made by the President of rural assistance programs mandated by the Congress; and they are protesting the arbitrary, unilateral impoundments of funds appropriated by the Congress.

One by one, these people and their spokesmen cited the litany of time-honored Federal programs which have been cast aside, like so many crumpled sheets from a note pad, by the callous budgetcutters of the Nixon administration.

My fellow South Dakotans told their elected representatives what would happen if the administration is allowed to make its cutbacks stand, and they demanded that we take bold action to insure that the will of Congress is not thwarted.

They told us how rural electrification would suffer, in one of the most sparsely settled States in the Nation, if the administration carries through with its plan to raise the interest rate on REA loans from 2 percent to 5 percent. They told us of the impossibility of improving telephone service to rural subscribers if this 150-percent increase in capital costs is visited upon their telephone cooperatives.

The able and articulate young mayor of Rapid City, Donald Barnett, who led his city in rebuilding from the disaster of last June's flood, told how the Nixon administration has given Rapid City another disaster in the termination, effective today, of the Federal disaster assistance program.

The mood of my constituents toward these actions of the administration was amply demonstrated by its thunderous response to the proposal made by my colleague, the junior Senator from South Dakota (Mr. ABOUREZK) that Congress terminate funds for salaries for the White House and the Office of Management and Budget until the President restores those programs passed by Congress.

Their mood was further demonstrated by their positive response to the suggestion of our distinguished Member of Congress from South Dakota's First District, Mr. DENHOLM, that Congress enact legislation which would direct the President to carry out these various programs.

And their mood was expressed by their strong approval of our distinguished Second District Congressman, Mr. ABDNOR, when he alleged that the people in OMB could not tell the front end of a tractor from the back end.

Mr. President, the mood of the people in South Dakota is to no longer tolerate empty rhetoric from the Congress. The message sent from Huron, S. Dak., on Saturday last was unequivocal: The Congress must act decisively and immediately to restore these arbitrary cuts, and must not tolerate the arrogation of congressional power by the President.

Their own words are more eloquent than mine. I ask unanimous consent that their own statements be printed in the RECORD.

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

STATEMENT OF SENATOR GEORGE MCGOVERN (DEMOCRAT, SOUTH DAKOTA) AT THE HURON, S. DAK., FARM RALLY

An old friend of mine who farms west of Mitchell characterized this meeting much better than I can. Someone asked him what he raised and he said, "I raise a little grain and a little corn and some livestock. But mostly I just raise hell."

That is what we are here for today—to raise hell about some of the astonishing decisions made by the federal government since November seventh; decisions that promise to destroy what many of you here have spent a lifetime building. We're here to launch a fight to reverse those decisions.

What has happened since November seventh?

We are told that disaster relief loans have been ended. That means an immediate loss of from $1 to $2 million in 17 South Dakota counties which were previously designated because bad weather had prevented harvest. It shuts off without a dime another ten counties which should have been designated and another 1,400 loans worth about $6.9 million more.

I say you cannot end economic damage and human suffering by arbitrarily saying it is over.

We are told that the Rural Environmental Assistance Program—the old ACP program now known as REAP—is terminated. That will cost South Dakota farmers more than $2.8 million, and it represents the loss of about $5 million a year in cost-sharing contracts going back as far as 1936. But there is a loss that is still more serious—the loss we can project right now of precious resources of land and water.

The order eliminating this program said it is "no longer necessary." Well, I'd like to know where this Administration gets its information that the environmental crisis is a myth.

We are told that the Water Bank Program will be ended. South Dakota contains the focus for at least three national geese and duck flight paths, and fourteen of the 62 counties participating in this program nationwide are in our state.

At a time when the country has truly begun to recognize our great stake in protecting wildlife and preserving endangered species, we can only be appalled at this decision.

We are told that the two percent rural electric loan program is ended. That program is the only reason why more than 90,000 rural consumers in South Dakota have electric service at all. And since rural South Dakota consumer density is among the lowest in the country, the loss of low-cost credit will hurt our rural electric cooperatives most of all. There will be a minimum increase of 150 percent in the cost of capital to rural electric systems.

This decision threatens the survival of many distribution cooperatives, and it poses a grave threat as well to the all important objective of permitting rural electric members to generate their own power.

What will happen now to the next Basin loan? How will your expanding power needs—doubling every seven years—be met? How can we attract new industry to South Dakota and to the rest of rural America without the assurance that adequate power supplies will be available? How can the average farmer stay on the land and modernize with an inevitable and dramatic increase in the costs of electricity?

And who really cares about those questions in this Administration?

The two percent loan program has been under constant attack since 1954. Those assaults have been fought off under both Republican and Democratic Administrations. Now they are ordered with a simple stroke of the pen. I say we will not tolerate it.

We are told more recently that other programs to improve living conditions in rural areas are being chopped off. Loans and grants for farm labor housing, loans for rental and cooperative housing, interest credits for low and moderate income housing—all of these have been ended, despite our knowledge that some two-thirds of all the nation's substandard housing is in rural areas. They have even terminated water waste disposal grants under the Aiken bill. I was a sponsor of that legislation, and I cannot remember any proposal since I have been in the Congress that had wider or stronger bipartisan support. Almost every member of the Senate was a cosponsor.

But trouble is coming on the income side as well.

The Commodity Credit Corporation has been calling up vast amounts of farm-stored grain to fill commercial terminals owned by the giant grain companies. The farmer loses the storage income, and as if that weren't enough he is also left holding the bag for the cost of the bins he purchased on the strength of a promise from his government.

The nonfat dry milk import quota has been increased by 14 times, once again opening the floodgates to imports from overseas to drive domestic dairy prices down.

And as recently as Thursday of this week, the Administration announced an adjustment of the wheat set-aside program that I fear will drive prices down by market time. The net effect is to add nearly 15 million acres to production this year.

Now every one of these actions has been taken since November seventh. Not a single one of them was even hinted at before then.

During the campaign, farmers were given the impression that they had a great friend and spokesman at the helm at the Department of Agriculture. You were told your needs would be protected and your interests would be advanced. But once the election was over the same Administration that carefully constructed that image has given the back of its hand to farmers and to rural America.

Secretary Butz pointed out last week that he's taking a lot of heat for these cuts from farmers and farm state Senators and Congressmen. Let me quote him: "I've been the only pigeon on the roof," he said, "taking all the shots. I've said to the high command, 'let's get some other pigeons up here.' "

Well, if that is Secretary Butz's view, I can only say that I'm far less concerned about the pigeon up on the roof than I am about the farmers who have to stand under the pigeon. We all know the habit of pigeons.

Let me interject here that I have no partisan intent in these remarks. Most of you recall that I was just as tough on a previous Democratic Administration when an attempt was made to put farmers into the grinder. In 1966 we sharply challenged the previous Administration's moves to depress farm income under the guise of inflation control. The McGovern parity resolution, declaring that parity is a government-wide goal and that no agency should take steps to reduce subparity farm prices, was adopted by the Senate without a dissenting vote.

But it is also true that we have never seen such a broad and determined assault on the interests and the hopes of rural people.

Once again the motive is inflation control, and once again the strategy is as foolish and as futile as it can be.

The dollars they are taking out of REA, REAP, housing, waste disposal, and the water bank program will not reduce inflation now. And if that is the goal, then there are certainly other programs far more deserving of cuts. What these steps will do is multiply future costs by many times what they think they are saving now. One day we will have to reclaim the resources these funds are designed to conserve. And when we refuse to solve problems in rural areas, they do not go away; instead they are exported to the cities where the solution is both more difficult and more expensive.

Precisely the same thing is true of attempts to take inflation-control out of the farmer's hide by depressing farm prices. We've been through this before, and we know that whenever there is a slight climb in the farmer's return the retail prices jump; yet when farm prices go down again the price in the grocery store inevitably stays just as high as it was before. The "boom and bust" cycle in farm prices is a procedure by which the food processors and marketers increase the spread between the farm value and the retail price of food. And the farmer always ends up short. These actions will not help consumers—all they will do is hurt the farmer and the rural economy.

We can meet the problems of wind, rain, and drought—as we have in South Dakota since our pioneer forefathers first settled in this land. But we cannot and we should not have to fight the decisions of a bureaucracy that is apparently dedicated to the eventual destruction of the family farm.

What can we do?

There's an old saying that the "squeaky wheel gets the grease." And one thing we will do is continue "squeaking" about these short-sighted and wasteful actions. Senator Talmadge and I recently met with Secretary Butz to let him know of our strong objection to these decisions. We will have thorough hearings in the Agriculture Committee to demand any shred of justification they can offer, and I will be doing the same thing in the Subcommittee on Agricultural Credit and Rural Electrification which has jurisdiction over so many of these programs. Senator Jim Abourezk and I have joined with other farm state Senators in an informal strategy group to meet regularly and undertake collective efforts to defend rural programs and advance rural concerns.

But beyond that, we must place what the Administration has done here in the broader context of the battle to reclaim the Constitutional powers of the Congress. We must align ourselves with all efforts to end the Executive claim to unilateral power to eliminate programs, to initiate wars, to withhold funds, and to run the country without so much as a glance toward Capitol Hill.

Section 901(A) of the Agricultural Act of 1970 contains these words, written into law by the Congress and signed by the President.

That section reads, "The United States commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas."

With the decisions we protest here today, the Administration has not only dealt a crippling blow to rural America, it has defied that clear expression of Congressional intent. And they did that without coming to Congress, without making any formal statement that these were bad programs, without any public hearing, without prior notification, and certainly without the slightest consultation with the people who would be harmed.

If they can get away with that, then I fear for the survival of the Constitutional balance of power which has served our democracy since the beginning. For it is to the Congress, and not to some bureaucrat, that the Constitution grants power to create new programs when they are needed and to abolish those programs when the need is at an end.

These, then, are the issues we will address through every available channel in the months ahead.

So let us raise a little hell. Let us send these Administration bureaucrats a message that is loud and clear.

We want the laws of Congress carried out. We want the laws followed and implemented and funded. We want what is ours by every fair and decent standard that can be applied. And I assure you here in Huron today—you and every South Dakotan and all of those who share our love for the land and rural life—that message will be heard.

STATEMENT BY SENATOR JAMES ABOUREZK, HURON, S. DAK., SATURDAY, JANUARY 13, 1973

I would like to be as brief and as blunt as I can this afternoon.

President Richard M. Nixon has taken us for a ride. Last November he took our votes. Now that he has them, he is telling us where to go.

The time is past for nice little discussions of the good things REA or REAP have done for South Dakota. Everybody knows that we need our Rural Electric System, we need our Disaster Loan Program, *and* our Environmental Assistance Program, and all the other programs the President is hacking to pieces.

The White House knew we needed those programs when it abolished them.

The only thing worth talking about here this afternoon is the fight to get back what we never should have had taken away in the first place.

President Nixon apparently feels that he can't be touched now that he has his new four year term.

He sits in the White House and arbitrarily passes down the word on who is to survive and who is not.

There is not the slightest bow of apology to rural America for the destruction of programs we have worked decades to build. There is not the slightest hint of a rational argument to defend the emasculation of our programs. All there is is raw power.

I would like to suggest to you today that all the power in our government is not vested in the White House.

I would like to suggest to you, and to the President, that if he thinks we in South Dakota don't need REA or REAP then I, as a South Dakota Senator, don't think he needs the 500 staff bureaucrats he has running around the White House.

It's about time the United States Congress quit cringing every time the President cracks his whip. We are the body that the Constitution charges with the responsibility of appropriating money.

We are the body that the people look to for making law.

We made the laws that created REA and REAP.

We passed the law that said families who are wiped out by floods ought to receive the help of their government.

If we let the President take those things away then we have no right to cry over the results.

The United States Congress is furious over what President Nixon has done over the past two months. They don't like it one little bit. But they keep looking at the election returns and wondering whether the President may be reflecting the will of the people.

Now, I don't think it was the will of the people of South Dakota that our Rural Electric System should be threatened.

I don't think it was the will of the people of South Dakota that the Rural Environmental Assistance Program should be abolished.

I don't think it was our will that beef imports be opened *or* disaster loans scrapped *or* the Agriculture Department emasculated.

Our job is to tell the Congress that if Richard Nixon had dared do what he has now done before November 7th then a South Dakotan would be President today. Our job is to tell the Congress that we bitterly resent the way Richard Nixon pocketed our votes, then turned around and punched us in the gut. Our job is to tell the Congress that we will stand with them if they stand up to the President.

Next Tuesday I will be making my maiden speech before the Senate of the United States. I will be telling my colleagues just about what I have told you here today. I hope I will be able to add that it is the overwhelming sentiment of the people of South Dakota that Richard Nixon must be required to restore the programs he has stolen from us. With that help from you I think we can do the job.

Thank you.

STATEMENT OF BEN RADCLIFFE, PRESIDENT, SOUTH DAKOTA FARMERS UNION, FARMER AND RANCHER MEETING, HURON, S. DAK., JANUARY 13, 1973

My name is Ben Radcliffe. I have been a farmer all of my life, and I am president of the South Dakota Farmers Union, our state's largest farm organization.

We in the Farmers Union commend Senator George McGovern for calling this meeting today to give farmers and ranchers an opportunity to speak out about the recent federal cutbacks that have affected all of us. We also commend Senator Jim Abourezk, U.S. Representative Frank Denholm and U.S. Representative James Abdnor for showing their concern by being here today.

The farmers and ranchers from across South Dakota who are here today have come because they are deeply concerned about the future of their way of life, of the American family farm system of agriculture.

These people are here because all or part of the Administration's cutbacks affect them directly. They are the victims of broken promises from President Nixon and from Agriculture Secretary Butz.

It is almost beyond comprehension that a President and his Secretary of Agriculture could campaign for months boasting about what they are going to do for family agriculture and then do an about-face and stab every farmer and rancher in the back with vicious program sabotage.

I can summarize my remarks today in four plain words: farmers have been double-crossed.

The Rural Environmental Assistance Program—REAP—has been eliminated. It was one of the most positive and important rural programs because it recognized the need to preserve our country's farm land and to end agricultural pollution. And the death of REAP has come long before its job has been completed. We should be expanding these vital environmental programs instead of wiping them out.

The Nixon Administration has thrust its bureaucratic tongue in the faces of American farmers by killing REAP. Last September, conveniently before the election, the President said the 1973 REAP program would "strengthen conservation and diminish air and water pollution." Well, it would have if the President had not killed the program after the election.

Mr. Nixon and his Secretary of Agriculture also changed their rhetoric about the REA program. Before the election they sounded like they were the founding fathers of rural electric cooperatives. Now that the votes are in they have eliminated the important two-per-cent REA loan program thereby signing the death certificates for many electric co-ops throughout the country.

This two-man Jekyll and Hyde team have helped eliminate another one thousand South Dakota farmers in 1972. Those farm house lights went off when the farmers moved off the land. Now, thousands more lights will go off as small REA cooperatives lock their doors and go out of business.

Farmers have been told the last few years how important on-the-farm grain storage is. And they have been encouraged to take out low-interest loans to build grain bins and grain drying equipment. Now South Dakota farmers are even further in debt because of those nice shiny bins and those sky-scraping silos they have been told they ought to build.

The bins and silos and drying equipment will stay, but the Administration has all but eliminated the on-farm storage program. Instead of storing several years' grain crop the Administration is calling it all in and storing only a year's crop at a time. That doesn't make much sense, but that's exactly what has happened.

Apparently, the Nixon Administration thinks it's all right to put farmers in debt for a good program and then eliminate the program, leaving farmers holding the bag.

That's one indication that if you live in Rural America today you best not believe what the Administration says, even if it puts the words in writing.

The Farmers Home Administration's emergency loan program is another example of that kind of broken promise or double-cross if you prefer.

Farmers in 17 South Dakota counties were made eligible for an emergency loan program when the Secretary declared the counties were disaster areas. Farmers could not get their crops in because of heavy spring rains that moved planting time from April to July. On top of that, unusual weather conditions made harvest-time equally as difficult. The result was an emergency economic situation for farmers.

The Administration told hundreds of farmers through the County FmHA offices that the loan program would continue through June 30, 1973. Farmers Home personnel, swamped with stacks of loan applications, began telling farmers to wait until after January 1st to submit their papers because, after all, there was plenty of time left to apply.

In the midst of the yule season, the President eliminated the emergency loan program. There was no warning for farmers or county and state FmHA officials. The Administration arbitrarily chose December 27th as the end of the program, completely ignoring what it had promised.

Many farmers have been helped by the FmHA's special program. But others will be forced to go without, even though they were told the program would continue another six months.

I sincerely believe that farmers and ranchers are rapidly losing faith in their government. That is a serious charge, but when it gets so that the American people cannot trust what their own government puts in writing, something is definitely wrong.

As if these cutbacks are not tragic enough, the Administration has now cut the heart out of the FmHA rural housing program.

About 30 per cent of the people in South Dakota live in what the federal government calls substandard housing—buildings that either have inadequate plumbing or are overcrowded or both. In 1973, there are still homes in our state with no plumbing at all.

According to U.S. census statistics from 1970, there are nearly 40,000 substandard occupied units in the state. And 83 per cent of these substandard homes or apartments are in the rural areas of South Dakota, outside of Pennington and Minnehaha Counties.

Up until the President decided to eliminate the Farmers Home loan program aimed at bringing decent housing to the state, we were making some headway, although slowly. In the fiscal year that ended June 30, 1972, the Farmers Home Administration made $9 million in "interest credit" loans to people with low incomes. That money built about 800 news homes.

The President killed the "interest credit" loan program.

Also during the fiscal year, FmHA loaned nearly $2 million to build 160 apartments in the state. That helped, but we are still many years from catching up.

The President also killed the rental housing program that built those 160 apartments.

The rural areas of the wealthiest nation the world has ever known have 60 per cent of all the substandard housing, yet only 25 per cent of federal housing money goes to rural people.

Now the White House tells us we won't even be getting those dollars.

I think it is interesting to note that while Mr. Nixon is filling the news media with comments about how he's trying to control federal spending, he managed to find $500 million to pay for 12 days of "carpet bombing" in Vietnam. Those bombs were dropped by planes that cost $8 million apiece. The REAP program in South Dakota cost only about $4 million in 1972.

We in Farmers Union believe it is false economy to cut back vital programs that benefit people, both urban and rural. At this time in history, it would seem that we should be building homes for Americans, keeping family farmers and ranchers on the land and preserving our precious environment.

We call on the South Dakota congressional delegation to do all it can to re-assert the power of the United States Congress. We believe it is very dangerous to allow the President to have life-or-death control of

every vital program created by the Congress to serve the American people.

Our form of government is at the crossroads today facing one of the most difficult situations in its history. We must decide whether we want to be ruled by an all-powerful executive or a people-oriented Congress.

I think today all of us must resolve to do everything we can to put the power back in the hands of the people we have elected to serve us in Congress.

Not only are the rural programs we are discussing here at stake, but the future of our beloved democracy.

TESTIMONY AT AGRICULTURAL HEARINGS, HURON, S. DAK., JANUARY 13, 1973, BY JERRY BROWN

Senators McGovern and Abourezk, Congressmen Denholm and Abdnor, fellow farmers and ranchers and concerned South Dakotans.

It is an honor to appear before you to discuss the critical times facing us because of recent actions taken by the Nixon Administration. Action I consider to be very unfair to rural America. I feel somewhat uneasy right now, because it has been about three hours since I've heard a news report and I'm wondering what else President Nixon and his Wounded Steer have done to us.

One of the casualties of the recent so-called economy moves was the Rural Environmental Action Program or REAP as it is commonly called. This program has operated under various names since the 1930's. Basically its purpose was to promote conservation practices through federal cost-sharing. Some popular examples of these programs are: planting shelter belts, farm ponds and dug-outs, returning unfit cropland to pasture and hayland, contour farming, and more recently environment protection through feed lot run-off control, and the wetlands program designed to increase migratory waterfowl nesting areas. Approximately 150,000 pounds have been constructed under this program in the past 35–40 years.

Ladies and Gentlemen, these wise conservation practices have benefited all Americans, not just the farmers who used them. Compare the number of deer now living across the prairies of South Dakota with the number that lived here in the 1930's. When I was a boy we had very few ducks nesting in central South Dakota where I live. Now I have any number of young ducks that begin their lives near the ponds and dug-outs on my ranch. I haven't shot a duck in the last five years, but there are sure a lot of unfamilar cars that visit these ponds every fall and I might add free of charge. These ponds and dams also provide excellent fishing for town and country people alike. And what about the abundant supply of food we have been able to provide to America and the rest of the world, brought about in part because of the conservation practices which have kept our soil productive.

Other programs have also been eliminated or drastically reduced. For example, the grain facility loan program. Under the new rules a farmer who has bin room to store one year's grain supply is no longer eligible for a facility loan. In my opinion, this will eliminate 90% of South Dakota farmers from eligibility.

It becomes obvious to me that the people who are going to bear the brunt of these economy cuts are the unorganized segments of our society; the farmers and the urban low income families. Fellow food producers, this should tell us something. We had better unify to protect our very economic existence.

The administration is banking on the kamikaze tendencies of the American farmer, which has time after time in the past caused him to produce himself into financial ruin, to again produce an enormous surplus of grain thereby setting the stage for cheap farm prices and consequently cheaper food. And if we blindly proceed on this course, we probably deserve the economic disaster we will bring upon ourselves.

Finally, and I direct this statement to our good Senators and Congressmen, the whole matter of the Executive Branch impounding reducing, or delaying the spending of funds duly authorized by law must be met and dealt with by Congress. And the sooner the better. It seems to me that any law passed by Congress and then signed by the president should be carried out. If the Executive Branch can ignore or change these laws on their own then we are more a dictatorship than a democracy. It will do us little good to work to pass new laws until we are assured that they will be carried out when passed. At this time we have no such assurance.

In closing I want to say that in recent weeks rural America has been kicked in the teeth by the present administration, but all of America will most assuredly share in paying the dental bills.

STATEMENT BY JOHN E. OLSON, EXECUTIVE MANAGER, SOUTH DAKOTA RURAL ELECTRIC ASSOCIATION, BEFORE THE SOUTH DAKOTA CONGRESSIONAL DELEGATION, HURON, S. DAK., JANUARY 13, 1973

My name is John E. Olson. I am the executive manager of the South Dakota Rural Electric Association, the service organization for South Dakota's rural electric cooperatives.

In 1944, the Federal government entered into a covenant with the Nation's rural electric cooperatives in which the cooperatives were asked to provide central station electric service to all those living in rural areas who did not have such service, no matter how remote the farm or ranch. In order that this monumental task might feasibly be carried out, the Government agreed to provide low-interest, long-term loans to the rural systems. This is what we have long known as the 2 per cent loan program.

On December 29, 1972, the Federal government, in effect, walked out on their end of this agreement and left hundreds of rural electric systems literally holding the low density, high-investment-per-consumer bag unassisted.

In the press release announcing this totally unexpected decision, the United States Department of Agriculture stated: "This action was made possible by the enactment of the Rural Development Act of 1972."

To this statement Sen. Herman Talmadge, one of the principal authors of the Rural Development Act, has replied:

"I can assure one and all that this is a clear subversion of the intent of Congress under this Act." Sen. Talmadge stated further, and again I quote: "If we had wanted to change the REA program, we would have done so."

The senator from Georgia further expresses our sentiments in saying that it is the duty and responsibility of Congress to create new programs or to abolish them if necessary. We are not at all certain that these programs should be cut up and terminated without benefit of the advice and consent of Congress.

Rep. Poage, chairman of the House Agriculture Committee, has pointed out that Congress passed the Rural Development Act for the purpose of supplementing, *not reducing*, the programs available to rural people. The same Congress which passed the Rural Development Act appropriated $740 million for the specific purpose of making 2 per cent loans to REA and President Nixon signed the bill.

Is not the very intent of the Rural Development Act being defeated by such executive decisions as elimination of the REA 2 per cent loan program? What rural development we have experienced over the years has been made possible, in large measure, by the availability of an abundant supply of low-cost electric power. More than doubling the rate of interest to rural electric cooperatives seriously jeopardizes the continued availability of an adequate supply of power and very clearly will greatly increase the cost of power.

Just what does a 5 per cent interest rate mean in terms of costs to South Dakota's rural electric cooperatives. In 1972 the South Dakota distribution cooperatives paid $1,382,000 in interest on their 2 per cent loans. Had the interest rate been 5 per cent they would have paid $3,455,000 in interest, a 150 per cent increase in the cost of money.

The increased cost of money to cooperatively-owned generation and transmission systems and distribution systems will result in South Dakota consumers paying substantially more for their electric power in the next 3 to 7 years. Such consequences clearly negate any argument that elimination of the REA's direct loan program is a logical move in the fight against inflation.

Earlier we mentioned the burden of high investment per consumer that the REC's in this state must shoulder. In South Dakota we have an investment in distribution and subtransmission facilities of $1,715 per consumer as compared with the national average of $1,098 per consumer. This means that to serve each consumer our cooperatives must invest $617, or 56 per cent, *more* per consumer than the national average. This factor, coupled with our low density (it is 1.5 consumers per mile of line) and the continual decline in our rural population, clearly indicates, yes, even *dictates*, the necessity for the reinstatement of the REA loan program if many of our systems are to continue to provide adequate service to their consumers at a price they can afford to pay.

We find it strange indeed that the REA loan program, a *lending* program, should now be viewed by this administration as a *spending* program. The National Rural Electric Cooperative Association, our national service organization, has long resoluted on the matter of a capital budget, declaring that "there is no justification in logic or economics for a Federal accounting system which fails to distinguish between wealth-creating, self-liquidating capital investments, such as REA loans and, on the other hand, current operating or expense budget." We heartily agree.

We believe that if the Rural Electrification Administration cannot or will not continue to supply the necessary capital, then the REA should release the rural electric cooperatives from the existing liens and loan contracts and permit the cooperatives to fully discharge their duties and responsibilities by providing an assured source of power and the best quality of all possible electric service to *all consumers* located within the feasible service areas of the rural electric cooperatives.

In the development stages of the cooperatives' supplemental financing institution, the National Rural Utilities Cooperative Finance Corporation (more familiarly known as CFC), our national association observed that by forming such an institution, the cooperatives would demonstrate their willingness to help themselves by using their own resources. NRECA observed further that it "also appears the Congress will be more willing to maintain the REA 2 per cent program at the required levels if the systems show themselves ready to take on *some* of the financing burden."

Congress has indeed recognized this effort of the cooperatives by continuing to provide substantial amounts of loan funds, only to find an unfriendly administration at first impounding portions of the duly appropriated funds and now, finally, completely eliminating same.

Finally, we are deeply disturbed by the memorandum to the REA field staff from

Administrator Hamil dated January 3 in which the Administrator said, and I quote: "It will take *several weeks* to prepare appropriate materials for use in the field and for providing detailed guidelines to borrowers."

What is meant by "several weeks?" One month? Two months? Three months?

A survey of the members of this Association reveals that 27 of the 33 distribution cooperatives will need $4,680,000 in loan funds in 1973; $5,100,000 in 1974, and $4,200,000 in 1975.

Where are they to get such sums and what are they to do in the meantime?

We respectfully turn to you, the Congress, for relief from such arbitrary and, quite possibly, illegal actions, of the executive branch of government that has summarily killed one of the finest programs ever implemented in which the government and its citizens joined in forming a partnership to accomplish a seemingly impossible task. We firmly believe the rural electric cooperatives have upheld their end of that partnership.

Thank you for this opportunity to express our views on this most vital matter.

STATEMENT BY ARTHUR JONES, PRESIDENT, BASIN ELECTRIC POWER COOPERATIVE, AT PUBLIC MEETING ON REA LOAN PROGRAM, CALLED BY SENATOR GEORGE MCGOVERN IN HURON, S. DAK., JANUARY 13, 1973

I am Arthur Jones, a family farmer near Britton, South Dakota. I am making this statement as President of Basin Electric Power Cooperative. I also am a consumer-member and a director and officer of the Lake Region Electric Association, our local rural electric distribution cooperative. In addition, I am President of East River Electric Power Cooperative, headquartered at Madison, South Dakota.

Speaking for Basin Electric, I wish to register the strongest possible protest against the President's unilateral action terminating the REA 2% loan program, which threatens to create a serious power shortage in the Missouri Basin in the summer of 1975.

This is a massive blow to Basin Electric. As you know, it is the regional wholesale power supplier for G&T associates, like East River, representing more than one hundred rural electric cooperatives in South and North Dakota, Minnesota, Iowa, Nebraska, Montana, Wyoming and Colorado. These cooperatives organized Basin Electric in 1961 because both Republican and Democratic Secretaries of the Interior had told us we had to provide ourselves with a source of power in addition to what we were buying from the Bureau of Reclamation.

East River Rushmore Electric, and other South Dakota co-ops were charter-members and organizers. With a loan from REA, we built the 216,000 kilowatt Basin Electric plant on the lignite fields near Stanton, North Dakota. This plant went on the line in 1966 and is one of the most efficient and lowest cost plants in the United States. It is supplying essential electric power to co-ops serving farmers and other rural people all over this huge Missouri River Basin.

All but one of the South Dakota co-ops depend upon Basin Electric for the power they need over their Bureau hydro power allotments. East River this year obtained more than 37% of its power from Basin Electric and Rushmore received more than 50%. By 1975, most of the member cooperatives will be depending upon Basin Electric for more than half of their power supply.

In 1965, seven years ago, we started studies of our further power needs and in 1968 obtained an REA loan to add a second unit to our Stanton plant. This will be twice the size of the first unit and will triple the capacity of the Basin Electric plant, making it the largest single power station in North and South Dakota. We are building two extra high voltage transmission lines tying the plant into the regional grid of the Bureau of Reclamation at Fort Thompson and at Watertown, South Dakota.

We devoted a lot of time and money to developing our plant as an integral part of a larger joint program with the Bureau of Reclamation, Nebraska Public Power District and Iowa Power and Light Company so as to make the most economical use of REA loan funds and to coordinate our new facilities closely with other utilities in the region.

In 1968, REA provided 98.8-million dollars in REA 2% loans funds to Basin Electric for this project. Our member co-ops pledged to loan Basin Electric another $18.4-million also at 2% out of our limited cash reserves because they felt it essential that our consumers be assured of enough power to meet their steadily growing needs.

This second unit of more than 400,000 kilowatts and the associated transmission facilities are under construction. They are scheduled to be completed on April 1, 1975.

Until the President ended the REA loan program on December 29, the Missouri Basin was perhaps the only major region in the country where the people at least those served by our cooperatives did not have to worry about a shortage of electricity. We had planned ahead well enough so that our consumers were assured of power—or so we thought.

The sudden death of the REA loan program occurred on the very day that Basin Electric had been promised additional financing, in order to complete on schedule our large power supply expansion program.

REA and we have known for some time that Basin Electric needed additional financing to cover the cost of a year's delay the effect of inflation since the loan in 1968. A $7-million addition to our present plant to meet requirements and some additional transmission and other items that became necessary, our total additional requirement approximates $51-million.

REA Administrator David Hamil promised us publicly and privately on numerous occasions to provide this additional financing out of REA's 2% loan funds if Congres appropriated the money because of REA's long standing policy to complete projects on the same financing basis with which they were begun in our case REA 2% loans.

At REA's request, we submitted revised cost estimates and a loan application in April, 1971. As cost inflation continued, we submitted revised estimates several times. In March, 1972, we submitted our final revised cost estimate.

The Administrator indicated he would make us a loan in June, but in June the date was postponed until October, 1972. Last fall Mr. Hamil said he would have to postpone the loan again but categorically promised us a loan of $25-million "on or about January 1, 1973" and the remainder on July 1, 1973. Both were to be REA 2% loans.

By delaying our loans, REA stretched out our present financing and our ability to sign contracts to the limit, but we did not object because of what we thought was a firm Administration commitment to make the additional REA loans in time to avoid our project delays.

As the result, we have let all of our major equipment contracts for the plant and lines and many of the major construction contracts and are about out of uncommitted loan funds.

We were and still are completely convinced that the REA Administrator made these commitments in complete good faith. It is shocking that the Administration apparently paid no attention to these commitments and just arbitrarily cancelled them.

Basin Electric has to have additional financing within the next thirty days or I fear that our construction program, the largest power facilities program in the two Dakotas, will not be completed on schedule.

At our board meeting on February 15, our board of directors will award contracts totaling about $15-million and that will almost use up our uncommitted financing. After February 15 we will have to delay awarding additional construction contracts unless we receive additional financing.

The Administrator has told us he now will keep his commitments by loans at 5% interest under the new program which is supposed to replace the REA loan program. However, we understand this program is not even in operation. We do not see how it can possibly get financing through it in time.

The only way to avoid delaying completion of Basin Electric construction program, in my opinion, is for the administration to reconsider its action and immediately release the available REA loan funds. Mr. Hamil could then make the loans he intended and we could complete the project on time.

If Basin Electric project is delayed, the Missouri Basin could safely stay its power shortage in the summer of 1975. Our plant and transmission facilities is scheduled to be ready for test operation on April 1, 1975, and for full commercial operation no later than September 15, 1975.

As recently as December 20, Bureau of Reclamation officials urged us to stay on schedule. They said it is extremely important that we be able to operate the plant as reliably as possible, even on a test basis during the summer of 1975. This is a "peak load" period in the region and power promises to be in short supply. At the Bureau, they said they had committed all of its power and has none to spare.

Our own assessment of the power situation confirms the Bureau's statements. We originally scheduled our second unit for completion in the fall of 1974. However, in November of 1969, the Bureau postponed our project for a year by certifying that they would have plenty of hydro power to meet the needs. We objected but were overruled. This delay, incidentally, increased our project costs substantially, probably by $7- or $8-million. Although we had to delay the project, we worked hard to keep it on the present schedule because they have felt sure it will be needed as soon as we can get it into full operation. We are on schedule but we have absolutely no spare time.

It is very difficult these days to keep any construction project on schedule, especially one as large and as complex as ours. It involves dozens of major contractors, more than one hundred contracts, and is spread over numerous locations in two states. If we are delayed in awarding even one major contract by even a month, it will delay our project completion by much more than that. These contracts are interrelated and most are timed and a delay in one causes multiplying delays in others. Cost increases also will begin to multiply.

We can only say that if this large and complex program is again delayed, this time by a holdup in financing, we cannot know when it might be completed or what the total cost might eventually become. We cannot control the project if it is to be withdrawn by people and offices 1500 miles away. Of course, our costs will be increased sharply in any case by a shift from the 2% financing which was promised, to the 5% loan program mentioned in the Department of Agriculture's press release. This change of loan will require a Basin Electric rate increase of about 10% by mid-1975. It will also increase the cost of the project by $1.5- to $2-million due to higher interest costs during construction.

Over the 35-year period of the loan, if that is the period of the 5% loans, our consumers will pay an *additional* $27-million in interest costs. This is money that will be extracted from the region and exported to banks in other parts of the country.

We fail to see how the administration's action "fights inflation" since it will in-

crease electric rates or reduces federal outlays since it only hits the outlay from one federal lending program to another.

One of the most demoralizing effects of the administration's action is the indication that commitments by our own government apparently cannot be relied upon, even with respect to domestic programs as essential to life for production and other vital activities as electric power.

Basin Electric's present expansion program was initiated and has been continued on the basis of Basin's commitments made by our Federal government. We believe the government should complete our financing as promised and on time so as not to delay our program and increase our costs.

ADDITIONAL REMARKS BY ART JONES IN HIS TESTIMONY BEFORE THE MEETING CALLED BY SENATOR MCGOVERN AT HURON, JANUARY 13, 1973

In addition to my remarks about Basin Electric, I would like to insert some thoughts about the impact of the Administration's REA action as it would affect East River Electric Power Cooperative, Madison, S.D. East River is the state's largest transmission cooperative and supplies wholesale power from the Bureau of Reclamation and Basin Electric Cooperative to 23 member distribution systems which in turn serve approximately 48,000 rural member-consumers in eastern South Dakota and western Minnesota.

East River presently has more than $23-million invested in substations, high voltage transmission lines and related facilities to serve its member systems. Since its beginning in 1949, East River has paid more than $5-million in principle and $3.5-million in interest back to the Federal government.

In 1973 East River will pay more than $380,000 interest and more than $550,000 in principle back to the Federal government on its long term debt. In other words, more than $940,000 in debt service payments will be made out of an expected $6.5-million in revenues.

Up to this time East River has been able to secure all of its financing with 2% REA loan funds. You can readily see the drastic effect of 5% interest on money on East River's operation.

In the 1973 operating budget approved by the board, the interest expense figure is $369,883. Again this is at 2%. If the rate was 5%, our interest expense figure for 1973 would be $924,707, or an increase in the cost of service of $554,824. This same budget provides operating margins of only $207,548. So, the end result of the above would be that with increased costs of $554,824 and operating margins of only $207,548, we would be faced with an operating deficit of $347,276.

In preparing budgets and forecasts we are required by REA to provide margins of not less than approximately 1% of our investment in plant. Under this set of circumstances, we would have no alternative but to raise rates to our members in an amount sufficient to recover the entire amount of $554,824 in added costs. Since we expect to deliver just under 800-million kilowatt hours of energy to our members in 1973, this increase would amount to a minimum of 0.7 mills per KWH. Since our average per KWH rate to our members in 1973 amounts to 8.23, this increase would mean that our rate would have to be approximately 9 mills per KWH—an increase of nearly 10% to our members.

You can see the cascading, domino effect here between Basin Electric, East River, the distribution systems and the ultimate effect on the farmers and member-owners. Basin Electric is forced to pay higher costs so power rates are raised to East River; East River pays higher rates for Basin power and higher interest on borrowed money to build its facilities so rates are raised to distribution systems; the distribution systems are also paying higher interest for their capital and East River is forced to pass on wholesale power rate increases. The distribution co-ops get into quick financial trouble and retail rates to member consumers go up quickly. The member has to pay the tab for the increased costs all along the line—for cooperative power supply organizations all of which he is a part owner.

As you can see, the Administration action threatens the very future of rural electrification and the cooperatives that rural members worked so hard to form.

Over the years, the Federal government has *made* money, not *spent* money by loaning taxpayers dollars to cooperatives at 2 percent. Even under present day conditions where the government borrows up to 10 per cent of its money to operate, most of the money used for Federal programs is interest-free taxpayers money which still results in a money-making proposition to Uncle Sam.

Someone said recently that "farm programs don't cost—hell, they pay." And the benefits go to the people of the land.

Another avenue that might be pursued is the advantage of a capital budget for the Federal Government. The great former Senator from Illinois, Paul H. Douglas, in a speech before the annual meeting of the National Rural Electric Cooperative Association in Chicago on March 4, 1957, expressed it very well when he said: "Let us sweep aside some propaganda and take a look at the facts. But first let me reiterate one important fact. Money borrowed or saved and used for investment purposes by any sector of the economy except the Federal government, whether it be to build a new plant, buy a tractor or build a barn, shows up in the accounts as an expenditure, but it is balanced on the books by the net worth of the land, building or equipment. If this were not so every business in the country, your farm, cooperative, would always be shown to operate in the red, technically bankrupt at all times. But this is not the way we keep the accounts for the Federal government. For the Federal government, an expenditure is an expenditure whether it lends money for a public housing project, a hospital, or it gives money to the military to purchase oyster forks for the Navy."

Later in his remarks Senator Douglas said: "Let's switch our attention for a moment to look at the effect a federal capital budget might have directly on the rural electric cooperatives. Under the existing method of keeping the federal books, when REA, NRECA, and members of your rural electric cooperatives go to the Congress requesting loan funds, which are really investment funds repayable with interest, they encounter opposition not to "investment" but to expenditures. When the Bureau of the Budget considers the request of the REA Administrator for a new year's loan budget, the administrator, in the eyes of the public, is placed in the position of asking for "expenditure" funds, (like for our oyster forks) rather than investment funds. This situation is unrealistic, a misrepresentation of reality, and leads to endless misunderstandings and thoughtless opposition."

Under the Administration's new scheme of high interest—insured and guaranteed loans to rural electric co-ops, the bulk of the Federal interest subsidies will go to the Wall Street bankers and the rich people who hold the paper on the loans. So—the rich get richer, the poor get poorer.

East River and its member systems are in no position to absorb any higher costs. This action comes at the worst time—during a period when we have used every means to stave off the effects of inflation and high costs in an effort to keep electric rates low to our members.

The REA 2% loan program has been one of the most successful Federal programs ever devised to assist rural people. The electric and telephone cooperative repayment record is one to be envied by any banker—public or private.

To end it now is a severe blow to rural development and the hope of the people to rebuild rural America.

CHARLES MIX ELECTRIC ASSOCIATION, INC.,
Lake Andes, S. D., January 12, 1973.

The Board of Directors and the Management of Charles Mix Electric Association, Inc. are very disturbed with the termination of the 2% loan program for rural electric cooperatives.

This will work a real hardship on the rural electric cooperatives in South Dakota, because of the sparsley settled area we live in. The density for our cooperative is only 1.3 connected services per mile of line. The investment for each consumer is great, but up to now the rate has been a rate the farmers could afford to pay. It looks now like the rate will have to be increased due to the added interest rate. The wholesale power cost will have to go up again due to the interest rate going up. By the time all these increases get passed on to the consumer the cost of electricity will be raised to a point where the member will have to cut back on the use of electricity, the very thing that has made the farmer in the United States the most efficient farmer in the world and brought their standard of living to the point it should be.

The inflationary period we are living in makes it hard enough to keep the rates down, without also increasing the interest rate.

The last loan we received was 90% from R.E.A. and 10% from C.F.C. This blended interest rate is 2.55%. Taking this same loan today it would be considerably more with the new criteria for a loan, because it would be 70% from R.E.A. and 30% from C.F.C. with a blended interest rate of 5.74%.

We feel this would be a death blow to Charles Mix Electric Association, Inc. and are asking that you reconsider this decision.

EDWARD R. AYERS,
Manager.

JANUARY 12, 1973.

Rosebud Electric is located in South Central South Dakota, west of Fort Randall reservoir serving 4410 rural and urban consumers with 2355 miles of distribution line. Density on this system is above average for western South Dakota due to the fact that we serve eight small towns or villages.

The announcement to terminate the REA 2% direct loan program will have adverse effects on this system. In October 1972, we revised the financial forecast for the period ending December 31, 1981. Our projections for this financial forecast were based on 80% REA 2% financing, and 20% supplemental financing through 1975. Beginning in 1976 projections were based on 70% REA 2% financing, and 30% supplemental financing through 1981. Utilizing 2% financing for 70% and 80% of capital needs, it was noted the TIER and DSC ratios fall below minimum levels after 1975. Increased rates have not been incorporated into the financial forecast, however the Board of Directors find that necessary steps will need to be taken to bring operating ratios to acceptable levels after 1975.

Our financial forecast indicates plant additions in excess of $4,000,000. ($4,262,850.) in the next ten years. A 3% increase in interest will require an adjustment in retail rates. We have not studied the effect this increase will have on retail rates.

The announcement of the guaranteed or insured loan program will affect Rosebud Electric immediately as a loan application was submitted to REA in November 1972, in the amount of $850,000 to meet 1973 and 1974 needs. We have projected the additional interest expense in the ten year financial forecast on future capital needs of $4,000,000. The difference between 5% and 2% financing will raise interest costs from $271,464.00 to $736,405.00 or a total increase in ten years of

$464,941.00. This will increase annual operating costs in 1973 by $12,024 to $84,550. in the tenth year. This indicates a minimum of 6% increase for interest alone in annual operating costs.

A 6% increase in interest alone is very alarming when annual increases of equal or larger amounts are expected for labor, material and power costs. The spiraling costs are especially alarming when investment per consumer is $1177. and projected to be $1775. in ten years.

Growth on the system is only 4% with no manufacturing or industrial loads. Declining population in the rural areas results in 650 idle services and 830 minimum users. Almost ⅓ of the consumers are minimum users.

We certainly hope that Congress and the Administration will take a closer look at the needs of the rural areas. Financial assistance is needed to serve the sparsely settled areas. The rural electric program is not a grant, but a loan program with an outstanding repayment schedule.

R. C. LUTZ,
Manager.

CLAY-UNION ELECTRIC CORP.,
Vermillion, S. Dak., January 13, 1973.

My name is Daryle W. Stahly, Manager of Clay Union Electric Corporation of Vermillion, South Dakota, a rural electric system serving all of Clay and part of Union and Yankton counties of South Dakota.

The Administrations termination of the 2% Rural Electrification loan program amounts to a breach of faith by our government and this action, if allowed to stand, amounts to a repeal of the 2% interest rate established by Congress in the Pace Act of 1944.

Under the Pace Act the rural electric systems agreed to serve everyone requesting electric service in our service area (area coverage) whether it was financially feasible or not, in exchange for loans at an interest rate of 2%.

The Administrations proposed 5% insured loan proposal increasing our interest rate 150% on future loan funds will force Clay Union to increase our electric service rates to our rural people in an amount that they will not be able to afford, resulting in just one more added hardship to our rural and rural urban people.

This proposal will surely not encourage the growth and development of our rural area and in my opinion will further result in the out migration of people from rural America.

I urge that everything possible be done to stop this Administrations unbelievable decision to terminate the 2% R.E.A. loan program.

I respectively request this statement to be entered into the record of this meeting.

D. W. STAHLY,
Manager.

TRI-COUNTY ELECTRIC ASSOCIATION, INC.,
Plankinton, S. Dak.

To the Members of the South Dakota Congressional Delegation:
Hon. GEORGE S. MCGOVERN,
U.S. Senate,
Senate Office Building,
Washington, D.C.
Hon. FRANK DENHOLM,
Member of the U.S. Congress,
House Office Building,
Washington, D.C.
Hon. JAMES ABOURZEK,
U.S. Senate,
Senate Office Building,
Washington, D.C.
Hon. JAMES ABDNOR,
Member of the U.S. Congress,
House Office Building,
Washington, D.C.

Never, since its creation in 1944 has Tri-County Electric Association, Inc. (a R.E.C. Cooperative) of Plankinton, South Dakota, and all other similar R.E.C. Cooperatives, had to realize and recognize such an immediate crisis as now exists, created by the President's order terminating the 2% money and raising the interest rate by a 150% increase to 5%. Such action created an immediate deep alarming concern of the Board of Directors and Manager of Tri-County Electric Association, Inc., precipitating and presenting to such board and its manager the following questions and problems.

1. With a 150% increase of interest on new money to be needed to complete area coverage, with an existing density of only one member per mile of line, and other new construction needed, how can this cooperative continue to offer electric service without radically increasing our rate structure?

2. The western part of this cooperative's service area has large sections and areas where the population density is very low, and the prospect of large use of electric energy is minimal. Also, it is an established fact that power rates are ever on the increase, and that after considerable expense of building lines, etc. to various farm dwellers, many of such users have since vacated such farms and services at great loss of revenue to the cooperatives. It is also to be considered that due to the ever increasing inflation that the costs of operation and materials have also climbed steadily.

In spite of all of the above problems, (excluding the President's new order) this cooperative was and has been able to look forward to furnishing electric energy on a competitive basis and at the same time provide cooperative area coverage and service, and to keep solvent.

However, the President's new order raising the base interest rate to 5% now creates a situation where it would appear certain this cooperative's very existence is put in jeopardy. In view of all the factors set out and the President's order, How can the area coverage concept be carried out, or this cooperative keep its quality of electric service and rates competitive and *within the ability of its members to pay?*

We are concerned on how the President's Increases would affect the entire of the rural electric users family, in our four county area of Buffalo, Brule, Aurora and Jerauld Counties, along with other electric users in the State of South Dakota and the well being of the United States of America.

This cooperative humbly and desperately submits to the South Dakota congressional delegation, that every effort be made immediately to restore the 2% money to the *Rural Electric's* and the *People of Rural America.*

We ask for your wholehearted support to reverse the President's action. The Board of Directors of Tri-County Electric and I, the Manager, will be at your convenience, if you have any questions relative to the above important matter.

Sincerely,

LEROY K. GREENWOLD,
General Manager.

TABOR, S. DAK.,
January 13, 1973.

The most detrimental decision affecting Rural America, other than the Vietnam War, is the decision to scuttle the Rural Electrification Act and the 2%, 35 year loan program.

It is hard to understand why it is better to scuttle a program that has been used for 38 years and proven to be successful and adopt a new one that will not save the government any money.

This is especially true when this administration is still giving away millions in other programs. Monies which are never repaid nor produce any interest income.

Much publicity is made about how much money Congress appropriates each year for the REA loan program. We seldom see the amounts of money that is paid back on the loans annually. The monies paid back each year could be in a revolving fund which would eliminate the need for such large appropriation.

The loss of the REA 2%, 35 year loan program will be most detrimental to Bon Homme Yankton Electric Association. Interest costs now are over 5% of our total cost of providing service to the rural areas of Bon Homme and Yankton counties. It is evident what will happen by increasing our interest costs by 150%.

During the past 23 years Bon Homme Yankton Electric has borrowed $2,810,000. The U.S. Treasury has received $1,163,297 of that amount in repayment plus $685,468 in interest payments or a total of $1,848,764. The U.S. Treasury has received over 65% of their money back. This has not been a program of grants, this money is being paid back. During 1970 REA advanced $393,501,993 and the borrowers paid back $154,230,310 plus interest in the amount of $85,707,141 or a total of $239,937,451. 61% of the monies paid out were paid back during the year of 1970. These figures may be verified from RET Bulletin 1–1.

I wish to thank you for this opportunity to put this information in the record.

LLOYD ATEN,
General Manager, Bon Homme Yankton Electric.

SPINK ELECTRIC COOPERATIVE INC.,
Redfield, S. Dak., January 10, 1973.
Hon. GEORGE MCGOVERN,
Chairman,
Hon. JAMES ABOUREZK,
Hon. FRANK DENHOLM,
Hon. JAMES ABDNOR.

DEAR SIRS: My name is J. G. Newman. I am the Manager of Spink Electric Cooperative with headquarters in Redfield, South Dakota. Spink Electric serves 1,035 farms over 1,135 miles of line, and serves 1,254 members mostly in Spink County.

Spink Electric has borrowed from the Rural Electric Administration $2,297,762. It has paid $558,290 interest through 1972 on this money. Spink Electric is current on all payments to REA, and all obligations are being met as they come due. We serve 1.1 consumers per mile of line. With this density you can readily see it is all we can do to survive under the present inflationary conditions. We continue to lose many farms every year. This leaves it up to the remaining few to use more KWH in order for Spink Electric to break even.

This is what we estimate a 150 percent increase in interest would do to us: we estimate that over the next three years we will need to borrow $311,000. At 5 percent interest, this adds up to $15,550 per year interest, or an increase of $9,330 per year on this amount of money.

Spink Electric cannot survive very long with this additional increase along with the other inflationary costs without a substantial rate increase. This will add expenses to the remaining farmers and probably drive a few more away from the farms. This auto-migration of young farmers concerns Spink Electric because it is our life-blood. The declining opportunities in rural America present a bleak outlook for many rural raised young Americans who would like to remain on the land, but find it economically unfeasible. The age level of our farmers continues to raise as the young farmers are forced to leave our state convinced that agriculture has no future for them. What will become of our farming operation when the ones left become too old to farm and move off the farm?

With these facts in mind, I would sincerely hope that something could be done to rescind the President's action on this important issue.

I would like to thank our Congressional delegation for this opportunity to testify.

Sincerely,

J. G. NEWMAN,
Manager.

TESTIMONY OF REE ELECTRIC COOPERATIVE

My name is Dwight Dearborn, and I am President of Ree Electric Cooperative at Miller, South Dakota. Our service area covers 2500 square miles comprising Hand and Hyde counties. We serve nine-tenths of a consumer per mile of line.

We are one of the last strong holds of the family type farm. Our consumers are diligent managers who have managed to survive the agriculture revolution and managed to hold onto the ownership of their land. Inflation is now their greatest enemy—electricity their greatest helper—any increase in the cost of their electrical power will be a serious blow to their future.

Ree Electric will show a net margin on the sale of electrical energy in 1972 of under $2000. If our interest rate were now 5%, instead of 2%, this added cost would more than wipe out our entire margins. Our financial forecast shows that we will need approximately $80,000 a year to finance system improvements and extensions during the next ten years. The 5% interest rates would cost us an additional $16,856 per year or a total of $589,946 till the maturity of the loan. The consumers in our service area cannot afford this kind of an increase in their power bills.

We have always abided by the concept of "area coverage" of our R.E.A. contract. We have built miles of line to the middle of nowhere to help our consumers increase their production, with 5% money we would no longer be able to do this. We ask the Administration to rescind its action in curtailing the 2% R.E.A. Program.

DWIGHT DEARBORN,
President of Ree Electric Co-op.

H–D ELECTRIC COOPERATIVE, INC.,
Clear Lake, S. Dak., January 9, 1973.

To: South Dakota Congressional Delegation.
For: Hearing at Huron High School Auditorium—Jan. 13, 1973.
From: H–D Electric Coop., Clear Lake, S. Dak.—Edward Bott, Mgr.
Subject: Loan fund needs for the next 10 years and effect of the no 2% loan funds.

According to the 10 year financial forecast that was just completed late in 1972 for this cooperative, South Dakota 17 Hamlin—H–D Electric Cooperative, Clear Lake, South Dakota, our loan fund needs for the next 10 years will be $1,737,000. Additional interest that we will have to pay under the new program outlined by the administrator will be $243,668 over that 10 year period. This is broken down that 30% of the funds will come from CFC at a cost of 7½% interest and 70% of the funds will come thru REA at 5% interest or a composite interest rate of 5.75%.

We are not taking into consideration any of the interest costs that this cooperative will be bearing because of East River Electric Power Cooperative's borrowings under the new loan criteria.

STATEMENT OF GRAND ELECTRIC COOPERATIVE, INC. TO THE SOUTH DAKOTA CONGRESSIONAL DELEGATION ON TERMINATION OF THE REA 2-PERCENT DIRECT LOAN PROGRAM

My name is Leroy D. Schecher. I am the Manager of Grand Electric Cooperative, Inc. in Bison, South Dakota.

Our electric cooperative serves an area of about 9,500 square miles in the northwest corner of South Dakota. On December 31, 1972, we had 1795 members taking service at 2954 locations (of the 2954 services, 761 are to range wells whose monthly consumption is a low 55 kilowatthours) on 3113 miles of line. This is a density of .95 of one consumer per mile of line. Total plant investment on December 31, 1972, was $6,758,512 or $2,288 per service location. By any comparison this represents a low density and high investment.

The Cooperative began operations on April 10, 1950. Prior to that time this entire area was without central station electric service. From then until now the Cooperative has borrowed $6,954,400 from REA. These were all 2%-35 year loans. Without this far sighted program this area would still be without electricity. The REA program has done more to improve the standard of living, the economy and the preservation of this area than any other single thing. With these things going for us we still had 421 idle services on December 31, 1972.

From 1950 through December 31, 1972, our Cooperative has repaid $2,232,300 on the principal and $1,519,777 in 2% interest.

The decision by the Administration to terminate the REA 2%-35 year direct loan program and replace it with a 5% insured or guaranteed loan program is bad news. Based on our long range engineering and financial plan, our Cooperative will have to borrow $1,605,000 in the next ten years. (This figure does not consider the cost of inflation.) At a 5% rate of interest rather than 2% it will cost the members an additional $205,993 in the next ten years and an additional $1,-191,726 over the 35 year loan period. In 1982 our members will pay $43,566 more at the 5% interest rate than they would have at the 2% rate. This amount will continue to go up every year. We presently have 1795 members who are paying the electric bill and by 1982 we estimate a decline to 1750 members. The added interest will amount to a lot of money, especially when you consider the number of people that will be paying the bill.

In addition to this we will have increased costs from our power supplier, Basin Electric Power Cooperative. Basin Electric is certain that wholesale power costs will have to go up to cover their additional interest costs of $37,910,000 over a 35 year loan for the $51 million supplemental loan that will be necessary to complete construction of their second generating unit.

Chances are good that termination of the 2% program will cause a delay in construction of the second unit. If this happens the entire Missouri Basin will face a serious power shortage in the summer of 1975.

The newest technology in building electric lines is to place them underground. In many cases this is required by Federal environmental laws. In other cases systems have been forced to put lines underground to get them away from the elements of wind, frost, ice, etc. With the growing dependence of our users on a continuous supply of electricity to carry on their daily activities, we expect to make as much use of underground in the future as we can. We have had some bad ice storms in recent years—the worst in 1965—when some of our members were out of electricity for as long as six days.

Taking away the 2% loan program also takes away our ability to go underground. We simply could not afford it. Our system is one that according to the DSC criteria of REA still qualifies for 100% REA 2% loans. The reason for this is low density and high investment brought about by serving a sparsely settled rural area.

It seems to us that if the Federal government is going to require us by law to place lines underground to meet environmental requirements, they should be willing to assist us. This can be done by continuing the 2% loan program. The Administration's complete termination of the Rural Environmental Assistance Program (REAP) also has a direct effect on the operation of our Cooperative. We have been building new electric lines to an average of about 50 range wells each year. These wells are used by ranchers for livestock watering. We have always felt that it was better to construct these lines with our own crews than to hire a contractor. This has allowed us to keep two permanent crew members the year around and to hire two college students during the summer months to help with construction.

This has been a good thing for us because the extra crew and equipment for building line has been a lifesaver in some of the ice storms where we had a lot of line down and other emergency situations. It has also contributed substantially to the local economy and, of course, it has helped the college students.

Most of the range wells have been put in under the REAP Program. Abolishing this program means that we will not have the construction work to do (indications are that most of them will not be put in without the REAP Program) and will have to go on a full time operations and maintenance program. The effect of this will be that we will have to lay off some of our line personnel.

Growth in our electric cooperative has been limited. We have been faced with a declining farm population for the reason that the price of agricultural products, up until the last few months, has not been good. People are leaving the farms and ranches and their neighbors or some outside interest is absorbing their places into existing operations. In some cases these services are lost forever and in others they may be connected as a range well for watering livestock. Remember, the electrical consumption of the range well is low at 55 kilowatt-hours per month on the average.

An example of the decline in population in our service area is that according to the 1960 census the population of Perkins County, South Dakota was 6,114. In 1970 it was 5,418, a loss of 11.4%. An electric system that doesn't have load growth is in for trouble and it is difficult to do under these circumstances.

We see the elimination of the REA 2% program, the cost-share programs under REAP, FHA Emergency Loans, Facility Loans, the Water Bank Program and other rural programs as a serious threat to our efforts to keep people on the land. For our Cooperative it means higher rates; it means increased costs; it means poorer service because we will have to cut back on our crew; we will not be able to take advantage of placing lines underground; it means unemployment in our service area; and, it means a declining economic condition throughout the area; and, in the end it will drive more people from the area because they can't make a go of it. Those who remain automatically must assume the debt to REA for those who leave.

It is our understanding that the Administration has made these cutbacks to save the Federal government money. REA should not be considered an expense, it is a loan program and the record shows that these loans have been paid back on schedule and in many cases ahead of time and has the best repayment record of any program the Federal government has ever undertaken.

If this decision stands there is no question but what our electric rates will have to be increased. The electric cooperatives in South Dakota with an average of 1.5 consumers per mile of line and our system with its .95 consumers per mile of line are among those with the lowest density and the highest investment per consumer in the nation. This in turn means high rates. Electric rates in South Dakota are among the highest in the nation. More than doubling our interest costs and eliminatnig or cutting back other rural programs will push them even higher.

The rural electrics whose service areas cover 70% of the land mass of the United States can and are playing a major role in developing rural areas. To be successful services and prices in the rural areas must be competitive. To make this possible we need the REA 2%—35 year loan program. We believe it is reasonable for the Federal government to help vitalize rural areas if that means the government must subsidize some

programs we think that is justified. The programs that have been taken away are programs that are important in the effort to make rural America a better place to live. They help people, it makes them more productive, they pay more taxes, it helps keep them on the land and out of the already over crowded cities and it helps preserve rural America for future generations. Without good conservation practices the future is not very bright. The people in the cities will starve to death if the people on the land do not produce and take care of the land for the future. In our judgment money spent for these things carry a higher priority than any other use it can be put to.

Under the Pace Act of 194, rural electric systems were required to give area coverage in return for 2% interest loans. We have met this commitment, many times building several miles of line to a single consumer. We believe in the area coverage concept, however carrying it out has not been what would be termed a good investment by anyone wanting to make money. Carrying out this obligation in the past will continue to be a financial burden that we must meet in the years ahead. This needs to be considered. It will be impossible for us to carry on area coverage at 5% interest rate.

We respectfully urge the South Dakota Congressional Delegation: Senator George McGovern, Senator James Abourezk, Congressman Frank Denholm and Congressman James Abdnor to reject the Administration's order to abolish the REA 2% direct loan program and take whatever action is necessary to have it reinstated.

STATEMENT AT AGRICULTURAL CONGRESSIONAL HEARING JANUARY 13, 1973, JOHN B. GLAUS, PRESIDENT, SOUTH DAKOTA STOCKGROWERS

We in agriculture feel we are being persecuted and beaten and stepped on and spat on and in general we are feeling very sorry for ourselves because of recent actions taken by President Nixon and Secretary of Agriculture Butz. We have seen import quotas on beef lifted for 1973. We have seen grazing fees on BLM land and Forest Service Land raised by more than 15%. We are seeing set aside or diverted acres being opened for grazing. We have seen REAP scheduled for discontinuance. We have seen the low interest rates for REA discontinued forcing them to go through regular channels like the rest of us. It is apparent we have entered the age where the consumer and environmentalist is in the drivers seat.

At the same time the farmer and rancher has always been the one stabilizing force urging economy of government and more efficiency in government. We have urged reduction in the National debt. We have urged no more new taxes. Yet here we are, crying like babes in the woods thinking the end of the world is coming. While we urge economy and efficiency, it is a lot easier if it is the other guy, the other industry that gets the axe. But it has to start someplace. All we ask is that this spirit of economy affects other industries—not just agriculture.

Instead of asking for sympathy and tears, lets rejoice that maybe we finally are ending this period of idiotic give away and coming to our senses like men. Lets rejoice because now we can work for other economies in government. Lets end unnecessary subsidies to other industries and all get our feet on the ground and work together in the way we can that has made this country great. The opportunity is now here if we will just seize the initiative and make what appears to be an ill wind, instead, work to our advantage.

The opportunity is here again to make our own way without having to be tied to the apron strings of Mama Government. If you want to control and ham string any group, any race of people, any industry, just give them enough money so they become dependent and they will do any thing for you. They give up their initiative, their pride, their will—anything to get that hand out. I say let us as agriculturists tell our congressmen to forget politics and work for the good of our country by reversing the trend toward ease, complacency and the attitude of, "let the government take care of it."

We face the danger of making a free industry a servant of government. Our system of free, competitive agriculture has been putting the dinner on the table of America and the World. American agriculture is the envy of the world. No country can rival the efficiency and productivity of the U.S. farmer and rancher. Our American way is responsible. Other countries try—Russia and other iron curtain countries with State controlled farms and methods—and they are a failure. Let that be a lesson to us so that we do not sell our soul for so called security. We are now at the crossroads. The question is "Do we depend more or less on the government to run our business?" I think it would be catastrophic for us if we take the easy way.

OAHE ELECTRIC CO-OPERATIVE, INC.,
Blunt, S. Dak., January 13, 1973.

THE SOUTH DAKOTA CONGRESSIONAL DELEGATION

GENTLEMEN: I am Glenn E. Olerud, Manager of the Oahe Electric Cooperative, Inc., Blunt, South Dakota which serves Hughes and Sully counties. I have been in the Rural Electric field for over thirty five years, serving in various capacities and serving this Cooperative as Manager for over eighteen years.

Our Cooperative has 1347 consumers, served by 975 miles of electric distribution line.

There have been many obstacles placed in the path of Rural Electricification during the years that Rural Electric Cooperatives have been erasing the darkness in Rural America.

Never in the history of this Nation, has there been a government program that has been so successful, that has paid interest on government loans, making payments on the principal as due and in many instances, making payments two and three and more years in advance. The program has been so successful that it has been a thorn in the side of the Investor Owned Utilities. The Rural Electric program has been a yard stick for the electric power industry.

If a small cooperative such as ours could meet its payments, interest and principal pay Capital Credits to its members and still serve at reasonable rates, think what the Rural Electric Cooperatives could have done with an average of thirty meters per mile of line, such as the Investor Owned Utilities. It might be noted that the IOU's do not repay principal, they float new loans.

The Pace Act, enacted in 1944 gave the program the impetus it needed. The Cooperatives agreed to serve all who wished service within their area and the Pace Act in turn gave the Cooperatives funds for expansion at two percent interest and with a thirty five year repayment schedule.

Now with a few sentences, this has been all erased. No action from Congress who enacted the law was required to erase it. No warning was given. In fact, assurances were made that funds would be available under the program as we knew it.

Why is Rural America receiving the brunt of the so called economy measures? Why has the American Farmer repaid his loan with interest, while the Urban Dweller receives grants covering sewage disposal, golf courses, and a host of other grants with no interest and no repayment. Why is there funds for a space program or an undeclared war that has lasted for years? There can be no other answer except that the Administration is considering the people of Rural America as second class citizens.

Oahe Electric Cooperative, Inc., has borrowed $1,932,000. To date we have repaid on the principal, $878,597.79 and we have paid $513,308.25 in interest.

It is safe to say that within the next 15 to 20 years, this Cooperative will have to invest about $2,000,000 in increased capacity and replacements. Five percent interest will mean an interest bill of $1,283,270 over the next twenty years on improvements, plus the interest on our debt to date.

Together with the increased costs to serve our consumers with our distribution system, our operating costs have increased and will continue to increase and together with the increased cost of money, Mr. Farmer USA is going to have a burdensome increase in his electric rates. The generation required and the transmission lines needed are going to have equally high interest rates, plus increased plant and operation costs, so the load is passed from generation to transmission to distribution to the ultimate consumer.

Great emphasis has been placed in recent months on holding down inflation. High interest rates will not curb inflation in the rural electric industry, it will increase the rate of inflation.

Gentlemen, we need your help as we have never needed it before. We know you will do all in your power to help us.

Respectfully submitted.

G. E. OLERUD, *Manager.*

MCCOOK ELECTRIC COOPERATIVE, INC.,
Salem, S. Dak.

"LETS LOOK AT THE FACTS"

(Statement by Vaden Jackson, President)

Because of the decline in farm population there is a tendency to look upon agriculture as a declining industry, one that no longer merits the attention of the Federal Government. The contrary is closer to the truth. The problem which today confronts rural America and Agriculture are in many ways inseparably linked to those of urban America. Either the problem of America's rural areas and America's cities will be solved together or they will not be solved at all.

This is documented by the facts of contemporary rural and urban life. Rural poverty and urban poverty are closely related. Poverty experienced in farm communities drives many people into the cities where their presence notably contributes to urban ills, such as, air and water pollution, transportation congestion, increasing urban crime and housing shortages. Yet at the same time the movement of people from the countryside to cities is continuing often under the pressure of forces which make neither social or economic sense.

The importance of agriculture in South Dakota is based on the fact that Agriculture is in first place representing 26% of total civilian income, however the per capita income in South Dakota during 1971 was only $3,441.00 or lowest in the 8 state area of the Great Plains.

How does this information relate to the rural electric program. We are keenly aware that our area cannot grow or prosper without good basic low-cost electric service. Our rural electric system was organized to provide dependable electric service for the communities and rural areas we are a part of.

Raising retail rates continuously to offset higher interest costs experienced under the new program is not the solution. It will increase the cost of a basic social service to families least able to afford such inflation. It will also discourage rural area development by resulting in noncompetitive energy pricing. We feel the rural electric consumer can be proud of their accomplishments, by standards of any financial institutions, the rural electric systems have the finest repayment record of any such federal program in our nation's fiscal history.

McCook Electric is part of the Rural Electrification Administration past and proud to take its place in REA future. It was or-

ganized in 1944 and received its first REA loan in 1946. The system has invested $2,081,857 in REA Loan funds. Of this amount McCook Electric has repaid $986,422.11 in principal and interest payments of $508,617. McCook Electric has also repaid on principal ahead of schedule the total of $152,975 to help minimize net cash demands on the U.S. Treasury.

We can only say that the cancellation of the traditional REA loan program is regrettable. One of the outstanding facts about rural electrification is that its basic to a sound, solid economy of our country—Rural Electrification is good for all America. They provide the light and power that is helping farmers produce the food and fiber that feed and clothe our millions—whether they live in the country or in town. Only with low-cost economical and labor saving electricity can our farm people continue to produce abundantly and provide the people of this great nation with the high quality meat, milk, eggs, vegetables, fruit and other foods so necessary to a well fed healthy nation.

We certainly hope the Administration will reconsider reinstating not only the REA program, but all domestic programs of agriculture that have helped to further develop the health, education and welfare of the people of this great nation and the world.

BLACK HILLS ELECTRIC COOPERATIVE, INC.,
Custer, S. Dak., January 10, 1973.

Subject: Congressional Hearings, January 13, 1973, Huron, S. Dak.

Mr. JOHN OLSON,
Manager, South Dakota Rural Electric Association, Pierre, S. Dak.

DEAR JOHN: Enclosed is a paper that we feel represents some of the thoughts of this Cooperative on the increased interest rate.

Sincerely yours,

ELMER FLATT,
Manager.

IMPACT OF THE ADMINISTRATIONS TERMINATION OF THE 2 PERCENT LOAN PROGRAM ON THE BLACK HILLS ELECTRIC COOPERATIVE, CUSTER, S. DAK.

By the year 1980 it is estimated that the Black Hills Electric Cooperative will need additional capital funds in the amount of $2,505,000.00. This is an increase of 56% of our investment at this time.

In 1980 it is anticipated that the consumer-members will increase from 2500 to 3170 or 670 consumer-member or an increase of about 27%.

The costs of the payment of interest by the members, at this time, amounts to $26 per year per consumer. If we take the anticipated projections of investment and consumers the costs rise to an average of over $60.00 per year per consumer-member.

Even when the next years capital improvements are calculated, and the interest cost of 5% is computed it raises the cost of service by $7.00 per consumer per year, to a new total interest cost of an average of $33.00 per consumer year. By the year 1980 if this is projected on an average payment rerceived, if we just compute the cost per member it will require an increase of 15% per member per year just to pay the increased cost of interest payments. This is based on the cost of interest payments for capital expenditures for this Cooperative only. The costs to the Generation and Transmission Cooperative will also be increased and these costs will be passed on to the consumer-members.

When additional requirements are made, by whatever agency or organization that affects the operation of this Cooperative, the consumer-member has to pay the costs associated with these requirements. The costs of operations are on the increase and continue to grow and multiply. With the increasing forces of inflation that we are striving to control, this type of action completely contradicts and nullifies the attempts to control inflationary trends. When we are forced to increase our costs through actions that we can not control, it seems senseless and meaningless to continue to fight inflation.

This decision will have a staggering effect on the viability of this Cooperative. Since this Cooperative has started it has been the goal to somewhat approach the cost of energy supplied by other utilities. With the enormity of this increase, it became virtually certain that our members will have higher costs. In the area of Southwestern South Dakota where we have high construction costs and low density of members this increase will hinder the development of this area of Rural America.

DOUGLAS ELECTRIC COOPERATIVE, INC.,
Armour, S. Dak., January 9, 1973.

Re Meeting with Congressional Delegation.

JOHN OLSON
SDREA,
Pierre, S. Dak.

DEAR JOHN: Fortunately Douglas was granted a loan which will cover our construction needs for the next two years.

We must of course look beyond those two years as a critical period for the needs of our rural electric members.

We therefore urge our congressional members to make every effort to reverse this decision by the Nixon Administration.

Thank you for your concern and efforts put forth on our behalf.

Very truly yours,

EDGAR LANG,
Manager.

LETS LOOK AT THE FACTS

(By Robert E. Marks, manager, McCook Electric Cooperative, Inc.)

Recently the Nixon Administration announced the cancellation of the traditional program of federal low-interest loans to Rural Electric Systems and that the program will be converted to a private financial venture. The news release states that the Rural Electrification Act was a "spending program" of the Federal Government, and that the new criteria will save the Federal Government millions of dollars.

We feel the rural electric consumers can be proud of their accomplishments, by standards of any financial institutions, the rural electric systems have the finest repayment record of any such federal program in our nations fiscal history.

McCook Electric is part of the Rural Electrification Administration past and proud to take its place in REA future. It was organized in 1944 and received its first REA loan in 1946. The system has invested $2,081,857 in REA Loan funds. Of this amount McCook Electric has repaid $986,422.11 in principal and interest payments of $508,617. McCook Electric has also repaid on principal ahead of schedule the total of $152,975 to help minimize net cash demands on the U.S. Treasury.

We can only say that the cancellation of the traditional REA loan program is debatable. One of the outstanding facts about rural electrification is that its basic to a sound, solid economy of our country—Rural Electrification is good for all America. They provide the light and power that is helping farmers produce the food and fiber that feed and clothe our millions.—whether they live in the country or in town. Only with low-cost economical and labor saving electricity can our farm people continue to produce abundantly and provide the people of this great nation with the high quality meat, milk, eggs, vegetables, fruit and other foods so necessary to a well fed healthy nation.

We certainly hope the Administration will reconsider reinstating not only the REA program, but all domestic programs of agriculture that have helped to further develop the health, education and welfare of the people of this great nation and the world.

SIOUX VALLEY EMPIRE ELECTRIC, ASSOCIATION, INC.,
Colman, S. Dak., January 4, 1973.

To: All present and former members of the Board of Directors and all present and former Minutemen.

From: Virgil H. Herriott, General Manager.

I assume that you have been following in the news media reports of the President's action to terminate the 2% REA Loan Program. Enclosed are the following:

1. Copy of a news release released by me today.

2. Copy of a memo from Bob Partridge, General Manager of our National Association.

3. Copy of the Department of Agriculture news release of December 29, 1972.

I have been trying to keep informed as to developments that are taking place and to gain information about what the future may hold.

We have a loan application pending with REA. In a telephone conversation with REA officials the week before Christmas, I was told that it was in the final stages of preparation and that all of the necessary approvals had been obtained, except that of the Administrator. I was told that we should expect approval of the loan shortly after the first of January. That is all changed now, since his authority to grant loans has been rescinded.

I am told that the President's action in stepping up the military attack in southeast Asia and the huge expenditures of money involved there, together with his curtailment of many domestic programs authorized and funded by Congress, make it likely that there will be a showdown between the Congress and the President over the issue of priorities on the use of available Federal funds. If such a showdown comes about, it may result in restoring the 2% REA lending program. What we do and what we are able to get others to do in the near future will be very important in getting the President to change his position. I would urge you to write to Senator McGovern, Senator Abourezk, and Congressman Denholm to let them know your views on this subject, with particular reference to the President's action to end the 2% loan program. A letter addressed to the President expressing your views would also be helpful.

Perhaps our most valuable contacts to the President, or to Secretary of Agriculture Butz, can be made by local Republican party officials. If you could ask those whom you know to urge the Administration to reverse this position, it should have an important effect.

The immediate impact on Sioux Valley Electric of the President's action will be to force us to secure high cost, short-term interim financing pending the development of the Administration's new high cost, long-term financing program, or a reversal of the President's action by the Congress. The long-term effect on Sioux Valley Electric, unless the President's action is reversed, will be to significantly increase the costs of funds necessary for new construction in the future and this will, in turn, force us to raise our rates to cover these increased costs. A greater impact will come, however, through increases in the cost of our wholesale power that will be necessary as a result of higher interest rates imposed upon our wholesale power supply, the East River Electric Power Cooperative and Basin Electric Power Cooperative. These, too, will force an increase in our retail rates in the future. A rate increase would not be immediate, perhaps coming in the next two or three years as the full effect of increased interest charges would become effective. Interest rates on

loans already secured by the Cooperative would not be changed by these actions.

A construction program costing approximately $300,000 has been planned by us for 1973. We must proceed with those plans, if the quality of our electric service is to be preserved, and if the capacity of our system is to be expanded to meet the member's ever-growing needs. Also included in the loan application was an item of a little more than $400,000 for the reimbursement of our General Funds, which had been used to finance 1972 construction. We are also committed to advancing $214,000 to Basin Electric Power Cooperative as of October 1, 1973, in accordance with a pledge agreement which we executed a few years ago. I trust that you can see that not having a source of loan funds would require us to continue to have invested in these three items a little less than a million dollars at the end of 1973. This would severely, and perhaps dangerously, reduce the level of our working capital and reserve funds. This, in itself, could force an increase in rates, even without higher interest costs.

I hope you will watch the newsletter for information as it becomes available to us about this important subject.

VIRGIL H. HERRIOTT.

NEWS RELEASE

COLMAN.—The general manager of Sioux Valley Empire Electric Association here said that rural people will bear the brunt of the Nixon Administration's action to end the traditional REA lending program.

"It is the rural electric consumers who will ultimately pay the added costs resulting from this action if it is not rescinded," said Virgil Herriott, manager of the state's largest rural electric cooperative. Sioux Valley serves some 8,500 members in five counties.

Higher interest costs will mean higher wholesale power costs to local co-ops like Sioux Valley, said Herriott, in addition to increasing debt retirement costs of the co-op. "This, in turn, will dictate higher rates to the consumer," said Herriott, "there's no other alternative."

The Sioux Valley Electric manager also stated that the Administration's action, reported to be effective Jan. 1, will have an immediate impact on Sioux Valley.

"We have a loan application in the amount of $741,000 filed with the Rural Electrification Administration in Washington now to reimburse us for the cost of completed 1972 construction and to finance our 1973 construction. If the Administration's action is not rescinded, we have no idea as to when funds under the Administration's newly proposed financing program will be available or at what cost."

Herriott said the Nixon Administration "is ignoring the basic reasons why Congress initially authorized two percent interest loans to rural electric co-ops and why Democrats and Republican alike in Congress have continued year after year to support the two percent lending program. These justifications include the fact that the rural cooperatives serve only a few consumers per mile of line and that they are committed to 'area coverage' service meaning that they serve even the most remote rural locations."

"Our need for low cost financing continues today and will continue in the future," said Herriott, "because more and more system improvements are needed all the time so that we can dependably serve the ever increasing power demands of the member-consumers. Extending power lines and connecting consumers is only the beginning of our responsibility in serving the electric power needs of rural areas. We must continually heavy up our system, add new lines, install larger facilities, and of course, secure adequate amounts of wholesale power."

"It is particularly disturbing to us that this action is taken in the face of our voluntary efforts to establish our own supplemental source of financing—the Cooperative Finance Corporation. We have succeeded in this effort and loans have been made to many cooperatives, including Sioux Valley, by CFC to supplement the REA loans. Last year, Sioux Valley borrowed 10 percent of its construction funds from CFC and this year it was expected that 20 percent of the funds would come from CFC.

"We regard the Administration's action as a cruel blow to rural people at a time when there seemed to be new hopes for rural area development. We join many other groups in asking the President to reverse directions and to continue to provide rural people the helping hand which they so much deserve."

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
Washington, D.C., December 30, 1972.

To: All Rural Electric Systems.
From: Robert D. Partridge, General Manager.
Subject: Administration Abolishes REA Direct Loan Program.

Late yesterday afternoon, the Administration announced that the REA electric and telephone direct loan programs are being terminated January 1, 1973. All future rural electric and telephone loans will be made on an insured or guaranteed basis, with the insured loans carrying an interest rate of 5 percent.

NRECA was not consulted or informed in advance by the Administration that such a drastic change in the rural electric program was about to be made. The only official word we got was the USDA announcement yesterday, a copy of which is enclosed.

The Administration's action amounts to a repeal of the Rural Electrification Act by Executive Action. If permitted to stand, it will accomplish by fiat what our enemies have tried to do for years—namely, destroy the REA low interest loan program and, with it, many of our rural electric systems. Those which survive will be forced to increase retail rates to their member-consumers in order to handle this large and sudden dose of high cost capital.

We cannot—and will not—accept this Administration decision. As I pointed out in a statement to the news media (copy enclosed), we have no alternative but to fight to reverse this decision. I believe this is a fight we can win, but only if we all work together and use every resource at our command.

On the plus side, we have many Members of Congress who have shown their support for the REA program through their affirmative votes on annual appropriations for REA loans. In addition, the Congress has become increasingly concerned and resentful over the accelerating trend of the Executive Branch to usurp the powers of the Legislative Branch. The Administration's decision to terminate the REA direct loan program is a flagrant example of the Administration flouting the will of the Congress.

It also represents a breach of faith by the Federal government. As you know, the REA 2 percent interest rate, established by Congress in the Pace Act of 1944, made it possible for rural electrics to provide area coverage in their service territories. In effect, rural electrics promised to serve everybody in their territory, whether the service was financially feasible or not in exchange for loans at 2 percent interest.

On the minus side, time is against us. The longer this Administrative decision is allowed to stand, the more difficult it will be to reverse it.

NRECA has launched a crash program on the Washington scene to restore REA and the direct loans program. I have sent a strongly worded protest to President Nixon, asking him to rescind yesterday's action. We have already contacted many key Democratic and Republican Congressional leaders to enlist their support and map strategy to save the rural electric program, and additional Congressional contacts will be made as rapidly as possible. I have also strongly requested an early meeting with Secretary of Agriculture Earl Butz.

Your help is urgently needed on several fronts:

1. Please call, wire or write to your Senators and Representative as soon as possible to enlist their aid in the battle to save the REA direct loans program.

2. Contact your county and state Democratic and Republican political leaders about this threat to survival of the rural electric systems and the adverse effect this will have on rural people. Request their assistance in reversing the Administration's decision on REA.

3. Inform your membership as quickly as possible about this threat to their rural electric system and to the adequate and reasonably-priced electric service they now enjoy, and ask them to write to their Congressmen immediately in opposition to the abolishment of the REA 2 percent loan program.

Your help is greatly appreciated. I know you have many unanswered questions about the immediate effect of the Administration's decision, and so have we. For example, we understand that USDA is only now beginning to set up the administrative machinery for implementing the Rural Development Act, and it is unlikely that the restructured agency will be ready to carry out its new rural development function until mid-summer. Meanwhile, it will be expected to take on the rural electric lending program immediately.

We will keep you informed of developments in this area just as fast as we are able to get firm facts from USDA.

CHANGES IN RURAL ELECTRIC AND RURAL TELEPHONE LOAN PROGRAMS

The U.S. Department of Agriculture announced today that the REA electric and telephone 2 percent direct loan programs are being converted to insured and guaranteed loan programs at somewhat higher interest rates effective January 1, 1973. This action was made possible by the enactment of the Rural Development Act of 1972 in which the Congress provided very broad authorities to make guaranteed and insured loans to finance all types of community development programs.

This change is a part of the effort to hold 1973 federal budget outlays to $250 billion and keep the outstanding public debt within the statutory limit of $465 billion through June 30, 1973. It will eliminate direct federal loans and substitute credit from private sources at interest rates that are more in line with the cost of money on today's market. Insured and guaranteed loans will reduce the impact on the federal budget and the public debt and are designed to facilitate more rapid growth in the credit programs being provided by the National Rural Utilities Cooperative Finance Corporation, the Rural Telephone Bank, and other private lenders.

Beginning on January 1, 1973, all REA loans will be made as guaranteed and insured loans under the authority of Section 104 of the Rural Development Act of 1972 (Sec. 306 (a) (1) of the Consolidated Farm and Home Development Act). In order to meet more fully the needs of REA borrowers an additional $200 million in loan authorities will be made available over and above current allocations. This will provide a total loan authority of $618 million for rural electric loans and $145 million for rural telephone loans in fiscal year 1973. These funds are in addition to those loans available to REA borrowers from private sources including CFC.

Loans to electric and telephone cooperatives will be made on an insured basis at 5 percent interest (guaranteed loans will also be available to electric cooperatives where private capital is available on advantageous terms). Loans to commercial power companies and commercial telephone companies will be guaranteed at market rates of interest.

Many details of this transition from the authorities of the Rural Electrification Act of 1936, as amended, to the authorities of the Rural Development Act will require time to work out. Borrowers and other interested parties will be advised of the necessary changes in loan requirements and loan processing as rapidly as possible. Every effort will be made to expedite these new programs in order to meet the expanding needs of REA borrowers.

STATEMENT OF ROBERT D. PARTRIDGE, EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER OF NRECA

The Administration's announcement that it is impounding all unobligated REA loan funds and discontinuing the REA loan program comes as a shock and keen disappointment to NRECA.

Moreover, we have no other alternative than to fight such a drastic decision with all the resources at our command.

Although we reach this conclusion with reluctance, we have no other reasonable choice. Left standing as announced, this new Administration policy will wipe out many of the more than 1,000 rural electric systems in America and threaten the welfare of the millions of consumers that depend on them for electric service.

The Rural Electrification Administration was created 36 years ago to fill the critical electric power void that existed throughout rural America.

Not only has the program enabled rural residents to become first class citizens and contributed mightily to our food production capabilities, but the REA program has become a showcase of success that is the envy of the world.

While rural electric cooperatives and power districts have been moving as rapidly as possible to develop supplemental private financing to meet part of their needs, few if any rural electric systems would exist today if it were not for the long-term, low-cost interest loan program provided by REA.

Moreover, it will bring utter chaos to the entire rural electric financing picture if the Administration is to pull the rug from under the REA loan program at this time—especially with capital needs doubling every seven years.

We submit that if America is going to rebuild and revitalize its rural areas—if it is going to eradicate the poverty and decay now impeding rural economic growth—it must have a healthy ongoing rural power supply system represented by the rural electric systems.

The decision to, in effect, abolish the REA loan program as we have known it is a severe blow to rural America.

We hope the Administration will reconsider this drastic and precipitous decision.

ADDRESSING CORRESPONDENTS

How to address letters to congressional delegation and government officials:

The Honorable Richard M. Nixon
President of the United States
Office of the President
Washington, D.C.

The Honorable George S. McGovern
United States Senate
Senate Office Bldg.
Washington, D.C. 20510

The Honorable James Abourezk
United States Senate
Senate Office Bldg.
Washington, D.C. 20510

The Honorable Frank Denholm
Member of U.S. Congress
House Office Bldg.
Wasington, D.C. 20515

The Honorable Earl Butz
Secretary of Agriculture
U.S. Department of Agriculture
Washington, D.C. 20505

UNION COUNTY ELECTRIC COOPERATIVE, INC.,
Elk Point, S. Dak.

TESTIMONY

My name is Vincent M. Gill, manager of the Union County Electric Cooperative, Inc. Our small cooperative is one of the smallest in the state. It consists of 345 miles and serves 950 consumers. Because of its limited territory it has no chance for further expansion; it is located in the southeastern part of the state. The cooperative has been in operation since March, 1938 and I have been its manager over this period of 35 years and have witnessed the many benefits of the 2% loan program since its inception. We are deeply concerned about its termination not only because we fear for the survival of small cooperatives such as ours but because it will affect many cooperatives in the state where the population is sparse as well.

The changing times have brought about the losing of the family sized farm. The bigger farm operation includes irrigating, corn drying, silo unloading, etc. All the new equipment for this operations requires 3 phase power lines, heavier poles, cross arm conductors, transformers and meter equipment.

People are moving from the urban areas into the rural areas. In five years our count had dropped to 830 consumers but now it has risen again because many urban people have moved into mobile homes, trailer courts and into recreation areas in various places along the Missouri River which we serve. These consumers are not big users ordinarily.

The lines of our Cooperative are thirty-five years old and we have been spending three times as much as formerly for replacement and to heavy up our lines. All hardware is costly, anchors were originally $1.30, they are now $3.30. The same is true of the cost of poles, cross arms, aluminum wire, transformers, meters, etc. It is hard to cope with the inflationary rising prices, cost of materials and labor. What will we do now with the termination of the 2% loan program? Hence, our deep concern.

VINCENT M. GILL.

TESTIMONY OF CLARENCE WELANDER, PRESIDENT, N. DAK., REC'S, JAN. 13, 1973

I am Clarence Welander, a farmer and president of the North Dakota Association of Rural Electric Co-op's. We wish to thank Senator George McGovern for these field hearings, and an opportunity to file our statement at this hearing at Huron, S. Dak. Jan. 13, 1973.

President Nixon's recent decision to freeze the entire 1973 appropriations for the Rural Electrification Administration (REA) could cost rural North Dakota Consumers as much as 2 million dollars in additional interest charges during the coming year.

President Nixon's action to abolish the 40 year old (law) two percent REA loan program means our local rural electric distribution cooperatives will have to pay 5% or more for the money they borrow to construct, improve, and maintain their systems.

N. Dak. REC's anticipate borrowing $65.2 million during calendar year 1973. That amount, borrowed under the traditional REA lending program, would carry first year $1.3 million. At the minimum interest level of 5% as proposed by the Administration, first year interest costs would be $3.25 million, a difference of $1.96 million. "According to the terms of the Pace Act of 1944, under which the REC's operate," we (REC's) are obligated to provide complete area coverage and service regardless of economic or geographic consideration. That is why the special two percent interest rate was established."

"So with a density of less than 1.2 consumers per mile and annual revenues of less than $375.00 per mile of line." It is almost certain that most REC's in North Dakota may have to raise consumer rates in order to pay this higher rate of interest.

"The REA program was initiated by the congress and the Nixon Administration has abolished it without even consulting congress, is this legal? Is this Democracy? I am sure that our U.S. Senators and Representatives will challenge the propriety and the right of such executive action."

Many other farm programs have also been eliminated such as: the Reap Program, the Water Bank Program, Farm Storage and Equipment Loan Program, Commodity Credit Corporation, Grain Reseal Program, Disaster Loan Program. "If all these fine tested programs are eliminated what will happen to Rural America?"

Enclosed in my testimony I will file a summary report of the Probable Effects on North Dakota by Administration Action terminating Rural Development Programs, and 2 news stories opposite page.

Thank you again for letting me appear before your fine committee. The REC's of N. Dak. will help in any way possible to reinstate the 2 percent loan program. We must all work together to "Save Rural America".

[From the Oakes (N. Dak.) Times, Jan. 11, 1973]

ELECTRIFICATION OFFICIALS FORESEE CONSIDERABLE RATE INCREASE FOR RURAL ELECTRIC USERS

"A substantial increase in electric power bills is inevitable", Oliver Sund, President of James Valley Electric Cooperative reported, following a special board meeting last Friday.

"Unless there is a rescinding of President Nixon's action to raise interest rates on rural electric cooperative loans, our members could be faced with power cost increases of approximately 15–20 percent. The action taken by the President could force us to collect $100,000 per year more from our 2700 members just to pay the increased interest cost for wholesale power. Farmers should also be aware that a double shot is in store for them since many are being served by rural telephone co-ops who received the same interest increase.

"North Dakota REC's had been promised 2 percent loan funds for generation and transmission-facilities now underway. These commitments by administration officials have been cancelled and we've been told that new higher interest rates will apply," Sund said.

"The abolishing of the REA act along with REAP, disaster loans to farmers, the water bank program, and the reseal program has served no purpose but to initiate the thinking of the administration and Secretary Butz when they say that 1½ million of our nation's farmers should be forced from the farm because they don't fit the administration's outline of efficiency.

"Our North Dakota congressional delegation has strongly criticized the President's action against rural people. Rural people everywhere are dismayed and feel rejected. We can strengthen the voices of our con-

gressional delegation with letters and telegrams of protest," Sund urged.

"It is not anti-inflationary to deliberately raise ones power bill through higher interest costs. Nor does it help any taxpayer to still collect the same amount of tax dollars and offer the taxpayer less.

"And our main streets will be affected too. The millions of dollars taken from North Dakota rural consumers for increased interest costs will not find their way into local cash registers because these millions will go to out of state money lenders.

"We will shortly call meetings of all of our members interested in being heard on these matters and to determine how we can effectively be heard in Washington. Time and place of the meeting will be announced", Sund concluded.

Price freeze on 1973 appropriations for REA could cost N.D. consumer as much as 2 million.

The president of the North Dakota Association of Rural Electric Cooperatives says President Nixon's recent decision to freeze the entire 1973 appropriation for the Rural Electrification Administration (REA), could cost rural North Dakota consumers as much as $2 million in additional interest charges during the coming year.

"President Nixon's action to abolish the 40-year old, two percent REA loan program," says Clarence Welander of Fullerton, "means our local rural electric distribution cooperatives will have to pay 5 percent or more for the money they borrow to construct, improve and maintain their systems."

Welander points out that the state's REC's anticipate borrowing $65.2 million during calendar year 1973. That amount, borrowed under the traditional REA lending program, would carry first year interest of $1.3 million. At the minimum interest level of 5 per cent, as proposed by the Administration, first year interest cost would be $3.26 million . . . a difference of $1.96 million.

"According to the terms of the Pace Act of 1944, under which the REC's operate," said Welander, "we are obligated to provide complete area coverage and service regardless of economic or geographic considerations. That is why the special two per cent interest rate was established."

"So with a density of less than 1.2 consumers per mile and annual revenues of less than $375 per mile of line," says Welander, "it is probable that many REC' in North Dakota may have to raise consumer rates in order to pay this higher rate of interest."

"The REA program was initiated by the Congress and the Nixon Administration has abolished it without even consulting the Congress," Welander says. "We expect the North Dakota Congressional delegation and Congressmen from other states to challenge the propriety and the right of such executive action."

STATEMENT BY B. MAYNARD CHRISTENSON, PRESIDENT OF THE SOUTH DAKOTA TELEPHONE COOPERATIVE ASSOCIATION

The United States Department of Agriculture announcement cancelling the REA 2% loans program came as a paralyzing shock to all who have had a part in bringing telephone service to Rural America. It has long been our contention that an important part of our efforts in developing rural telephone systems and making this important service available in areas of questionable economic feasibility, was the need for making rural areas more attractive as places to live and work. We have made phenomenal progress in this direction, and with the availability of not only electric power but more recently, means for providing adequate water and sewage systems, it appeared that in improving the quality of rural life, a good start had been made toward providing an acceptable alternative to the congested conditions and polluted environment of our overcrowded cities.

The USDA decision has dealt a staggering blow to South Dakota telephone cooperatives, some of which provide service in the most sparsely populated areas in our nation, including one which has fewer than one subscriber per mile of line. All of the planning that has been done for the past twenty years must be re-evaluated, and for some systems, their actual survival is in question unless this order is rescinded. Those with extensive upgrading programs in progress are in great jeopardy, with feasibility studies meaningless as they face a 150% increase in one of their major cost items. This increase does not simply reduce the dividend rate of some faceless corporation, but instead, due to our type of operation and the narrow margin between income and expense, the proposed increase in interest translates into a monthly rate requirement for each subscriber-owner that is in some cases prohibitive.

The Rural Telephone Bank which was established in 1971 is not an answer to the problem facing us. It was a great boon to the rural telephone program but it was created as a supplement to the 2% loans program and is structured as an adjunct to that program to the extent that some concurrent loans are made by the Bank and REA to provide a composite interest rate that is appropriate to the specific case. The minimum Bank rate is 4% but because of a mixture of market rate funding, this rate must be offset by substantial amounts of higher rate loans to maintain solvency for the Bank. The maximum Bank rate is 8½%. We have a real emergency on our hands for which an acceptable solution must be found soon.

TELEPHONE DIVISION, CHEYENNE RIVER SIOUX TRIBAL COUNCIL,
Eagle Butte, S. Dak., January 13, 1973.

Re Telephone service: Cheyenne River Sioux Reservation, Eagle Butte, Dupree, Isabel, Ridgeview, White Horse, Thunder Butte, Green Grass, Lantry, and other points within the reservation boundaries.

(Transmitted to Congressional Delegation from South Dakota at Huron, S.D. session today, Members: Representative JAMES ABDNOR, Senator JAMES ABOUREZK, Representative FRANK DENHOLM, Senator GEORGE MCGOVERN.)

We do wish to thank the congressional delegation for giving their attention at home to acquaint themselves with the problems of the people. You should all be commended for this service and we know you wish to do this to enable yourselves to better serve the people of South Dakota in your respective roles in Washington, D.C.

This transmittal will try to confine itself to the telephone matters and you should know that the Cheyenne River Sioux Tribe (CRST) owns and through its council at this time controls fully this operation. A corporate entity recently was presented to the Tribal Council and for adoption to implement the programming of expansion and financing the telephone operation, which at a meeting was approved with no dissenting votes. The formation of the board and organization is to that degree pending.

The History of this enterprise dates back to the year 1959, when a Mr. Harding of Faith, South Dakota sold the telephone business now serving these points to CRST. The growth, consistent with other developments on the reservation and service needs forced a rapid expansion. This has continued and at the present time the need to add, replace and update equipment is at a very critical state and need.

A consulting engineer was engaged to make a commercial survey, and provide a design to properly guide future expansions consistent with present needs. This study and survey is still in progress and about to be completed. When it is ready, total needs and estimated costs will be available, but, at this time we can only give close estimates. It is hoped that towards the end of this month disclosures can be made on the findings of the consultants who are proceeding under Rural Electrification Administration guidelines, and we have an application on file for a loan with REA we hoped to procure a commitment on short time after all the information was available and transmitted. The next page gives some information on close estimates and the needs, as well as some information on the reservation economy. The telephone service serves all residents with the area assigned to this operation by the Public Utilities Commission of the State of South Dakota, and the operations are carried out within the regulations of the State of South Dakota under the PUC.

On December 21, 1972 NW Bell Telephone Co. shows listings we have—1076.

BIA survey in 1972 reports enrollees presently without telephone service wishing it—329.

We estimate non-enrollees in the area now without service wishing service from CRST—595.

Total anticipated need (subscribers for CRST telephones)—2000.

The above are minimum needs and if the area is to serve the residents therein, future developments will give rise to additional needs, and design is to be made to cover this.

The funding needed to cover this low income area would presently be estimated $2,500,000.00 which at the rate we have been anticipating 2% call for an annual interest initially $50,000.00. If the 5% minimum rate applies hereafter, the initial interest rate will call for a figure of $125,000.00, an increase of $75,000.00. This could be economically overcome in a prosperous productive established community, but, on the Cheyenne River Sioux Reservation such basics are in the experimental stages, and to promote interest and enthusiasm to attract progressive people to come to this area or keep those there now, we have to provide the everyday needs as an enticement including first a telephone service. Branches of established enterprises that would be willing to undertake industrial developments need communications for themselves and their employees, and check all community facilities and needs. Many will pass us up if not all. $125,000.00 annual interest will force potential subscribers out of the service, leaving us with increased cost for the remaining users.

The economy here just does not appear to support the Indian, and he has no place to go as far as we can see, so we have to build up local developments with a relaxed demand from U.S. government, and not increased costs at this time, when we are apparently finally qualified to come thru the door with our acceptable proposals. The 5 percent rate is like shutting the door to our face.

Federal Agencies, EDA, REA, HUD, and others have a good knowledge of all values and potential here. They are supporting financially a number of programs to develop human resources, including HEW, but a like need exists in helping develop the everyday tools needed such as telephone, electricity, health, education, roads, housing and it will all be expensive. I personally would choose the route of longterm developments, one of which is the telephone.

The undersigned, W. D. Heupel, has resided in Mobridge, S.D., since February 1, 1942, and was engaged in the management of the First National Bank of Aberdeen branch here, and also was a member of the Board of Directors of this bank. I have been involved in many of the plannings on CRST including financial matters. Also, I have been the Chairman of Standing Rock Housing Authority until Sept. 25, 1972, for over 12

years, and on the board of Standing Rock Industries, Fort Yates, and helped plan the housing factory, and other matters. I have been Chairman of the local school board, and served two years as President of the Easter Seal Society of South Dakota, and a like term with the Presidency of the South Dakota Water Development Association. I have been over this area since 1942 continuously, and think I know its needs.

In April 1972 I was engaged thru my family corporation to manage this telephone operation, and I was familiar with the history of the enterprise and took the challenge, thinking I could be of service. There have been trying times, but, we appeared to have qualified the corporate entity that could implement all these things, and were hurrying the survey and design. We appeared ready to come to the REA money door like many others have in the past, properly dressed, and the rate increase does look like a slammed shut door we may not enter. There appear all sorts of reasons for relaxing the costs here including letting the American Indian join the REA program like a multitude has in the past. Even if it calls for specific exception, since this is probably the only telephone operation owned, and operated by an Indian Tribe in USA. Lets not price this late comer out of the market, as the need is as strong or stronger than any that have been admitted thru REA financing in the past.

Again, the Indian has no place to go generally for opportunity we wish them all to have, and locally there is this strong need to attract the able and capable to work with the population here to give the human resources needed for a balanced community.

Within the month of January 1973 we anticipate the consulting engineer to give us a detailed report on the survey and possibly design. Supplemental information can always be provided. Again thanks for your attention and consideration.

W. D. HEUPEL
(For the management).

STATEMENT BY WEST RIVER COOPERATIVE TELEPHONE CO. TO THE SOUTH DAKOTA CONGRESSIONAL DELEGATION ON TERMINATION OF THE REA 2-PERCENT DIRECT LOAN PROGRAM

My name is Leroy D. Schecher. I am the Manager of West River Cooperative Telephone Company at Bison, South Dakota.

Our Cooperative is presently serving 661 subscribers on 930 miles of line, a density of .71 subscribers per mile of line. The original system was built and put into service in 1961. This was an eight-party system with service provided by the use of subscriber carrier on open wire lines. The principle of this carrier equipment is to transform the voice to a radio frequency so that eight simultaneous conversations can be carried on over the same pair of wires at the same time. This method was used because it was the only way modern telephone service could be provided at a reasonable cost. We had a lot of problems with this system, especially during the winter months because of the effects of frost, wind and cold temperatures on the open wire.

In 1971, the system was upgraded to one-party and 600 of the 930 miles was placed underground. Rates for the new service are $9.75 for residences and $13.75 for farmers, ranchers and businesses. They pay 13% in addition to this for excise and sales tax. This has been accomplished by loans of $1,990,000 from REA. Through December 31, 1972, our Cooperative has repaid $163,600 on the principal of these loans and has paid $177,079 in interest at 2%. In 1972, it took 18.2 cents out of every expense dollar to pay the 2% interest. Modern telephone service would not have been possible in our area without the 2% loans from REA. The decision by the Administration to terminate the REA 2% loan program will have disastrous affects on our Cooperative.

It was mentioned about that 600 of the 930 miles of line is underground. The only reason the remaining 330 miles was not placed underground was because we could not prove feasibility to borrow the money at the 2% interest rate to do it. We had hoped and indications are that our financial situation would have improved to the point where we could go to REA and borrow the money it would take to place the rest of the overhead lines underground. We have estimated the cost of placing this additional line underground at $302,610. At a 2% rate of interest over 35 years interest costs would be $125,914 and at a 5% rate for the same period it would be $350,854 or $224,940 more. It will not be possible for us to place the remaining overhead line underground without a substantial increase in rates.

A problem has developed with some of the underground wire that was buried in 1971. The effect of this problem is that it disturbs the operation of the subscriber carrier. Chances are some of this wire will have to be replaced. It has not been determined if the defect in the wire was caused by inadequate specifications which are written by REA or if the problem is with the manufacturer. Hence, it has not been determined who will have to pay for the replacement. We do not believe it should be the Cooperative, but if it is, just the extra investment estimated at $320,400, would require an increase in rates and the burden of having to borrow the money at 5% rather than 2% would be disastrous. REA Administrator David Hamil is completely familiar with the problem and has promised to help us solve it in any way he can.

Another effect of eliminating the 2% program is that there are about 150 people along the very western side of Harding County, in the area of Camp Crook and west into Montana, that are still without modern telephone service. They are being served on a series of farmer-owned telephone lines that operate on an old magneto system. In many cases the line is attached to fence posts to keep it off the ground. By any test or comparison, service is poor. The adjacent area is served by Northwestern Bell; however, they have refused to serve this area because it is extremely sparsely settled.

These people have come to our Cooperative and asked us to provide them with modern telephone service. To make the project feasible we have been negotiating with Northwestern Bell to acquire the town of Buffalo and surrounding area. This would make the Camp Crook area contiguous with the area we presently serve. Indications are that we will be able to negotiate a satisfactory price with Northwestern Bell.

Our estimate of the total cost of this project is $1,168,416. Under the 2% interest program it would have cost $486,092 for interest over the 35 year loan period. Paying a 5% rate for the same period of time would cost $1,349,068 or $862,976 more. It would take an additional rate of over $4.00 a month to pay the added interest. The present residential multi-party rate in Buffalo is $4.40 a month. Their rate would go to at least $9.75 if we got a 2% loan and it would have to go to at least $14.00 for a 5% loan. This will make it impossible to sell to the people in Buffalo. The low income people and those on social security could not afford it under any circumstances. This in turn makes the project impossible and means that the people in the Camp Crook area will not get modern telephone service. As remote as they are and as important as a good telephone is, these people really need one.

This is a classic example of the purpose of the REA 2% 35 year loan program. It may be hard to believe that there are still people such as this group that do not have modern telephone service, but this is the case.

Because of our limited financial resources we are operating the present system of 930 miles of line spread over 3,300 square miles of area with two service personnel. This is difficult, but we just do not have the money to hire additional help. This would be possible if we were to serve the Buffalo-Camp Crook area. It would improve our overall service situation and, of course, bring another family into the community.

Technology in the communications business changes rapidly. The original system that we installed in 1961 was obsolete in 1971. It would be safe to predict that the system that was installed in 1971 will be obsolete in 1981. If it still gives satisfactory service no doubt we would continue to use it: however, if history is any indicator it is conceivable that it will have to be replaced. We could not have done it without the 2% program the first time and it is likely that the same would be true again.

If one were to assess the future of our Cooperative in the face of losing the REA 2% program, you would have to conclude that it is a gloomy one. It jeopardizes the future of our Cooperative and it appears doubtful that we will be able to continue to operate and provide good service at any reasonable rate.

We come to this conclusion by summarizing the meaning of the elimination of the REA 2% direct loan program as follows:

(1) It means higher rates.

(2) It means that we will not be able to place the remaining 330 miles underground without a substantial increase in rates.

(3) It means poorer service to the members.

(4) It means that the people in the Camp Crook area will not get modern telephone service. They will have to get along without a phone.

(5) It will make it difficult, if not impossible, for us to take advantage of new technology.

(6) All of these things in turn bring about a general deterioration of our organization and destroy our efforts to make the area we serve a better place to live.

(7) It means that our contributions to the community in terms of the economy and human resources will be at a standstill or on the decline.

Another fact of life in our area is that we have a declining farm population. In Perkins County for example, the 1960 census showed a population of 6,114. In 1970 it was 5,418, a loss of 11.4%. We have seen farmers and ranchers leave our area one after another because they could not make a go of it. There is no one coming back to take their place.

We believe the effort of our Federal Government should be to assist rural America in ways that will make rural areas a better place to live. The REA 2% loan program is the best example of how this can be done. The people in the Camp Crook area would never be convinced that the job REA was intended to carry out is complete.

We respectfully urge the South Dakota Congressional Delegation: Senator George McGovern, Senator James Abourezk, Congressman Frank Denholm and Congressman James Abdnor to reject the Administration's order to eliminate the REA 2% direct loan program and take action to have it reinstated.

GOLDEN WEST TELEPHONE COOPERATIVE, INC.
WALL, S. DAK.
(REA telephone project—S.D. 508)

NARRATIVE

The Golden West Telephone Cooperative, Inc. is a telephone communications cooperative organized under the laws of the State of South and financed under the telephone lending provisions of the Rural Electrification Act.

The Cooperative was organized in 1952 and now provides dial telephone service to twelve exchanges in Western South Dakota. The service area is principally rural and encompasses and area of 6,500 square miles.

Approximately 2,000 subscriber-members of the cooperative are connected to the twelve exchanges. The cooperative has 2,193 route miles of line to serve these 2,000 subscribers

making a density factor of .91 or less than one user or customer per mile of line. It is an apparent fact that the cooperative serves a sparsely settled rural area.

Of the twelve exchanges—eight (8) have 4-party buried lines and four (4) have 8-party open wire lines.

The Cooperative's "L" section loan application was filed with the Rural Electrification Administration—Telephone Division—North Central Area on November 16, 1972 and was currently understudy at REA headquarters in Washington when the curtailment of the 2% direct loan program was made by the President's office.

The "L" loan application on file with REA for approval was submitted in the amount of $2,757,000. This loan would have completed the stormproofing of overhead aerial lines and eliminated 8-party service in the four exchange areas now having that grade of telephone service. Also the buried 4-party lines would have been upgraded to 1-party service. The Long Valley exchange lies entirely within the Pine Ridge Indian Reservation. This exchange is one of the open wire exchanges having only 8-party service. The building of Indian housing on the Reservation requires at the least dependable telephone service for the Public Health Service, Education, and Law and Order.

Since the announcement of the termination of the 2% direct loan program the cooperative has conferred many times with the Loans & Operations branch of REA Telephone Offices, Wash., D.C. to determine disposition of the "L" loan application. No information is available for REA personnel to process pending loan applications.

The Cooperative had previously made a broad gauge study to upgrade and stormproof the entire system giving the rural members hope for dependable telephone service. A rate schedule was developed and approved for use to establish feasibility. Then the cooperative submitted engineering plans & specifications for exchanges and began the task of improving the telephone service. Feasibility was established based on direct loans of 2%. Now this plan has been destroyed as a result of the termination of the loan program at 2%.

Work done under prior loans that dovetails into pending work on an investment and service basis now must set idle waiting for new feasibility studies. Indications are that rates will need to be raised $3.00 per month to prove feasibility under new increased interest rates. Since the plan already called for a $1.00 per month increase it would appear to be doubtful if subscribers would be willing to vote for a program again and pay the additional $3.00 per month plus taxes of 13%.

Now since the cooperative was involved in a continuous construction program approved by REA with feasibility established, etc., it would seem only prudent to allow the Cooperative approval of their pending loan application in Washington to complete this work. Otherwise to ask members to vote again on a program that they already approved and actual construction had been started on would seem a hazardous way to operate a utility. It could place existing mortgages held by the Government in jeopardy.

The investment of the cooperative for each telephone now is approximately $2,000.00. The investment of telephone companies in larger towns and cities is about $500.00 per phone. Therefore our interest expense per year per phone even at 2% money is as high as what the larger urban telephone company may pay.

We are not opposed to the gradual phase out of the 2% direct loan program. However we are opposed to the sudden and drastic termination of the program as implemented by the President. Such sudden and un-studied action could jeopardize existing loans now held by cooperatives such as ours who serve the very sparse regions of our country.

The projected feasibility of our "L" loan is summarized on a following page. It can readily be determined that even at a 2% rate of interest this loan does not leave the cooperative with any appreciable operating margin. This even after the cooperative reduces the loan amount down from $2,757,000 to $2,462,000 which for goes reimbursement funds intended for reimbursement of general and operating funds previously plowed into plant.

Using a "L" loan amount of $2,462,000 and a 2% interest factor on the study the estimated operating margin per year would be $3,203.00. Since each 1% increase in the interest rate would amount to $24,620, it is not difficult to see that we cannot bring improved telephone service into rural areas using increased interest costs.

We encourage Congress to take necessary action to reverse the action taken by the President in abruptly terminating the REA program for both electric and telephone cooperatives. Since these organizations serve the sparsely settled regions of our country we ask that continued support be given by allowing of 2% loans. A gradual phase out program should be implemented that would eventually eliminate the 2% direct loans, however, consideration should be given to those cooperatives who cannot qualify for the Telephone Bank Loan Program which carries a minimum rate of 4%. Pending loan applications filed with the Rural Electrification Administration prior to the President's order should be allowed for processing as direct 2% loans.

Golden West Tel Coop, Inc. "L" Loan Application, $2,462,000.

Revenue:	
Local service	$272,341
Toll service	395,013
Miscellaneous	18,538
Uncollectibles	(1,737)
Total	684,155
Expenses:	
Maintenance	95,898
Traffic expense	2,859
Commercial and general office	86,773
Taxes	15,943
Depreciation	355,754
Amortization	2,725
Interest (all loans) 2 percent	121,000
Total	(680,952)
Net income	3,203

Raising the interest even 1% on the "L" section loan of $2,462,000 would mean an additional $24,620 per year interest expense. With a projected margin of only $3,203 this would destroy feasibility and an enormous rate increase would be necessary. The elimination of the 2% interest rate will not only curtail any future plant improvements but may place the entire project in jeopardy.

On an attached schedule it is shown that the cooperative owes principal on loans to the USA of $3,347,288.35 as of 1–1–73 plus deferred interest of another $19,519.42. The "L" loan would be in addition to this amount.

The Cooperative has four exchange areas which are now being served with overhead lines attached to electric poles. This service is on a 8-party basis. Most of these lines are provided using a multi-frequency telephone carrier system. These carrier systems fail to work when frost adheres to the physical wire. This problem is wide spread and disrupts telephone service to rural areas when they need it the most . . . during the Winter months.

Our telephone members have lived with this type of system for over 10 years and they are getting fed up with a part time telephone that works only in good weather. They deduct amounts from their monthly bills in desperation. We had implemented a general stormproofing and upgrading program to eliminate this poor service problem. We had completed about 60% of the work when the President terminated the program that would allowed completion of our work. All prior established plans, feasibility, and hopes were shot down with the elimination of the 2% program.

Most of our outlying service areas are without any type of medical service. This includes the small towns. In most cases the hospital is over 50 to 75 miles away. Schools are widely separated and our people need good telephone service here to guard their children against the sudden Winter blizzards that frequently sweep across the plains in our area.

Exchanges that yet need to be stormproofed and upgraded to provide some degree of dependability have less then one subscriber for every two miles of line. The investment per telephone is enormous. Residents in Indian communities on the Pine Ridge Indian Reservation have only a pay phone or one or two lines within the entire community in areas that we serve.

The elimination of the 2% direct loan program means the elimination of the chances of these people to receive good telephone service. On a program that is already marginable using 2% interest there is no way we can afford any increase in our interest expense. At a higher rate of interest we will be asked by the loaning agency to get approval of higher local service rates and this will be approximately $3.00 to $4.00 per month. People will not buy this . . . since they were advised of our previous plans . . . approved by REA. People on the Reservation and other rural areas cannot afford such an increase. We have eliminated their chance ever to have a telephone and this may border on discrimination.

DEBT SERVICE SCHEDULE

Note No.	Net due: Principal, Jan. 1, 1973	Net due: Def. int., Jan. 1, 1973	Annual debt service: 1973	1974	1975	1976
2010 A1	$58,376.88	$1,813.75	$4,351.56			
2020 A2	257,307.90	10,944.93	18,199.68			
2021 A2(17–1)	60,512.78	1,936.64	3,719.76			
2030 A3	107,412.62	4,824.10	6,414.68			
2040 B	123,401.66		7,080.80			
2060 C2	77,292.00		4,240.00			
2070 C3	458,931.23		24,337.60			
2080 D	87,948.53		4,664.00			
2100 E	59,990.05		3,010.40			
2110 F	26,048.85		11,905.44	$11,905.44	0	0
2111 F	$4,715.25		$1,763.62	$1,763.62	$1,763.62	0
2120 G	449,275.10		20,183.08			
7121 H	91,983.50		4,187.08			
7130 H	834,000.00		35,361.60			
7140 K	650,092.00		16,980.50	17,840.00	23,370.40	$37,820.80
2990 Cushion Co			(183.39)			
Total	3,347,288.35	$19,519.42	166,216.41	167,259.30	160,884.26	173,517.04

SULLY BUTTES TELEPHONE COOPERATIVE, INC.
HIGHMORE, S. DAK.

1. Committments to our people in Wessington, Ree Heights, Langford and Rosholt for upgrading—two million dollars.

2. Interim approval letter from REA to proceed with four exchanges.

3. Balance of exchanges—Hoven—Tolstoy—Seneca—Onaka—Hitchcock — Tulare about one million dollars to complete upgrading program.

4. Difference in 2% and 5% interest is $90,000.00 per year initially. This will require a $25.00 per year minimum increase for all 3,700 subscribers.

5. This will probably remove phone service from the aged in all thirteen towns. People who need communications.

6. Sully Buttes generates only about $200,000.00 per year over and above operating expenses, vehicle and work equipment replacement and additions and principal repayments. At this rate, it would be fifteen years at present construction costs before enough cash could be generated to provide one party buried service to the balance of our area.

7. Sully Buttes has never been in arrears in its debt service. In fact, it has been making advance payments for two years.

8. Reduction in personnel to "bare bones" would result in loss of income to the area of $54,000.00 plus putting seven employees out of work.

9. Density in Sully Buttes area averages 1.47 subscribers per mile.

10. Investment per subscriber is presently $1,389.00.

We believe that the repayment record and the integrity of the program merits serious reconsideration.

In addition, severe hardships will be created for those of us who have received interim approvals and who have committed funds for engineering and equipment and no longer have those funds available.

At the very least, those Cooperatives and companies who have received interim construction approvals should be allowed to complete these loans with 2% money while the matter is being investigated further. Even if 5% money proves the only method available, it will be possibly six months to a year before further money might be made available. What would we do in the meantime?

MIDSTATE TELEPHONE CO., KIMBALL, S. DAK.

1. We are a cooperative, owned by our member subscribers, and have received our financing from REA.

2. In 1968 we decided that we should investigate the possibility of providing area wide one party service to our member-subscribers. An area coverage design was completed and submitted to REA so that they could determine the feasibility of the project and the monthly rates necessary to support it.

3. On June 22, 1970 we received from REA stating that preliminary studies of the project had been complete, suggesting the rates necessary to support the new system, and had several other conditions which we agreed to meet.

4. We then altered the rate structure slightly, then surveyed each of our member-subscribers to get their approval of the project and the rates necessary to support the project. We received their approval and in turn submitted this approval to the South Dakota Public Utilities Commission and received approval effective as of the date of cut-over to the new system. We feel that at this time we committed the company to provide the one party service at the rates used in the survey. A considerable increase in telephone rates was required to support the new system.

5. On April 1, 1971 we received notice that 2% loan funds in the amount of $1,254,000 had been released to be used to upgrade our Kimball, Pukwana, Gann Valley and Delmont Exchanges.

6. In September of 1972 we submitted a Supplimentary Loan Proposal to REA to secure funds to upgrade our Fort Thompson, New Holland, Stickney and White Lake Exchanges.

7. On December 8, 1972 we received a letter from REA stating that funds in the amount of $1,274,000 would be needed to complete the upgrading program. That feasibility of the project had been determined on existing Commission approved rates. That final studies of the loan application would proceed upon receiving notification of this companies concurrence with the provisions of the letter. This they received by telegram, confirming letter and by certified copy of a Board Resolution.

8. We have received letters from REA granting interim approval to proceed with some of the construction for our last four exchanges. This we did with the expectation that a 2% loan would be approved. We now have funds expended and committed for plant, engineering and equipment and it now is very doubtful that the funds necessary will be available when needed.

9. The difference between the 2% and 5% for the needed loan would be $38,220.00 initially and would mean a rate increase annually of about $18.00 for each of our subscribers. This would cause an additional hardship for our aged, poor, and for the minority group we serve with our Fort Thompson Exchange.

10. Our average investment per subscriber is now about $1,326.00 and our density is 1.69 subscribers per mile.

11. On December 21, 1972 negotiations and feasibility studies were begun with a small telephone company, object being for this company to provide their area with modern single party service. Estimated amount of investment to be $100,000.00 for 60 stations. The feasibility of this project is questionable with 2% funds, and I feel it would be impossible with 5% funds.

12. We generate very little cash per year after deduction of operating expenses, vehicle and work equipment replacements, plant additions and principal replacements and it would take many years for us to generate enough cash to complete our upgrading program.

It should be remembered that REA financed telephone companies make both principal and interest payments. This company has never been in arrears in debt service and we understand that all telephone cooperatives have established very good records in this area.

The loss of the 2% program is going to make a very serious problem in meeting the commitments made with interim approval. We have committed ourselves to providing one party service to our member-subscribers at the rates used at the time of the survey. If we must pay the higher interest rate it will be necessary for us to request a rate increase for the service even before the service is initiated. I feel that we will be in serious trouble with our subscribers and that an additional adjustment will not be accepted voluntarily.

We know that we are faced with serious problems, and any assistance that can be obtained to solve them will be greatly appreciated.

STATEMENT OF NELSON HUNDSTAD FOR ASSOCIATION OF FARMER ELECTED COMMITTEEMEN RURAL ENVIRONMENTAL ASSISTANCE PROGRAM (REAP)

It has been said that farmers no longer need cost-share payments because of increased prices of farm commodities. When one stops to remember that the prices of most farm commodities were higher twenty years ago than they are today it is a little hard to think that any one can really believe that farm prices are even high enough to meet the high cost of production.

The Rural Environmental Assistance Program (REAP) successor to what was known as the Agricultural Conservation Program (ACP), was authorized by the Soil Conservation and Domestic Allotment Act of February 29th, 1936.

Funds for the ACP and now REAP have been authorized annually by Congress. The cost share authorization in recent years has been in the area of $200 million. By making this authorization through the years, it is plain to see Congress has recognized the benefits of the program not only for the farm and rancher, who have carried out the different practices, but to the American public and the National interest.

About one million farmers and ranchers throughout the nation have been using the REAP in recent years. Cost-share is generally on a 50–50 basis, however many farmers bear considerably more than half of the cost of the practices.

Up until now the Department has recognized it's responsibility in meeting the much needed cost-share for soil and water conservation practices and for environmental improvement practices.

Major categories of practices under REAP include:

A. Practices for planting or improving stands of grasses, legumes and trees.

B. Practices primarily for the conservation of water. (dams & dugouts).

C. Pollution practices for prevention of water, soil and air pollution.

D. Practices to benefit wildlife. (food plots, cover planting and ponds).

E. Practices to protect soil from eroding. (terraces, waterways, stripcropping).

If you stop and consider these practices you will readily agree that they all benefit the American public, not just the farmer, by helping to conserve our soil and water, improving our environment, reducing pollution, improving wildlife populations and providing recreational areas.

PROGRAM RESULTS

In recent years ASCS conservation cost-share programs have helped farmers and ranchers nationally establish conservation measures on about one million farms and ranches yearly.

According to a 1972 report by USDA, a typical recent year's accomplishments nationally included:

45,000 water storage reservoirs, directly serving 4 million acres, Distribute grazing, control erosion, conserve water, and provide wildlife habitat and recreational opportunities.

300,000 acres of trees and shrubs planted, or timber improved for forestry purposes, erosion control, wildlife habitat, and pollution abatement.

600,000 acres served by terraces to control erosion, stabilize land and reduce stream pollution.

300,000 acres of contour and field tripcropping, protecting soil from wind and water erosion, reducing air and water pollution.

1 million acres served by sod waterways, safely dispersing excess water, preventing erosion, reducing pollution of downstream land, waterways and reservoirs.

9 million acres of enduring cover, grasses and legumes, for soil or watershed protection or land-use adjustment, with extensive anti-pollution benefits.

According to our 1971 State ASC report, South Dakota accomplished the following under our 1971 REAP. I do not have the total report for 1972 so this is the reason for using 1971. 1972 will equal or exceed 1971.

In 1971 South Dakota operated with a

funding of slightly over 3 million dollars. As I mentioned before this is a 50–50 cost share program therefore it is safe to assume that farmers and ranchers invested a like amount or more, plus also taking land out of production for some of the practices.

In 1971, 15,402 farms participated in REAP in the state, earning $2,923,795.00 in cost share.

Some of the things accomplished through the REAP program in South Dakota in 1971 were as follows:

Seeding of 314,522 acres of grasses and legumes.

Planting of 5,211 acres of trees.

Building of 2,375 water reservoirs.

The establishing of terraces on 216 farms.

The building of sod waterways on 227 farms.

The building of erosion control dams on 8 farms.

The establishing of winter cover crops and stubble mulching on 126 farms.

The applying of special practices to meet new conservation problems on 1,040 farms.

514 farms used the wildlife practices in 1971 for wildlife food plots, and ponds.

77 farms used the pollution control practices to help control water, soil and air poluton.

20 farms used the sediment retention, water control and chemical runoff control practices.

That gives you an idea of the extent of the REAP program both Nationally and State wide.

I wish to point out that animal pollution control practices have been encouraged the past 2 years very strongly. I know of about 6 farmers in my home county who were planning on applying animal pollution control practices on their farm in 1973 to help stop the pollution of our lakes and streams in Brown County. I am sure they will know nothing about it without cost-share. I also believe our tree planting in South Dakota will be practically eliminated without Government cost-share. Many, many shelterbelts and just recently, field rows, have been planted through the years under this program, but there is room for many more acres of trees, especially in the western part of our state.

I understand the 1973 Rural Environmental Assistance Program was one of rural America programs eliminated from the President's budget in order to curb inflation and to reduce Government spending to comply with a $250 billion National budget.

I think this should be reconsidered and subsequently the REAP program restored.

Priorities are certainly turned around and should be corrected, when an environmental program such as our REAP is eliminated and we continue to spend millions and millions of dollars and hundreds of lives on a senseless war on the other side of the world, which according to a Nation television program cost half of a billion dollars in planes and bombs in about the last two weeks of 1972.

SOUTH DAKOTA LAND IMPROVEMENT CONTRACTORS ASSOCIATION, INC.

GENTLEMEN: My name is Keith Carr and my home is in Prairie City, S.D. I am representing the South Dakota Land Improvement Contractors today, as their president, and also the Land Improvement Contractors of America, as a member of their board of directors. I have been in the earthmoving business 17 years, and doing AEC–REAP work for 15 years.

Our Association is composed of the many smaller contractors that do the big share of the earthmoving under the Rural Environmental Assistance Program. Our membership varies from the contractor with an owner-operator type of operation, to the contractor with several employees. According to a nationwide survey conducted in 1971 we employ an average of 5.7 people, and do an average of 105 jobs per year. Some of our members depend on the REAP Program for 100% of their income, while others are partially dependent upon it. In my case, 44% of our earthmoving income in 1972 was from REAP affiliated projects.

I was greatly disturbed when I read the USDA–ASCS Administrators Memo #98, where it was stated that the Rural Environmental Assistance Program was being terminated because it was a *supplement* to the farmers income. This is not the case, as the farmer and rancher is subsidizing the people of the United States, every time they construct a dam, dugout, terrace, or grassed waterway on their land. All of these practices help control pollution, stop siltation, preserve water, provide wildlife habitat, and provide recreation for future generations. Were the farmer and rancher not bearing part of the cost, the government would have to pay him easements, plus have 100% of the cost, to get these practices on the land.

How can only $20 million be cut, from the over $200 million, for salaries and administration of the Soil Conservation Service, to do the paper work; while the whole REAP program, that provides the money for construction, be terminated? It doesn't make sense to me.

It will not be known for some time what the loss of REAP will mean to our members. Many will definitely have to go out of business, and others will be laying off employees, as we are not adequately equipped, or financed, to bid the big jobs and assume the added risk. Main street will feel the loss of fuel, repair and equipment sales. My own small business spent $8500. for gas, fuel and oil, and $15,000. for repairs last year. A loss will also be realized in the property taxes of each county.

The loss of many small contractors and their equipment will be felt in emergencies, such as blizzards, and disasters such as the 1972 Flood in Rapid City. Before the water had subsided many of our members were on their way to Rapid City with personnel and equipment. I personally saw several there working the day after the flood.

Gentlemen, I could mention many more side effects, but in behalf of myself and the Land Improvement Contractors of our State & Nation, I ask your support in the fight to reinstate the Rural Environmental Assistance Program, as administered by the ASCS offices, and that it be funded in at least the *amount approved* by Congress of $225.5 million. We would also ask that Congress direct that these funds be on a continuing basis, and thereby eliminate the yearly struggle for the release of the appropriated funds.

STATEMENT OF THE BISON COMMERCIAL CLUB TO BE PRESENTED TO THE SOUTH DAKOTA CONGRESSIONAL DELEGATION IN HURON, S. DAK., ON JANUARY 13, 1973

Bison is a small rural community located about 100 air miles northwest of Rapid City on a line from Rapid City to Bismarck, North Dakota. The closest major highways are approximately 40 road miles North (US 12) and South (US 212). The only transportation facilities available are for freight and mail.

There are approximately 500 people living in the town limits of Bison. All of the businesses and most of the other people rely on the agricultural economy for their livelihood. All of these people activily participate in all of the activities of the community. Not only in time but with as much money as they can afford to help stimulate the economy and life in the area. As evidence of this, the people have invested money in two local home owned corporations to build a new motel and a bowling alley and supper club. The Bison Commercial Club which is composed of every local business and many individuals feel that it is extremely necessary that it be known what the effect of the Administration's executive orders to eliminate the REAP program, the 2% financing for RECs and RTCs, and the FmHA Emergency Loans, Interest Credit Loans, Rural Rental Housing Loans and Farm Labor Housing Loans will be on our small rural community.

If there had not been 2% loans from REA, we would not have the type of electric service and telephone service that we presently have. There was electric service for the community and an old magneto type telephone system, but most of the people outside of the community on the farms did not have electric service as such.

Seven years ago there was the possibility of the ASCS, FmHA and SCS moving their offices from Bison if there was not adequate building space for them to be housed. The member of the Commercial Club made every effort to see that this building was built, to the extent that 25 individuals signed notes of $1000 each as a part of the loan necessary to finance the construction. If the President continues to cut off programs administered by these agencies not only will it put approximately 12 people out of work, but it might make it necessary for the lending institution to ask those 25 people to cover the notes.

The cutback in these programs also has a direct effect on the grocery store, the service station, the implement dealers, the lumber yard and even the bank. Not to mention what it will do to our already high enough property and personal property taxes, because more people will move off the family farm and leave the area making the rest of the people pay more taxes to educate our children and pay for the cost of state and local government.

Increased interest rates for REA will mean that they are going to have to raise rates to have the money to meet their obligations. Even if all other cost remained the same, and it is very apparent they will not, the cooperative will have to be able to generate an additional amount of money and the only way that they can do that is to raise rates and probably reduce the amount of service that they are trying their best to provide to the members.

The FmHA has helped Bison and Perkins County in many ways and now they are faced with cutbacks that will almost bring remodeling and new construction to a stand still. Most of the new construction in Bison over the last twelve months has been under the interest credit program. We already have a housing shortage and there was the possibility that we could get FmHA assistance to build rental housing but that program has been eliminated so how are we going to get new people to come to the community when there are no places to live. Our schools have a hard time getting qualified teachers to move to Bison as it is and the cutbacks in the FmHA programs will make it even harder because of our housing shortage. The farmer hires families to come to work for them and many times they provide housing for these people to live in. There is no longer assistance for these houses that bring people back to the rural area.

You hear people say this is one of the best years that people in agriculture have ever had, wheat prices are up, cattle prices are up, and things could not be better; but we ask how long has it been since these people have been able to make ends meet and how long is it going to last?

We have blue skies and fresh air to breath in rural America and many of the programs that the President is cutting "for economy purposes" are geared to that of saving our environment. They talk about the overcrowded cities. They are trying to revitalize rural America and in the same breath they are doing everything in their power to snuff-

out every glimmer of life and breath that might get the people to come to rural America to live.

We respectfully request that each and everyone of our Congressional Delegation do all in their power to reverse these orders by President Nixon and help save rural America for Americans.

SUMMARY REPORT: PROBABLE EFFECTS ON NORTH DAKOTA BY ADMINISTRATION ACTION TERMINATING RURAL DEVELOPMENT PROGRAMS

The following information represents a summary report of the economic, social and environmental effects on the State of North Dakota which are expected as a consequence of recent action by the Nixon Administration in terminating, severely altering, or drastically reducing funding for various United States Department of Agriculture programs. Affected programs include the Water Bank Program, the Rural Environmental Assistance Program (REAP), the Wheat and Feed Grain Reseal Program, the Grain Storage and Drying Equipment Loan Program, the Farmers Home Administration Disaster Loan Program, and the Rural Electrification Administration 2% Loan Program for Rural Electric and Telephone Cooperative. The data used in completing this report were obtained from various United States and North Dakota government sources.

THE REAP PROGRAM

In 1971 under various elements of this program, North Dakota farmers and other rural residents received payments totaling $5,600,000. The REAP program is basically a cost-sharing program whereunder the farmer and the Department of Agriculture share costs for programs of soil conservation, water conservation, wildlife habitat improvement, and for programs generally geared toward enhancement of the environment.

In 1971 North Dakota farmers received $957,000 for tree planting cost-sharing, $887,000 for grassland improvement program cost-sharing and $42,000 for wildlife habitat improvement (feeding plots and nesting cover). The balance of $3,714,000 was paid to North Dakota farmers for various other agricultural conservation practices.

A very significant portion of the state's farmers have historically participated in these programs. In 1971, 21,551 farmers participated which represents 52% of all North Dakota farm units.

Also involved in the REAP program is the popular Livestock Pond Construction Program. In 1971 ponds were constructed on 1,286 farms. In addition, a new program initiated in 1971, the Animal Waste Control Program is geared to assist in water pollution abatement in rural areas and around 100 farm units have already participated. This program is of special importance to existing as well as planned livestock feeding operations.

In that same year windbreak, shelter-belt and other tree planting programs were made possible on 6,379 of the state's farms. This involved planting an estimated 2,000 acres of trees. Measured in terms of miles of field windbreaks planted, Soil Conservation officials estimate for the past five years an *annual average* of over 1,500 miles.

It can of course be concluded that the state will lose at least $4,600,000 in annual income as a result of terminating the REAP program. Other economic effects are that an estimated 1,000 North Dakota jobs in both the public and private sector will be adversely affected. A significant number of jobs will actually be terminated.

It is also reasonable to conclude that all the above described tree planting programs will be reduced by 80 to 85% in the future.

It is safe to assume too that much of the program activity under the animal waste control program will probably have to be terminated by individual farmers due to prohibitive costs.

The adverse environmental effect of termination of this program is impossible to predict. It is possible that various soil conservation projects conducted by farmers under cost-sharing elements of this program will become infeasible or prohibitive as individual farmers are expected to assume total cost of such activities in the future.

THE WATER BANK PROGRAM

This is a pilot program implemented in 1972. Purpose of the Water Bank is to preserve our wetlands. This has been a prime objective of conservation organizations and hunters. Its benefits to North Dakota are demonstrated by the fact that in the first year 15 counties participated and 334 ten-year contracts were signed.

This program made possible 20,454 acres of waterfowl habitat and nesting areas. Contracts executed in 1972 yielded $271,000 annually. Taken times ten years this represents an economic imput of $2,710,000 into the State of North Dakota. The potential economic impact would likely have grown had the program remained in effect and additional counties and farmers eventually participated. Farmers will find it difficult to retain wetlands while suffering losses in farm program payments.

FARM STORAGE AND DRYING EQUIPMENT LOAN PROGRAM

This program, administered by the Agriculture Stabilization and Conservation Service (ASCS), is extremely popular in North Dakota. Most important to the state are the farm storage facilities loans, or Storage Structure Program as referred to by ASCS. *Under this program from 1954 through 1971 a grand total of 41,884 storage structure loans were made in North Dakota.* This provided *on the farm* storage for 187,746,000 bushels of grain. The total loan funds involved for this period were *$46,919,000.* Listed in the table below is a summary of loan activity from 1967 through 1971. The table gives total numbers of loans made, bushels of storage provided and total loan funds involved for each year:

STORAGE STRUCTURES—TOTAL LOANS IN NORTH DAKOTA

Dates	Loans	Bushels	Amount
1954 to July 1, 1967	23,075	85,401,000	$21,757,000
July 1, 1967 to Dec. 31, 1967	1,083	4,612,000	1,133,000
1968	6,901	34,458,000	8,779,000
1969	4,304	25,764,000	6,292,000
1970	2,022	13,356,000	3,009,000
1971	4,499	24,152,000	5,949,000
Total	41,884	187,746,000	46,919,000

These loans were made at interest rates ranging from 3½ to 6%. The highest interest levels were attained in recent years, however, as interest rates went from 5½% to 6% within the last two years. We can conclude that the termination of this program will have *severe* adverse economic impact for thousands of farm units in the state. This will probably have the net result of forcing more grain storage off the nation's farms and into the warehouses owned by commercial grain corporations and other groups.

TERMINATION OF WHEAT AND FEED GRAIN RESEAL PROGRAM

This too has been an exteremly popular program in North Dakota as can be determined from the following tables:

COMMODITY CREDIT CORPORATION GRAIN RESEAL PROGRAM—NORTH DAKOTA DATA, STORAGE EARNED

[As of Nov. 30, 1972, bushels under reseal]

	Annual payment per bushel	Total potential earning
1971 bushels in storage:		
Wheat	56,060,000×0.1460=	$81,847.60
Barley	13,475,000×.1460=	19,673.50
Oats	9,992,000×.113 =	22,305.94
Rye	2,295,000×.1460=	3,350.70
Corn	1,804,000×.1245=	21,648.00
1970 bushels in storage:		
Wheat	11,336,000×.1245=	1,411,332.00
Barley	2,734,000×.1245=	340,383.00
Oats	15,939,000×.87 =	1,386,693.00
Corn	301,000×.10 =	30,100.00
1969 bushels in storage:		
Wheat	19,102,000×.1245=	2,378,199.00
Barley	6,369,000×.1245=	792,940.50
Oats	21,468,000×.87 =	1,867,716.00
Corn	292,000×.10 =	29,200.00
1968 bushels in storage:		
Wheat	8,951,000×.1245=	1,114,399.50
Barley	9,552,000×.1245=	1,189,224.00
Oats	7,355,000×.87 =	639,885.00

Taken in terms of farm stored grain loans referred to by ASCS as "Original Loans Made" totals from 1969 through 1971 are as follows:

TOTAL ORIGINAL LOANS MADE IN NORTH DAKOTA

	Wheat	Barley	Oats	Rye	Flax	Corn	Soybeans
1969	21,258	9,347	12,099	825	2,870	269	365
1970	12,436	4,599	7,855	926	3,543	235	183
1971	30,878	8,478	4,806	2,161	1,645	537	133

DISASTER LOAN PROGRAM

During times of natural disaster, an emergency loan program, administered by the United States Department of Agriculture Farmers Home Administration, has been made available to applicants who have suffered financial hardship. Loans are made at reduced interest rates to assist the applicants in their economic recovery. To be declared eligible the Governor must request disaster designation from the Secretary of Agriculture or the President. Presidentially declared areas generally have suffered a far greater damage over a larger area than those which the Secretary of Agriculture has the discretion to designate.

Loss of the disaster loan program can mean tremendous economic hardship at a time when rural citizens are least able to absorb loss. It may result in the financial collapse and loss of economic farm units. For example the drought of 1961 in North Dakota was one of the worst natural disasters to strike the state. In that year over 5,300 applicants borrowed $11,500,000 at reduced interest rates. This is the largest amount of money that has been loaned by the Farmers Home Administration under this program in North Dakota in any one year.

Although essentially a very high risk loan program, over 99% of the principal borrowed has been repaid to the Farmers Home Administration. Since North Dakota is the most agricultural state in the nation, the disaster loan program has been used more in this state than any other and certainly is a necessity.

THE RURAL ELECTRIFICATION ADMINISTRATION 2 PERCENT 35-YEAR LOAN PROGRAM

Since some of the rural electric distribution cooperatives in North Dakota have less than one consumer per mile of line, the

adverse effects of the Nixon Administration in terminating the 2% loan program could have drastic economic effects on such cooperatives. Similar conditions also exist in various other Missouri Basin and western states. Due to sparse population, many rural electric cooperatives throughout the state have extremely low ratios of consumers per mile of line.

This action was taken by the Administration without regard to possibilities that raising the interest rates to be paid by such cooperatives from 2 to 5% in the future may destroy economic feasibility for such consumer-owned systems.

The net effect of the Administration's action will cost rural people $1,369,137 more per year to pay for higher interest costs on $65,197,000 in loan funds required for the balance of the present fiscal year. Taken for the total 35 year term of such loans, this results in increased interest costs amounting to $47,919,795.

For telephone cooperatives, rural people will pay $252,300 more per year on loans of $12,014,294 for this fiscal year or a total of $8,830,506 for the 35 year period.

The following table summarize this data:

Fiscal year 1973, REA loan requests from North Dakota rural electric cooperatives

Total requested	$65,197,000
$65,197,000 at 5 percent IR for 35 years	$139,195,595
$65,197,000 at 2 percent IR for 35 years	91,275,000
Total increased amortization cost over 35 years	47,919,795
Annual increased cost due to increased interest rate:	
$65,197,000 at 5 percent for 1 year	3,977,017
$65,197,000 at 2 percent for 1 year	2,607,880
Increased annual amortization cost for 1 year	$1,369,137

Rural telephone cooperatives

Total requested	$12,014,294
$12,014,294 at 5 percent IR for 35 years	25,650,518
$12,014,294 at 2 precent IR for 35 years	16,820,012
Total increased amortization cost over 35 years	8,830,506
$12,014,294 at 5 percent for 1 year	732,872
$12,014,294 at 2 percent for 1 year	480,572
Increased annual amortization cost for 1 year	252,300

The Administration's action simply was to terminate the 2% 35 year REA direct loans to eligible borrowers and substitute a loan program yet to be formulated under the Rural Development Act of 1972. Unofficial announcements are that the rate of interest under this new loan program will be 5% per annum. It is possible, of course, that the interest rate will be higher since additional service fees, insurance costs or whatever may be added to the cost of such loans.

Under the new program the Federal government will subsidize bankers paying them the current rate whatever the market may be in excess of the stated 5% at which money will be loaned to rural electric systems.

It is not clear why the Administration took this action. The record of repayment by rural electric cooperatives has been more than outstanding. A summary of the history of North Dakota rural electric and telephone cooperatives under this program is contained in the following table:

NORTH DAKOTA REA LOANS

	Electric co-ops as of June 30, 1972, 25 borrowers	Telephone co-ops as of June 30, 1972, 11 borrowers	Totals, both electric and telephone co-ops as of June 30, 1972
Total loans	$379,778,712	$62,071,586.70	$441,850,298.70
Distribution	119,319,594		
G&T co-ops	258,539,095		
Funds advanced	267,525,790	60,568,897.70	328,094,687.70
Principal due and paid	69,922,152	17,908,891.22	87,831,043.22
Interest due and paid	45,275,551	9,106,708.88	54,382,259.88
Advance payments	6,740,769	3,181,530.85	9,922,299.85
Total paid in	121,938,472	27,015,600.10	148,954,072.10

It is assumed that the Administration's sympathetic identity with financial interests and investor-owned utilities and energy conglomerates lead to this action.

For: Senators McGovern and Abourezk; Representatives Denholm and Abdnor.

Kingsbury Conservation District in the monthly meeting of January 10, 1973 appointed me to make this statement to our Congressional delegation concerning the recent actions of the National Administration as concerns farm programs.

Cancellation of the R.E.A.P. cost share programs will cut the district tree planting program an estimated 60%.

Feed lot pollution control will stop entirely.

Terracing and waterway construction will cut back 80%–90%.

These are all environmental and pollution control measures which benefit all the people and all future generations. Farmers just do not feel they should bear the full load of installing these structures. Farm price squeeze being what it is they cannot afford this cost.

Roland Leonhardt.

Supervisors: Bernard Larson; De Smet—Chairman; William Logan, Carthage—Vice Chairman; Roland Leonhardt, Oldham—Treasurer; Howard Schultz, De Smet, Otto Scherl, De Smet—Ext. Agent, Secretary.

The News lately paints a rosy picture of farm prices especially for grains up 6–8%. They do not mention the fact that it is impossible to sell grain now as there is no box cars available and an embargo on trucks unloading in Sioux City, nor does the news mention the fact that farm operating costs have risen 200% while grains have been making this 6–8% increase.

Oldham Farmers Elevator,
Roland Leonhardt,
Secretary.

Soil and Water Conservation Dist.
Kingsbury County, S. Dak.

Supervisors: We feel that the elimination of Cost Sharing funds for the R.E.A.P. program will seriously cripple or eliminate progress being made in soil and water conservation. It is doubtful if individual operators as a whole, can afford to or will carry out a good conservation program without financial assistance.

The board feels that everyone should bear the cost of preserving our natural resources and environment for future generations. Soil Conservation Districts are financed from district activities. The elimination of Cost Sharing could well be the end of Soil Conservation Districts. If that happens, it would be destroying a national organization well qualified to administer conservation and environmental protection programs.

We feel that Cost Share on permanent type practices, such as, pollution control, terraces, grass waterways, and tree planting should be reinstated.

The point is simply this: Why stop environmental protection programs at a time when we should be doing much more than we have done in the past.

Respectfully submitted,

Bernard Larson,
Chairman.
William Logan,
Vice Chairman.
Roland Leonhardt,
Treasurer.
Howard Schultz,
Urban member.
Henry Kropuenske.

Statement by Gary Enright, Administrative Director, South Dakota Farm Bureau Federation

January 13, 1973.

It is indeed a fortunate opportunity for all of us here today to speak plainly to members of our Congressional delegation about a matter which is of importance to all South Dakotans and all Americans.

Generally we are discussing the cuts in federal spending as announced by the Nixon Administration. Farm Bureau has made its position known to the Administration and we feel that you should also be made aware of that position.

Farm people recognize the need to reduce excessive government spending. We also believe that the cost-price squeeze results primarily from inflation-feeding deficit spending. Farmers are acutely aware of this because they are tax payers, not tax money receivers.

Members of Farm Bureau still insist on 'across the board' reductions in government spending. That clearly means *all* areas of spending must be reduced, including some cuts in agriculture. These cuts *must* involve all areas of spending so that agriculture does not have to carry an inequitable or disproportionate share of the burden of these reductions.

We applaud the Administration for the intentions of these efforts because Congress has certainly not made a concerted effort in the area of fiscal responsibility.

The public is well aware of the current high prices being paid for some farm produce. The price of hogs, fat cattle and some grains is bringing all federal expenditures in agriculture into the public spotlight.

There is considerable discussion at present, regarding price controls on raw agricultural products. Farm Bureau has led in this so-far successful effort to keep these controls off. However it will be next to impossible to keep these price controls off raw agricultural products unless strong action is taken to curb this rampaging fiscal irresponsibility throughout our governmental system. There is a definite inter-relationship between the cuts we are facing now and the possibility of continued efforts to put controls on food prices.

All of us representing agriculture must continue to tell the facts concerning the

spiraling increases in costs and high taxes. We in agriculture must also face the fact that we are not separate from the economy of this nation, but we are an important part of it. We therefore must realize that we also will have to accept cuts in the federal spending program if there is to be any success in this overall effort to end inflation and hopefully stop increases in taxes.

It is the opinion of Farm Bureau that members of Congress must accept their responsibility to cut federal spending in order to curb inflation.

Farm Bureau believes those making the cuts in spending in the area of agriculture must realize that some programs are essential however.

Curtailment of the special emergency loan program of the Farmers Home Administration leaves some farmers and ranchers as well as other citizens, with urgent credit needs resulting from losses due to natural disasters. Such losses, at the same time, seriously jeopardize their ability to qualify for credit from customary commercial sources and the regular operating loans of the Farmers Home Administration.

Every effort should be made to provide credit to *deserving* farmers and ranchers and other citizens who have no other source of credit. We recommend that present programs be restructured to meet legitimate emergency needs in clearly identifiable hardship cases.

Under the R.E.A.P. program, annual payments have been offered land owners covering part of the cost of installing approved conservation and pollution control practices which benefit all people. The program is cost sharing and not an income supplement. People should understand that important point.

Such investments in the future of America are not subsidies solely for the benefit of the land owners and the program has been quite effective in its intended purpose. We believe that a federal program of cost-sharing should be continued for those soil and water conservation practices and structures which contribute to the attainment of pollution prevention, enduring conservation and environmental enhancement.

Farmers and ranchers are substantial taxpayers. In proportion to their incomes, they pay higher taxes—including income tax, sales tax and property taxes—than any other major segment of our economy. Farmers are interested in fiscal responsibility, in balanced budgets, in control of inflation, and reduced federal expenditures since the real cause of inflation is excessive government spending.

Nothing jeopardizes net farm income more than inflation which tightens the cost-price squeeze as farm costs rise faster than farm prices in an inflationary period.

Agriculture is ready and willing to bear its fair share of the *necessary* cuts in federal expenditures, but we have asked the Administration not to impose an inequitable burden upon agriculture.

Farmers are going to be watching Congress closely to determine if it will act in their behalf in making necessary cuts rather than prolong the problem by not supporting proper and necessary cuts.

I hope the result of this meeting today will be a benefit to agriculture by looking beyond the immediate situation, recognizing that we must make every attempt to retain funding for vital areas, but grasping the over-riding problem which is high taxes and excessive federal spending.

HAYNES, N. DAK.,
PERKINS COUNTY, S. DAK.,
January 13, 1973.

To The South Dakota Congressional Delegation:

When I heard of the elimination of the R.E.A.P. or the old A.C.P. program I was at first shocked with disbelief then disgust that a President could have the power to eliminate programs that the Congress had already decided should be a law. How could such useful programs that help all our people be allowed to be scrapped? R.E.A.P. has been one of the *best Environmental programs* ever conceived! It does not use a lot of highly paid technicians. Also a farmer can sign up for one practice or several, depending on how many he can afford. One clerk in an A.S.C. Service Office does all the bookwork and writes all the checks for a whole county. For about $86,000 in federal money last year in Perkins County about 3 times that or about $260,000 in Conservation was performed.—Where else can the people get conservation done so cheaply?—certainly no other way! Very few farmers can afford to do the conservation work themselves and in many cases why should they? The urban people like to hunt and fish and enjoy the benefits provided by the R.E.A.P. program. Indeed, pollution seems to have a high priority these days as it should. It seems that every time I hear the news lately another blow has been aimed at the farmer, rancher or other low income people. . . . Other programs eliminated are the Waterbank Program, low interest F.H.A. loans, 2% R.E.A. loans and low interest housing loans. The President claims its to cut the budget, but I have just read that even though the Vietnam War ends, more money would be needed to protect Europe. Hence an increase in military spending of some 6 billion would be needed. Maybe we should examine our priorities. Our future generations will be living here.

The A.C.P. or R.E.A.P. was passed into law back in 1936 and was funded at 500 million dollars—a far cry from the 235 million appropriated by Congress for this year then cut to 140 million later on by the President before it was eliminated Farmer elected officials are in charge of this program. All of the people benefit through these practices in that practically all of them provide erosion control of one kind or another. For example; strip cropping, terracing, dams, dugouts, seeding down of sandy or light soils, tree planting—The program provides the incentive to get this work done. An incentive that encourages conservation and pollution abatement at the source where it is needed the most. After all these years R.E.A.P. must have *merit* or it wouldn't have continued in force this long.

Sincerely yours,

RAYMOND R. WILLIAMS.

TESTIMONY FROM HARDING COUNTY, S. DAK.

JANUARY 12, 1973.

It is the consensus by the Harding County ASC Committee that of all the people interviewed, including farmers, ranchers and business people, ninety-nine percent agree that it is the responsibility of all the tax payers to help maintain the preservation of our natural resource's of soil and water. Therefore, the present, or any other steward of the land, should be expected to keep and bear the expense alone to preserve the land for scores of future generations.

If we all agree that food and fiber is the breath and pulse of this country, how then can our own department of agriculture intelligently put REAP in a category with such a low priority that it can be terminated now? This action goes against the wisdom of Congress and termination of the program by the stroke of the pen by one man would, without question in any one's mind who has ever had rural experience, destroy the backbone of this country.

It must be said if we agree that all American citizens have a responsibility to preserve our natural resource's, the top officials in the Department of agriculture must be wrong to declare the monies provided by Congress to preserve these resource's that only irresponsible individuals would consider REAP funds monetary supplements to farmers and ranchers.

If, however, you would take a very realistic inventory of the so called priorities by the department you will find another agency trying to do conservation through other methods, mostly in the way of technical assistance, instead of using as little as REAP's 140 million a year, their minimum appears to be about 200 million. We are not trying to be derogatory but merely realistic.

If the present top appointed officials are so far removed from the rural people to make decisions to put programs like REAP former (ACP) in a priority so it can be terminated and no doubt setting a precedence for other programs to follow as well, this of course then will terminate the grass root Committee system that has administered these programs so uniquely and efficiently for several decades, without a doubt improved and progressed steadily. But let us remember, conservation and control has to be continuous effort since there is a constant deterioration of soil and water, primarily from producing the food and fiber for the nation and part of the world.

Therefore, it is apparent from our standpoint, the people in charge of the department have incompetent decisions and that the United States Congress who is responsible for all the people and the country, must intervene and reinstate these programs immediately and preserve this country from complete chaos.

THE HARDING COUNTY COMMITTEE.

STATEMENT OF ROBERT T. HIATT, HOUSING SPECIALIST, OFFICE OF THE GOVERNOR, STATE ECONOMIC OPPORTUNITY OFFICE, PIERRE, S. DAK.

The Nixon Administration's policy of benign neglect toward blacks has been extended to encompass the poor, the elderly, the wage earner, the struggling farmer and all others in South Dakota who are ill-housed. 27.8% of the state's population lives in substandard housing—and the administration declares an eighteen month moratorium on subsidized housing production. 19.8% of all housing units in South Dakota are substandard—and thousands of units which have been built are lost. 20,310 housing units lack some or all indoor plumbing—and the Administration says, "Too bad," and, for good measure, cuts off the water and sewer loan and grant programs of both HUD and the Farmers Home Administration.

The moratorium on subsidized housing production is an obvious social tragedy. Sixty-eight percent of South Dakota's families earn less than $10,000 per year and could not afford, at today's conventional mortgage terms—10–20% downpayment, 20 year mortgage and 8% interest—to buy a modest $20,000 house. Fifteen percent of South Dakota's families earn less than $3,000 per year.

The moratorium is also an economic disaster for the state. At least $36 million dollars will be lost to the state's economy from the abrupt cutoff of the construction of subsidized units. In fiscal Year 1972, the combined total of units built under the Farmers Home Administration, the Federal Housing Administration and public housing was 3,695. These units were constructed at a total cost of $52,070,000, which put money in the pockets of construction workers, real estate people, architects, builders, lawyers and others, and put thousands of people into decent housing. In Fiscal Year 1973, a total of 1,560 units, costing $17,000,000, had been approved before the freeze. And the Farmers Home Administration was heading for a banner year, with nearly as much production in ½ of fiscal year '73 as it achieved in all of of fiscal year '72. One large Sioux Falls builder estimated on television that he will lose

50% of his business because of the freeze, and one can assume that 50% of his work force will be out of jobs. There is every reason to assume that the same will happen to all builders—large and small—across the state.

The Administration will surely argue that the state should use some of its $27,000,000 revenue sharing funds to take up the slack. With local government in a continuing financial crisis in providing basic services to its citizens, who can reasonably expect this to happen? And even if the state put all of its $7 million share into housing, what small, measure of relief is this?

South Dakota has been struggling for years with a depressed economy and a population decline. The administration's actions could not have been better calculated to weaken the state's economic stance or to increase the rural-urban flow and the loss of its youngest, brightest and most aggressive citizens. The housing moratorium is part and parcel of what appears to be a direct and brutal assault on the quality of rural life.

HOUSING SUPPORT DATA

	Number	Percent
I. Need:		
Total occupied units	200,463	
Without some or all plumbing	20,310	10.0
Overcrowded	12,973	6.5
Severely overcrowded	5,079	2.5
Overcrowded with all plumbing	19,514	5.4
Substandard units	39,284	19.8

II. Subsidized housing production:	Fiscal year 1972	Fiscal year 1973
A. Farmers Home Administration	953	766
502	793	601
515	160	165
B. HUD	2,742	607
235, 236, 221(d)3	1,388	318
Public housing to Indian authorities	526	289
Public housing	828	
C. Total construction cost	52,070,000	16,969,000
FmHa	11,819,000	7,864,000
HUD	40,270,000	9,105,000

COMMUNITY COOPERATION IN FROSTBURG, MD.

Mr. BEALL. Mr. President, on Saturday, January 13, 1973, a tragic fire raced through the business district of my hometown, Frostburg, Md. The blaze destroyed three buildings, damaged five others, and caused losses that will probably total in the hundreds of thousands of dollars.

But, in the face of this terrible tragedy, one could not help noticing the great outpouring of public cooperation by the people of Frostburg. Over 170 firefighters, led by the Frostburg Volunteer Fire Department, battled the fire, and were joined by members of Company C, 121st Engineering Battalion of the Maryland National Guard in remaining overnight to insure that the smoldering ruins did not erupt in flames again. The Allegany County Red Cross was on the scene, offering its assistance, as was the First Presbysterian Church of Frostburg and other church groups. McDonald's of LaVale, Md., brought 300 hamburgers to firemen fighting the blaze, and representatives from the Frostburg Merchants Association were on hand to help. Finally, several people whose apartments were destroyed or damaged found welcome lodging at friends or relatives homes.

In all, it was a time where the people of a community bonded together to meet the challenges of disaster. The actions taken by Frostburg citizens were not unique, but they do point up the nature, I think, of the American people. I offer my condolences to those who suffered losses, but I also extend my commendation to the people of Frostburg who were so unselfish in the face of adversity.

CHINESE NEWSMEN REMAIN OUTSIDE U.N.

Mr. ROBERT C. BYRD. Mr. President, for well over a year, now, correspondents for the Central News Agency of Nationalist China have been unable to cover activities at the United Nations. They were denied that right on December 17, 1971, when, at the urging of the People's Republic of China, the official U.N. press credentials for Central News Agency correspondents T. C. Tang and C. C. Lin were withdrawn.

These correspondents have remained in a sort of journalistic limbo since that time, operating out of their New York bureau and relying on friendly colleagues to supply them with information for their secondhand reports on the United Nations.

This is an inexcusable situation, an undeniable encroachment on the freedom of the press. I spoke out against this unjustifiable action on February 23, 1972; and I am speaking out against it again today, because, after almost 13 months of promising to find what he called "a pragmatic solution" to the problem, U.N. Secretary General Kurt Waldheim has failed to act in a positive manner.

The closest he came to solving the problem was March of last year. At that time, he suggested the Central News Agency could reapply for accreditation—if the agency changed its name. Presumably, the name change would be necessary because Nationalist China is no longer a member of the United Nations. The Chinese correspondents called this proposed solution "ridiculous"—and rightly so.

For one thing, the fact that Nationalist China is no longer a member of the United Nations should play no part in the accreditation of newsmen from the Central News Agency. West Germany, East Germany, South Korea, South Vietnam and the Vatican are not members of the U.N.; yet, all have official news agencies accredited by the U.N. And the Central News Agency does not merely send its reports to newspapers on Taiwan; it also services both Chinese and English-language papers in Hong Kong, Manila, Bangkok, and Singapore. To deprive T. C. Tang and C. C. Lin of their official U.N. press credentials is to deprive citizens in those parts of the world of firsthand reports of U.N. activities.

Mr. President, I am extremely disappointed that Secretary General Waldheim has failed to solve this problem, and I am equally disappointed that the various news organizations and associations have failed to push for a solution.

I feel strongly that the U.S. delegation at the United Nations should continue to push for the restoration of press credentials to the Central News Agency correspondents. I have conveyed my feelings in a telegram I sent today to John Scali, President Nixon's nominee to the post of U.S. Ambassador to the United Nations.

I ask unanimous consent that the telegram be printed in the RECORD.

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

With your background in journalism, I hope that you will be sensitive to the plight of T. C. Tang and C. C. Lin, two correspondents for the Central News Agency of Nationalist China who were stripped of their official United Nations press credentials on December 17, 1971.

I said then that I considered denying the Central News Agency the right to cover UN activities to be inexcusable. The fact that the situation still remains unsolved is, in my opinion, just as inexcusable.

I urge that a renewal of efforts be made on behalf of the two correspondents, and that everything possible be done to gain reaccreditation for the Central News Agency.

THE PRESIDENT'S CRITICS SHOULD TAKE NOTE: NIXON WON THE ELECTION

Mr. HELMS. Mr. President, amid the strident voices condemning President Nixon, it seems appropriate to consider a calm reminder voiced by a distinguished television editorialist that it was, after all, Richard M. Nixon, who overwhelmingly won the election on November 7—an election in which the President's handling of the Vietnam war was a major issue.

William P. Cheshire, editorial spokesman for Station WRAL–TV, Raleigh, N.C., said of the President's critics—

They tell the President to end the war, but they fail to tell him precisely how to do it. The President's anti-war critics, more often than not, are content to leave those "little details" up to him.

Mr. President, lest Mr. Cheshire's comments be mistakenly dismissed as merely a partisan defense of Mr. Nixon, it should be noted that Mr. Cheshire is a Democrat in a predominantly Democratic State, as is the chairman of the board and chief executive officer of WRAL–TV, Mr. A. J. Fletcher.

Incidentally, Mr. Fletcher is 86 years of age. His guiding principle—and no one who knows him doubts that he actively and personally directs the policies of the broadcasting company he heads—is one of nonpartisan dedication to the fundamentals of America.

Mr. President, I ask unanimous consent that the WRAL–TV editorial of January 10, 1973, be printed in the RECORD.

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

WRAL–TV VIEWPOINT

Congressional democrats may not like the idea very much, but it was Richard Nixon—not George McGovern—who was elected President last November 7th. The American people gave Mr. Nixon an overwhelming vote

of confidence. And the vote came after a campaign in which the Vietnam war was a major issue.

On Capitol Hill, however, the President's adversaries are behaving as though they hadn't heard. You would think, to hear some of them talk, that George McGovern—the "peace" candidate—had been elected in a landslide.

Congressional Democrats—many of whom cheered lustily each time Lyndon Johnson throttled up the war another notch—now are demanding that Richard Nixon finish the war post-haste. Last week, House Democrats threatened a fund-cutoff for Vietnam unless the President got cracking. A day later, Senate Democrats threatened to do the same.

It was a disheartening spectacle. For one thing, these Democratic congressmen neglected to mention, in their resolutions of condemnation, that Richard Nixon is winding down a war that Lyndon Johnson wound up. The trick is to wind it down without botching affairs in Southeast Asia any worse than they have been botched already.

One thing more: these partisan resolutions are deficient in detail. They tell the President to end the war, but they fail to tell him precisely *how* to do it. The President's anti-war critics, more often than not, are content to leave those "little details" to him.

Little details like how to keep South Vietnam from folding up, with no one knows what tragic consequences to the trusting people of that pathetic nation who, it is worth remembering, count on us for protection. Little things like getting U.S. prisoners of war released. Little things like preventing a complete loss of faith in the integrity of the United States, which committed itself *voluntarily* to the defense of South Vietnam.

It is all very fine to say now—now when the war is out of favor—that the commitment should never have been made. Maybe it shouldn't have been. But it *was made*, and there is no easy, graceful exit from it.

So why do senators and representatives, who ought to know better, pretend otherwise? Why do they insist on total, unqualified withdrawal—with evidently no thought of the horror and suffering that such rashness would bring to an Asian people who count us as their friends?

Surely not to hasten the war's conclusion. The enemy in Hanoi, wetting a finger to the wind out of Washington, is scarcely encouraged to negotiate by talk of surrender. As long as congressmen ponder ways to cut off funds for the war, the enemy can be expected to balk at making in Paris those concessions necessary for peace.

The public is war weary, to be sure. No doubt the President is war weary, too. But let us have peace, not disaster. And if it is not asking too much, let us have a little patience—maybe even a little humility—from those gusty partisans, some of whom helped create the adventure in Southeast Asia that now keeps Richard Nixon awake nights.

GORDON RULE: CLASSIC CASE OF BUREAUCRACY DESTROYING A GREAT PUBLIC SERVANT

Mr. PROXMIRE. Mr. President, the punitive action taken by the Navy against Gordon W. Rule is in flagrant violation of the law, congressional prerogatives, and individual rights.

Mr. Rule testified before the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee on December 19, 1972. He appeared in response to the committee's invitation. His testimony concerned procurement policies and practices in the Navy.

In the course of his testimony he was asked for his opinion on the appointment of Roy L. Ash as Director of the Office of Management and Budget. This question was asked in the context of a discussion of the Navy's problems with Litton Industries, then headed by Ash.

Rule stated that in his opinion the appointment of Ash was a mistake.

The following day, Rule's superior, Adm. Isaac C. Kidd visited Rule at his home and talked with him for about an hour in an effort to persuade Rule to retire from the Navy. Rule was then suffering from a cold and was sick in bed. Mr. Rule refused to sign the letter of retirement which had been written out in hand by Admiral Kidd, or the retirement papers which the admiral had also brought along.

This unprecedented and absurd attempt to coerce a Government employee into retirement has been followed by a series of Navy actions calculated to humiliate and discipline Mr. Rule for his testimony before a committee of Congress.

I want to stress that I believe Admiral Kidd is an excellent officer who has served his country well. Moreover, I recognize that any executive, whether in the private or the public sector, needs to have maximum authority to manage and carry out his responsibilities.

An executive officer should have the right to discharge or remove inefficient or ineffective subordinates. He should have a certain amount of freedom and flexibility. Even a Senator requires a smooth working and efficient staff.

But there is no question of efficiency or effectiveness in Mr. Rule's case. He is known as perhaps the outstanding civilian procurement official in the Navy. His performance and accomplishments have been outstanding, as Admiral Kidd attested to the Subcommittee on Priorities and Economy in Government just a week ago.

The subcommittee heard testimony on the Rule affair on Wednesday, January 10, 1973. Both Mr. Rule and Admiral Kidd testified, along with Anthony L. Mondello, General Counsel for the Civil Service Commission.

Last week's hearing demonstrated beyond any doubt the outstanding record of accomplishment that Gordon Rule has earned in his 16 years of service to the Navy. Admiral Kidd himself concedes that Mr. Rule "was probably the most competent gentleman we had in matters of procurement."

In 1971 Mr. Rule received the Distinguished Civilian Service Award, the highest civilian award given by the Navy and the first ever given to a procurement official.

The issue in this case is plain. That issue is whether the Navy has launched a reprisal against a Government employee because of his testimony before a committee of Congress.

In my judgment the record of last week's testimony shows conclusively that Mr. Rule has been penalized by the Navy as a direct result of his congressional testimony.

The actions taken by the Navy against one of its most loyal, efficient, and courageous officials constitute a disservice to the public and Congress and a gross personal inequity.

The Navy's behavior up to now has been petty, demeaning, and a discredit to the many fine public servants who work hard to achieve the high standards that have been established by this excellent institution.

Title 18 of the United States Code, section 1505, deals directly with the situation that is before us. That law defines as a crime the intimidation of witnesses or the obstruction of the power of inquiry of committees of Congress.

The Navy has violated the spirit if not the letter of this law. I have already described the visit of Admiral Kidd to Mr. Rule's home. This visit took place approximately 24 hours after Mr. Rule's testimony. It was an obvious effort to both intimidate Mr. Rule and obstruct the power of inquiry of the Subcommittee on Priorities and Economy in Government and other committees of Congress.

In his testimony of January 10 Admiral Kidd admitted that Mr. Rule's testimony had something to do with the Navy's decision to seek his retirement. Admiral Kidd referred to Mr. Rule's testimony as "the straw that broke the camel's back."

In Admiral Kidd's words:

> I told him that it was going to be necessary to move him—not because of what was said but because he apparently found it impossible to stay within the outfield fence of the ball park that I laid out for him before he went up. And as I mentioned, that was the straw that broke the camel's back.

Mr. President, this testimony illustrates a deplorable lack of concern for the rights of individuals and of congressional committees. There is no suggestion in Admiral Kidd's testimony that Mr. Rule told Congress anything that was untruthful or that he endangered national security. The Navy's position seems to be that Mr. Rule strayed outside the bounds of propriety that were drawn for him prior to the hearing.

In coming to this position the Navy seems to believe that it has the right to tell a civilian employee what he can and cannot say before a committee of Congress, and if he testifies about a matter on which the Navy wishes to remain silent that it can then penalize or discipline the individual.

If that is the Navy's belief, it is completely contrary to the constitutional right of free speech and of the right of Congress to obtain information on the activities of the executive branch.

No agency of Government has the right to gag its employees, to tell them what they can and cannot talk about before a committee of Congress. If such a policy were allowed to stand it would emasculate the process of legislative inquiry. It would lower an iron curtain of secrecy and obfuscation between the executive branch and the elected representatives of the people.

The Navy apparently has to learn that nothing is out of bounds or off limits when it comes to testimony of an individual before a congressional com-

mittee. The Navy has no right to make a subject or program taboo and to prohibit an individual from talking about it.

The Navy's business is the people's business, and it is the duty of Congress to know as much as possible about it. The case of Gordon Rule involves serious constitutional, legal, and public policy questions.

I intend to pursue these matters fully and to keep the Senate informed of further developments.

I ask unanimous consent to have printed in the RECORD the transcript of testimony given before the Subcommittee on Priorities and Economy in Government on January 10, 1973.

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

DEMOTION OF GORDON W. RULE, JANUARY 10, 1973

The Subcommittee met, pursuant to recess, at 11:00 o'clock a.m., in Room 1202, Dirksen Senate Office Building, Senator William Proxmire (Chairman of the Subcommittee), presiding.

Present: Senator Proxmire (presiding) and Representative Griffiths.

Also present: John R. Stark, Executive Director; Loughlin F. McHugh, Senior Economist; Ross F. Hamachek, Richard F. Kaufman, Courtenay M. Slater, Economists; Lucy Falcone, Jerry J. Jasinowski, Research Economists; George D. Krumbhaar, Jr., Minority Counsel; Leslie J. Bander, Walter B. Laessig, Minority Economists; and Michael J. Runde.

Senator PROXMIRE. The Committee will come to order.

Our hearing this morning is concerned with the harassment of an able, dedicated and courageous public servant. I refer to the demotion by the Navy Department of Gordon Rule, formerly Director, Procurement Control and Clearance Division, Naval Material Command, as retribution for his candid testimony before this Subcommittee.

The significance of this episode goes far beyond the issue of shabby, unjust treatment of one outstanding employee. It goes to the very heart of the legislative process and the ability of the Congress to obtain information on the activities of the Executive Branch—activities which involve the expenditure of some $250 billion a year—and which, in addition, affects all aspects of our national welfare.

It is painfully obvious that actions by the Administration to intimidate, harass, downgrade and fire public servants as punishment for giving honest information to the Congress are prejudicial to effective government.

This Subcommittee invited Admiral Kidd to testify on December 19th. He sent Gordon Rule in his place. Mr. Rule answered our questions candidly and with obvious competence. Among other things, he responded to a specific question. I want to make it clear that he did not volunteer. I asked him whether or not he considered the appointment of Roy Ash as Director of the Office of Management and Budget a mistake. He replied that he did. I asked him to explain why and he did.

It should be stressed that this reply was in response to a direct question and in the context of a discussion of Navy negotiations with Litton Industries that of course was headed by Roy Ash, and he also indicated that the problem might be overcome if the OMB Director were subject to Senate confirmation.

Ostensibly it was this that led to his summary demotion and one of the crudest acts of retribution since the Ernest Fitzgerald affair. In Mr. Rule's case, the vengeance was even more peremptory. He was reassigned to the job of updating the curriculum of the Navy training school in Anacostia.

This proceeding bears a dismal parallel to the treatment of Ernest Fitzgerald and other able Defense Department public servants who felt the vengeance of the military hierarchy for their candid testimony on military procurement before this Subcommittee.

These episodes are tips of the iceberg that lurks ominously below the surface. High public officials of unquestioned ability, dedication, and experience are being fired or demoted in droves. Heads roll daily as the Administration continues to tighten the screws of control and exclude the Congress and the public from basic governmental decision-making.

It is no wonder that the Congress is in an anxious mood as our prerogatives are eroded and vital information is withheld. Operating personnel are becoming too frightened to speak up and tell us the facts we need to know—unless they have the high courage of people like Ernie Fitzgerald and Gordon Rule.

It is most ironic to note that President Nixon in 1951 introduced a bill—this was the Nixon bill—that made it a criminal offense for any government official to intimidate public employees from testifying before the Houses of Congress.

The bill was passed by the Senate but was not reported out in the House. However, there are other laws relating to this same kind of malfeasance. Title 18 of the U.S. Code provides for five years' imprisonment and/or up to $5,000 in fines for intimidation of witnesses and obstruction of the power of inquiry of a committee of Congress.

In view of his earlier interest, I ask Mr. Nixon now to personally look into the circumstances of Gordon Rule's demotion.

As Chairman of this Subcommittee, I intend to get to the bottom of this matter not only because of its own merits, but because it is a symptom of a serious distortion in the process of our democratic government.

Mr. Rule, will you come forward and will you begin by telling us exactly what happened with respect to your job after your testimony of December 19th?

STATEMENT OF GORDON W. RULE, FORMERLY DIRECTOR, PROCUREMENT CONTROL AND CLEARANCE DIVISION, NAVAL MATERIAL COMMAND

Mr. RULE. Good morning, Senator. I want to first say that when I testified before you and the other members of the Subcommittee on the 19th of December, I made a statement that has been characterized as crude and very poor judgment with respect to a remark I made about General and former President Eisenhower. I want to publicly apologize for that remark. I meant no disrespect, but it has been so construed and the least I can do is apologize for it.

Chairman PROXMIRE. Well, I think we all appreciate that. I did not think it was in bad taste, but perhaps you do on reconsideration. I think this is a statement that we often make that a distinguished statesman would turn in his grave. You did not mean any disrespect but I think it has been very much an element in this matter and I appreciate your comment.

Mr. RULE. I think if I had said the General, the former President, would turn over in his grave, that would have been a statement people would have understood. But I was guilty of a verbal excess and I do apologize.

What was it you wanted me to do?

Chairman PROXMIRE. I wanted you to state exactly what happened with respect to your job after your testimony of December 19th. You testified here and the record was clear that you answered a number of questions, but the critical question seemed to me—maybe my judgment was wrong—the critical question seemed to be with respect to Mr. Ash and your position on it.

The following day, I understand that you were visited by Admiral Kidd. Would you describe the situation?

Mr. RULE. That is right, Senator. After the testimony on the 19th, I lost my voice. I got laryngitis and I was home in bed the next day with a cold and laryngitis and Mrs. Rule said that Admiral Kidd was at the door and wanted to see me, and came into my bedroom. I was in bed. I did not get up.

The Admiral, it being a Wednesday, was in uniform and he sat beside my bed. He had a piece of paper which was on his own letterhead. It was addressed to himself. It was dated the 20th of December, which was that day. He told me that he had to have the piece of paper signed by the close of business that day. The piece of paper, of which I kept the original, was addressed to the Chief of Naval Material: "I hereby request retirement from my Civil Service position. My performance and submissions for accrued leave and designation of the Old Age and Survivors benefits will be filled out and submitted promptly by me."

He wanted me to sign that. He also said that if I did not like that language, I could sign a blank piece of paper—he had a couple of those with him—and date it and he would fill in the rest.

Well, I have to say this, because I sort of think I have good health, but I was in lousy shape that day. I started to get emotional, as I think the Admiral will tell you. I started going back over my Naval career and finally, he sat there—and it was about an hour—he sat there and I finally sat up in bed and started to get a little sense and started to get irked. It was then that I told him that I had no intention of signing that piece of paper or resigning.

He asked me to reconsider several times and said that he would be glad to come back at 3:00 o'clock that day and pick up the paper and I said, "There is no need for that, I am not going to sign it."

When he left, Mrs. Rule took him to the door and he again urged on her the importance of getting me to sign that retirement paper.

That, Senator, is what happened. Now, why it happened, I can't tell you. It was within about 24 hours from the time I had testified.

Chairman PROXMIRE. Now, prior to the time that you testified, what was your status as you understood it with the Navy and with the Defense Department? I ask this in light of the fact that you have been decorated or recognized, commended in the past year. You had a rating that preceded your testimony by about one week. Would you describe that so we have a picture of the view which you, which anybody, any prudent person, would feel was your position prior to your testimony?

Mr. RULE. Well, I outlined that in a letter, Senator, to the Civil Service Commission, and at the expense of seeming to blow my own horn, I would like to tell you about it.

Chairman PROXMIRE. I wish you would.

Mr. RULE. I would first like to restate that when I was in uniform, I entered the Navy as Lt. (J.G.) and four and a half years later, I was a Captain on active duty. I am pretty proud of that military feat, because that is pretty fast promotion.

I retired. Now, I then went back to practicing law—

Chairman PROXMIRE. Would you give us the dates on that? When did you enter and when did you retire?

Mr. RULE. '42. I entered in early '42 and five years later, I went back to inactive duty. I was a reservist. But I had gone through the grades from JG to Captain.

Now, I have to say that in going through those steps, I believe that I acted exactly

the same way about active duty as a civilian by calling the shots just exactly as I see them. It was respectful and as I say, I got the promotion in grade and on active duty.

Then I went to practice law and then I was asked to come back and take this job as head of the Director of the Procurement Control and Clearance Division in the Office of Naval Material. I took that job on 9 July 1963.

Four years later, in 1967, I received a Superior Civilian Service Award, which is the highest award that can be given by the head of an agency. The head of the agency in that case was Admiral Gallatin, one of Admiral Kidd's predecessors.

Four years after that, in 1971, I got the highest Navy award,the Distinguished Service Award, from the Secretary of the Navy. That was in February 1971.

That, in capsule, is my record. It was interesting to me that the same day that I had a conversation with Admiral Kidd and Secretary Warner, namely, on 12 December, I was also given a satisfactory efficiency rating through the end of 1972. I have a photostatic copy of that signed by my immediate bosses.

So I think that brings it up to date by way of background.

Chairman PROXMIRE. Could I ask you, when Admiral Kidd came to your home on 20 December, 24 hours after you testified, did he give you any reason for asking for your resignation?

Mr. RULE. The good of the service.

Chairman PROXMIRE. Did he expand on that at all?

Mr. RULE. No, not really. I asked him specifically if Mr. Warner, the Secretary, knew that he was there seeking my retirement. He would not answer that question directly. He said he had been in touch with Mr. Warner, had talked with him the previous evening, and that Mr. Warner was leaving town that day at 5:00 o'clock. I subsequently asked Admiral Kidd in his office that same question, if the Secretary knew that he, Admiral Kidd, was going to, trying to get me to sign a retirement paper. And again he was evasive. He would not answer that question, saying only that he had talked to the Secretary.

So I do not know to this day whether Mr. Warner knew it or not.

Chairman PROXMIRE. Am I right or wrong in assuming that there was a rating which you received as late as approximately December 12th or 13th, one week before the visit of Admiral Kidd asking for your resignation, in which you received a rating which was as high as you could get. Is that correct or not?

Mr. RULE. It is partially correct. Here is a photostatic copy of it signed by Mr. Cruden and Admiral Freeman for the rating period ending 29 November 1972. It is a satisfactory performance rating. The only three ratings that a civil servant can get are unsatisfactory, outstanding, or satisfactory. Normally, you get a satisfactory rating. I got that.

Chairman PROXMIRE. The only reason I ask about this particular rating is because of the time limit. It was one week before. Did you make any statement or take any action or have any incident at all that occurred between the time that rating was determined and the time Admiral Kidd visited, other than your appearance before this Subcommittee?

Mr. RULE. Not that I am aware of, sir.

Chairman PROXMIRE. Nothing?

Mr. RULE. Not that I am aware of.

Chairman PROXMIRE. Before I yield to Mrs. Griffiths, let me just put into the record, and I will read quickly one paragraph of it, the bill which applies, seems to apply in this case, part of the bill. This is on page 2, line 23, of the bill.

"No witness, who is a member of the Armed Forces of the United States or an officer or employee of the United States or of any department or agency thereof, shall be demoted, dismissed, retired, or otherwise disciplined on account of testimony given or official papers or records produced by such witness before either House, or before any committee of either House, or before any joint committee established by a joint or concurrent resolution of the two Houses of Congress, unless such testimony is given or such official papers or records are produced in violation of law, or unless such testimony or the production of such papers or records discloses misfeasance, malfeasance, dereliction of duty, or reprehensible conduct on the part of such witness."

There is a provision for a $5,000 fine or not more than five years' imprisonment, or both. Of course, one of the issues before the Subcommittee is whether or not that law has been violated.

I am going to ask Admiral Kidd to come forward in a minute, after I yield to Mrs. Griffiths. Before I do that, however, I would like to put into the record also, and for Mrs. Griffiths' information and the information of those who were not present at the last hearing, precisely the testimony which, in my view, had an effect on this. I am going to ask Admiral Kidd to indicate if there was anything else in the testimony that might have affected his position.

You testified as follows: "Senator Proxmire: . . . Now, as you know, Mr. Roy Ash, the former President of Litton, and he was the chief executive officer of this company at the time that this situation had developed, he is the man who has been designated by the President of the United States as the new head of the Office of Management and Budget. Do you have any views on that appointment?

"Mr. RULE. I sure do.

"Senator PROXMIRE. We would surely like to hear them.

"Mr. RULE. Well, I think, first, that old General Eisenhower must be twitching in his grave. He was the one who first called attention to the so-called military-industrial complex, and I frankly think we have added a new dimension to the military-industrial complex. I think it is a military—this may not be the proper order—but I think it is almost a military-industrial-executive department complex. I think it is a mistake for the President to nominate Mr. Ash, whom I have never met. I think it is a worse mistake for him to accept the job. I just—that is the way I feel about it.

"Senator PROXMIRE. Why is it a mistake? Why is it a mistake, first, for him to be nominated?

"Mr. RULE. I am saying this strictly from his background and his efforts on behalf of Litton during the negotiations that have been going on.

"Senator PROXMIRE. It is a mistake, on the basis of his record as a business manager, to bring a man with this kind of a record in as head of the Budget Bureau?

"Mr. RULE. Insofar as the LHA is concerned, yes; and of course, Senator, his job is probably——

"Senator PROXMIRE. Let me ask you what Ash did in the negotiations on the LHA contract.

"Mr. RULE. Well, let me just finish what I was going to say.

"Senator PROXMIRE. Yes, sir.

"Mr. RULE. And I forgot it; you interrupted me.

"Well, there was an article in the paper the other day by Orr Kelly which quoted, he was quoting from, some minutes of a meeting, and these minutes, according to the article, said that Mr. Ash had talked to Mr. Connally about a program of the magnitude of one to two billion dollars to help companies like his and other shipyards, and the statement was made by Mr. Connally apparently, 'Well, if you are going to present that to Congress, make it bigger than the Congress.' Now he has got that background.

"All I say is that from where I sit now I have got to think it is a mistake. But I think my thoughts on whether it is a mistake could easily be or could be overcome if he were subject to confirmation and going before a committee to be confirmed where he could be questioned about, I do not know, any number of things. But he has got probably the most important job in this Government, next to the President, but he is not subject to confirmation; he is not subject to questioning; and he enjoys the same executive privilege, I guess, that Mr. Kissinger does. He does not have to go up to any committees, and be questioned throughout the year, and I just think this is wrong.

"Senator PROXMIRE. Well, he does come before committees, certainly previous budget directors have, in their capacity, but I agree he certainly does not need any confirmation.

"Will you give me your interpretation, I read that column by Mr. Kelly too, and I was a little puzzled by that reference in the conversation with Mr. Ash and Mr. Connally, in which he said, 'Make it bigger than the Congress.' What was your interpretation of that? You would go to the President for——

"Mr. RULE. Well, that he wrote two columns. In one column, he said that Mr. Ash had told, in this meeting that he was quoting the minutes, that he was quoting form, he had told the people in that meeting that he was going next to see Mr. Warner, Mr. Sanders, and then to the White House with his problem. Now, that was in one column.

"Then in the second column, he talked about this program of a billion to two billion dollars to be presented to Congress and, so far as I am concerned, sitting here right now, I think you will see that program presented to Congress. I think you will see it presented to Congress with the aid of the Grummans and the Lockheeds and others, I think you will see it.

"Senator PROXMIRE. You mean a program simply to wipe out all of the claims by paying them in full?

"Mr. RULE. I do not know how ingenious the program will be. I do not know what it will try to do, but it will try to get a billion or two dollars to help out some companies in trouble.

"Senator PROXMIRE. Help out Litton, Lockheed, Grumman, and so forth. . . ."

That is the pertinent part, in my view, of the testimony. As I say, I will ask Mrs. Griffiths if she wishes to inquire.

Representative GRIFFITHS. Thank you. I want to ask some questions which do not relate particularly to this testimony, but I would appreciate the answers.

You are head of the Procurement Division, is that right?

Mr. RULE. The exact title is Director of the Procurement Control and Clearance Division in Admiral Kidd's office.

Representative GRIFFITHS. I see. When the Navy purchases, supposing you are purchasing a ship. Do you purchase, do you simply go down and buy a ship, make a contract with somebody to build it, or do you make contracts with the——

Mr. RULE. Both.

Representative GRIFFITHS. Pardon?

Mr. RULE. Both.

Representative GRIFFITHS. When you make those contracts, does the purchaser have before him the blueprints for whatever it is he is buying?

Mr. RULE. Again, he may have if the government furnishes the design and the blueprint to build that ship. But sometimes, we give a company a contract to design the ship itself. That was the case with the LHA and Litton.

Representative GRIFFITHS. I see. When he makes the purchase and he does have the

blueprint before him, does he have also the prices paid for every component item in previous purchases? That is, could he look at that design and say, well, so many nuts at so much, so many bolts at so much, so many screws, and here is the cheapest price available?

Mr. RULE. Yes, he is supposed to have what is called a bill of material for the material that he buys that goes in the ship.

Representative GRIFFITHS. But does he have the price list on every item?

Mr. RULE. He certainly should, because when he make the contract with him, when we make our contract with the ship builder, we have to, in order to lock at a proposal and try to determine whether it is reasonable; the material is usually 50 percent of the cost of whatever, we buy, all our hardware.

Representative GRIFFITHS. How long has the Navy had such information available, do you know?

Mr. RULE. In general?

Representative GRIFFITHS. Yes, in general.

Mr. RULE. That has been available to us, a requirement, for as long as I have been here.

Representative GRIFFITHS. And how long have you been here?

Mr. RULE. At least 15 years. I do not know we could price anything without that information.

Representative GRIFFITHS. In that catalog at Battle Creek—have you ever used the catalog at Battle Creek?

Mr. RULE. No, ma'am, we have not. But they do have some catalog prices of standard components. Some of these things are priced in catalogs so you can just flip over it and see what this gadget, usually off the shelf, and its component's cost. Ordinarily, we are supposed to get quotations and estimates of prices from the contractors who supply these things and we are supposed to check them. First we check to see whether the prices are gained through competition. If they were, almost ipso facto, they are reasonable. If they were sole source sub-contractors, we may have to do some more checking.

Representative GRIFFITHS. But if you have purchasing agents that are capable of doing this, then why do we ever buy an overpriced item?

Mr. RULE. I am sorry, why what?

Representative GRIFFITHS. If you have purchasing agents that are capable of doing this, why do we ever buy an overpriced item?

Mr. RULE. Why do we ever buy an overpriced item?

Representative GRIFFITHS. An overpriced item.

Mr. RULE. The term "overpriced" means different things. If it is a sole source component being bought from manufacturer "A", it may very well be overpriced. If, as I said a moment ago, we get competition, competitive bids——

Representative GRIFFITHS. Well, if it is a sole source on a large complex item, does not that purchasing agent still look through there at every individual item and say, how much are you paying for that and what are you paying for that and why don't you buy it cheaper?

Mr. RULE. Yes, ma'am.

Representative GRIFFITHS. Well, then, why do you let them run it up too high? How can they?

Mr. RULE. Well, there again, it depends on what type of contract he has. If he has a fixed price contract, we never know how much profit he really makes and whether he ran these prices up too high or not. That is why the emphasis is on the Congressional mandate that we get competition if possible.

Representative GRIFFITHS. Oh, I understand. You are now suggesting that when they bid, if he has the lowest bid, you let him make the thing without any further negotiation. Is that it?

Mr. RULE. Mrs. Griffiths, unfortunately, that is the way it works a great many times, but the very fact that we have competition is sometimes hurting us and with the excess capacity in the aerospace industry and that sort of thing, when we compete for large contracts, the thing that we have to watch for today is too low a profit, that somebody isn't buying in, as indeed I testified that Grumman did to the tune of about $500 million. It is not whether we are going to get a fair price out of competitive procurement, it is that somebody may buy in and that is the root of bailouts later.

Representative GRIFFITHS. I understand. I would like to say to you that I am the only person up here, as far as I know, that does not believe that competitive bidding necessarily means the lowest price. In my opinion, the lowest prices we are paying are obtained by trained negotiators with all the information at their hands as to exactly what each item costs.

Mr. RULE. I agree with you.

Representative GRIFFITHS. I agree with you, too, that we ought to be able to stop this buying in by the government contractors, the idea that you ought to be able to kill off a competitor by buying in some place else.

Chairman PROXMIRE. Now I will ask Admiral Kidd to come up.

Mr. RULE. I want to add something, Senator Proxmire.

Chairman PROXMIRE. Go right ahead.

Mr. RULE. The Admiral's nose is quite out of joint with me because of my last testimony because I did not clearly and categorically say to you that I was testifying as an individual and not as a representative of the Navy. Now, I thought that I had covered that point when the very first thing I said at the hearing was "Thank you for letting me appear without a statement. The reason I do that is because, as you know, if I wrote one, I would have to get it cleared in the Navy and I do not think they would clear it."

Now, I thought that statement went to that point, but the Admiral does not think so. But I know that he thought I should have been more clear and I want to make it clear today.

Chairman PROXMIRE. Let me say that it was very clear in my mind. I felt very definitely that you were speaking for yourself and that there was no other reason in your explaining the fact that you did not have a written statement.

Mr. RULE. Precisely.

Chairman PROXMIRE. There is something to be said for those statements wherever it would be appropriate. This morning it would not be appropriate, because you have come, as I understand you and Admiral Kidd, to answer questions.

We appreciate your deciding to come, Admiral Kidd. I would appreciate it if you would proceed to answer questions to the extent that you can with respect to the situation.

Is there anything in Mr. Rule's summary statement that you believe is not factual or with which you disagree?

STATEMENT OF ADM. I. C. KIDD, CHIEF, NAVAL MATERIEL COMMAND

Admiral KIDD. You would like me to start with Mr. Rule's rather than yours.

Chairman PROXMIRE. All right, start with mine. That is fine. Then get to Mr. Rule's.

Admiral KIDD. If I may?

Chairman PROXMIRE. Yes sir.

Admiral KIDD. Going through your opening remarks, Mr. Chairman, I respectfully would like to clarify some points here. In your topic, I would like to just clarify a few points going through here.

Hearing on the demotion of Mr. Rule—perhaps this is an exercise in semantics, but truthfully, I did not demote him. He has not been demoted. He is still a GS17.

The next point down in the third paragraph, where you observe that it is obvious that actions to intimidate, harass, downgrade and fire as punishment—he has not been fired, sir. And I would take issue with the intimidation, harassment, and downgrading, because I do not believe they are appropriate terms.

The next paragraph in the second line, where you state, contrary to your agreement with Mr. Rule just now, that I sent Mr. Rule in my place. That is quite wide of the remark, sir. I did not.

Chairman PROXMIRE. Will you restate that?

Admiral KIDD. The statement here, sir, in your opening remarks that I sent Mr. Rule in my place. That is not the way it was at all. As a matter of fact, I took it upon myself personally to go up to his office on the Wednesday preceding his appearance to go over with him the specific reasons why the other gentlemen whom you had invited, Secretary Warner, Admiral Sonenshein, Admiral Snead, and myself, would not be able to appear at that time because of the on-going negotiations with Litton and Grumman. It was judged an inappropriate time to air bidding, as it were, publicly on these negotiations where we had been trying almighty hard to get these contracts at the advertised price.

Now, on the occasion of that visit, Mr. Rule took the opportunity to applaud the Navy's hard-line position. That was the day after Grumman had come out with that full page ad of theirs, in effect protesting our hard-line position. And after running through the reasons why we did not feel it appropriate to come, I told him that in view of his unique status up here as a witness before your Committee, I was not going to tell him no, but at the same time, I did not think it would be too good an idea, but if he came, he was to avoid addressing those two on-going negotiations. And in Mr. Rule's letter to the Commission, he makes this point, that Mr. Warner called me, tracked me down in Mr. Rule's office on that occasion, and then asked to speak to Mr. Rule and told him that if I wanted to come up, that was fine with him.

So I would take vigorous exception to this implication that I sent Mr. Rule. I did no such thing.

To go a step further, if you please, sir, on Friday of that same week, after the first of Mr. Kelly's articles appeared in the Evening Star on the memorandum that he had gotten hold of, I asked Mr. Rule to come down on that occasion. Now, this was the Friday preceding the day he appeared. And I told him again that I did not want him addressing either the Grumman or the Litton negotiations because of the delicacy thereof and if he came up, he was to come up and make it abundantly clear that he was up here on his own.

He acknowledged those instructions but sort of waved his hand and said, oh, those instructions do not really mean anything. It was on that occasion that he undertook to hold school on me philosophically on leaks of documents—this particular one—and he acknowledged at that time that this is where he and I parted company on matters of moral principle, that he felt that the leaking of documents like that was good for the country and that really, I was too young and naive to understand the inner workings of Washington and that I should really take this as a matter of course. I could not debate that point. But I still think it is wrong and it certainly does not help our on-going negotiations.

It might be worthwhile here to introduce really one of the principal contributing factors to my great loss of confidence in Mr. Rule. It was sort of the straw that broke

the camel's back, Mr. Proxmire that prompted me to take him up on his earlier offer to retire. That is a very important point. Because when he and I had first come into head-on collision back in February, why, I told him at that time that there was no question in my mind that he was probably the most competent gentleman we had in matters of procurement—and in that area, he is indeed superb—but once policy decisions had been made, they had to be abided by. At that time, he offered to retire. I said no, I did not want him to retire because we needed his competence in procurement too badly and that I did not want to lose him because I certainly have no corner on the market in brains.

Moving on down in your remarks, "It should be stressed that his reply was in response to a direct question and in the context of a discussion of Navy negotiations with Litton Industries that of course was headed by Roy Ash, he also indicated that the problem might be overcome if the OMB was subject to Senate confirmation."

I have no objection to a man stating his private views up here. That is what you gentlemen are here for. I am sure that you keep proper controls. But to have observations like that made, Mr. Chairman, and made in the frame of reference as reflecting the opinion of an official United States Navy representative, I just do not think it is fitting, and this was the atmosphere in which Mr. Rule allowed his appearance to be conducted.

On the second page, the top line, again, sir, is spoken to demotion and there has been none.

In the next to the last line of that paragraph, the Navy Training School is identified. Mr. Rule has made the point to me many times that his long suit is in procurement and indeed it is. He is among the very finest in government employ. We have a school in Anacostia to fill a very definite gap and need for the training of young officers and young civilians in procurement matters, in matters of logistics. It has been ongoing for sometime. We bring in gentlemen to lecture. It is in effect a seminar course and it is to capitalize on his avowed strength in procurement matters that I decided to detail him to that school to bring the curriculum up to date and to insure that the students over there have the benefit of tapping his great wisdom and experience in this area.

Going down toward the bottom of the second page of your observation, sir, "It is no wonder that the Congress is in an anxious mood as our prerogatives are eroded and vital information is withheld."

I could not agree more that you must have everything you ask for. I suppose there are certain areas of sensitive military information, but I fully applaud the intent there. However, sir, I would respectfully invite your attention to our, the Navy's testimony, my personal testimony before the House Armed Service Committee over three lengthy and difficult sessions several months ago in Executive Session on just this subject of our contractual difficulties with Litton, and I will stand on what I said before this Committee and I think that you will find my views and others in the Navy as strong, perhaps more so than Mr. Rule's.

On the last page, again, the word "demotion" is identified. There has been none.

You went into this bill, the 1951 bill which you identified as Mr. Nixon's bill. I think that is pretty fine reading. I think that it needs to be made clear that on the matter of my requesting Mr. Rule's retirement, it was indeed a request to take him up on his previous offer. I think that is a very important point, a request to take him up on his previous offer. We sort of went over very quickly that part in that same section of that bill which speaks to misfeasance, malfeasance, dereliction, and questionable conduct.

Now, to go into Mr. Rule's opening remarks—

Chairman PROXMIRE. Before you do that, Admiral, let me just respond to your criticism of my opening statement. I think you are right that it is clear that you did not send Mr. Rule up in your place. That was made clear by Mr. Rule.

He just said so and I think that is correct and that was an error in my opening statement. But I cannot accept any of the rest. We will get into that, I would prefer, if you would permit us to get into that when we discuss what is a demotion, what is a firing, what is an intimidation, what is downgrading. I think that I can explain my position, you can explain yours, but we will just have to leave the record for those who wish to do so to judge it.

I think also that your remarks that Mr. Rule seemed to give the impression that he was speaking as a Navy official once again is one that Mr. Rule, as he pointed out just before you came up, made pains to avoid. I understood it that way. You may wish that it had been made clearer, but I think he made an effort to make it clear that he was speaking as an individual.

Then you said that you believe very strongly that we should have everything that you can give us. It is very hard for me to accept that with a straight face when you refused to come up, Admiral Sonenshein refused to come up, Secretary Warner refused to come. You are all capable men, experienced men. You could have come up and responded and said that you simply did not want to discuss the Grumman case or the Litton case and yet give us a great deal of information that would be most valuable to this Committee and to the Congress. You simply refused to come at all.

And finally, when you indicate in your remarks that was the straw that broke the camel's back in reference to Rule's testimony—having said that, it seems to me that you are conceding that the reason Mr. Rule has been transferred is because of his testimony before a Congressional Committee. I do not see how you can say with a straight face that an assignment to Anacostia in the capacity to which you assigned him is not a demotion.

Now, you can respond to that if you wish or go on to Mr. Rule's and let me get into these interpretations with specific questions.

Admiral KIDD. You made several observations there wherein you used words "demotion, assignment, transfer." Mr. Rule, I am informed by the gentleman at the Civil Service Commission, has been detailed. Now, I do not profess to be an expert on Civil Service language or technical detail, but I think that as we proceed, there are probably going to be occasions when I may well misspeak and use the wrong words. He has been detailed on a temporary assignment. The letter back to him yesterday from the Civil Service Commission, the receipt of which letter made it possible for me to appear today—because that meant the Commission no longer had this before them—so I would just like to touch on that question of proper words, and in these other areas, sir, where you disagree, I think we will just have to agree to disagree.

Chairman PROXMIRE. All right. Now, would you just go ahead and comment briefly on Mr. Rule's response to my question?

Admiral KIDD. Yes sir. Mr. Rule opened by touching on my visit to him. I did indeed go to tell him that I wanted to take him up on his earlier offer to retire. I told him that it was going to be necessary to move him—not so much because of what was said but because he apparently found it impossible to stay within the outfield fence of the ball park that I laid out for him before he went up. And as I mentioned, that was the straw that broke the camel's back.

Chairman PROXMIRE. Would you be specific on that? Where did Mr. Rule go beyond the ball park?

Admiral KIDD. He felt constrained to get into Litton matters, into Grumman matters, lashed out quite vigorously on both companies, which contributed nothing to the atmosphere of on-going negotiations which have been and remain difficult at best. He did not, in my judgment, make it clear that he was up here on his own rather than the official——

Chairman PROXMIRE. That latter I think we have discussed.

Admiral KIDD. We have.

Chairman PROXMIRE. In what way, Admiral Kidd, did he make it difficult? Give me a specific basis for your charge that Gordon Rule's testimony here is in any way a handicap to your negotiations with Grumman or Litton?

Admiral KIDD. To go into the specifics, when he speaks to the buy-in at Grumman. There may have been; I do not know.

He speaks to Litton in general terms, with comment on their management, their administration, which have already been addressed in detail up here by more experienced and knowledgeable people. He was in an area in which he had no first-hand knowledge. He was in an area in which he was not current, and yet, he felt constrained to speak for the United States Navy in detail, depth, and with activities which have not helped our negotiation.

Chairman PROXMIRE. Admiral, that was not my question. My question was in what way has the government's position been injured or have negotiations been adversely affected by what Mr. Gordon Rule said on December 19th?

Admiral KIDD. I have answered the question to the best of my ability, Mr. Chairman.

Chairman PROXMIRE. What you told me was that he got into an area in which he was not directly informed.

Admiral KIDD. Yes sir.

Chairman PROXMIRE. But you have not showed me that that did any damage.

Admiral KIDD. That would be a bit difficult to measure and quantify.

Chairman PROXMIRE. I am sure it would.

Admiral KIDD. Very difficult. Here is a judgment problem and I have just lost confidence in him, sir, and that is what I told him when I went to see him the day after he testified.

Chairman PROXMIRE. In other words, the Navy considered any discussion of any kind about Litton or Grumman as taboo?

Admiral KIDD. That is what I told him, Mr. Proxmire, yes sir. On Wednesday——

Chairman PROXMIRE. Should we be kept in the dark on this, even in matters that would not affect and you cannot show that this in any way affected negotiations?

Admiral KIDD. I think the outcome of negotiations will be the first time we see this.

Chairman PROXMIRE. I could understand your position if you could explain how anything Mr. Rule said could affect negotiations in any way. Certainly we have a right to inquire and he has a right, it seems to me, to respond to the extent that he feels and we feel that his response will not prejudice in any way your negotiations. Otherwise, you are simply preventing the Congress from getting information we have a right to know. We have hundreds of millions of dollars at stakes with both companies, as you know.

Admiral KIDD. There is a time and a proper place for everything, sir, and to have a gentleman just like a jury, it seems to me, to have one juror who does not have to go to the hotel with the rest of them and he can run out and communicate with the press while the court action is still on-going, we do not need that kind of help. And I told him that.

Chairman PROXMIRE. Yes, but you see, the Navy is deciding what the Congress has a right to know about.

Admiral KIDD. Oh, no.

Chairman PROXMIRE. I do not think the Navy has any business doing that, especially when you cannot show that that has in any way injured, damaged or affected adversely the negotiation.

Admiral KIDD. I think it would be inappropriate for me to go into this further because negotiations are still on-going.

Chairman PROXMIRE. Now, Mr. Rule was not involved in the negotiations?

Admiral KIDD. Right.

Chairman PROXMIRE. We did not ask him about on-going negotiations. How could Rule have hurt the negotiations under those circumstances? He had nothing to do with it. This is one area in which he had been excluded, one of the very rare areas of important procurement, as you may know.

Admiral KIDD. We are dealing with human beings, Mr. Chairman, on both sides of the negotiating table. I think that should be kept in mind in all of our contractual negotiations, not to have a self-appointed Navy spokesman get up and lash out, this affects mental attitudes, judgments, reactions. I would say again that I do not need that kind of help.

Chairman PROXMIRE. Assistant Secretary Barry Shillito testified in the same hearings, I think the day after Mr. Rule was up here, two days after Mr. Rule was up, and talked specifically about the Grumman case. Was he out of bounds, too?

Admiral KIDD. No sir.

Chairman PROXMIRE. Why not? What is the difference?

Admiral KIDD. Because he is the gentleman who has kept current and speaks with authority, and was well aware of the bounds of propriety within which he was obliged to stay.

Chairman PROXMIRE. So you are telling me that Mr. Rule, whom you have just said is a superb expert in procurment, is not able to testify——

Admiral KIDD. On things he knows nothing about.

Chairman PROXMIRE. I did not ask him about the negotiations. He said he was not in on the negotiations, you and I agreed to that. But I asked him as one who is an expert in procurement, particularly an expert in the procurement of ships, to give us as good an understanding as he could have on the Litton situation.

Let me proceed. I understand that you did in fact visit Mr. Rule's home the day after, 24 hours after he appeared before this Committee, is that correct?

Admiral KIDD. Correct.

Chairman PROXMIRE. And you spent about an hour in his bedroom with his wife present—Mr. Rule was sick in bed at the time, is that right?

Admiral KIDD. He was. I talked to him on the phone before going over and asked him how he felt. He said he did not feel very well, that it sounded like laryngitis but it probably was nerves. He had had similar attacks after previous appearances.

I said it was very important that I see him that day, so I called from the hotel—he lives very close to the office—and asked if I might come up.

Mrs. Rule met me at the door, was most cordial, and when I came in, Mr. Rule smiled and said, "You are here to do a job, aren't you?"

I said, "Yes sir, I have come to accept your earlier offer to retire."

He smiled and he said, "I have seen it coming."

I said, "Well, I feel very badly about it, but apparently, you made your own decision that you weren't going to stay within the confines of the ball park", and I told him what I wanted.

He said, "Fine, I will sign whatever you want."

Then he started to talk and as he described it very well, the more he talked the more agitated he became, and this was certainly understandable. He asked me if the Secretary knew of my visit and I said I had talked to the Secretary the night before and that morning before coming over.

Mr. Rule smiled and said, "I understand."

Chairman PROXMIRE. So it was the appearance by Mr. Rule before this Subcommittee and your reaction and Secretary Warner's reaction that resulted in your going to Mr. Rule's house and asking that he submit his resignation. Is that right?

Admiral KIDD. Well, the way you put it, it is kind of hard to answer yes or no. You are damned if you do and damned if you do not.

Chairman PROXMIRE. Well, just tell what was the reason.

Admiral KIDD. In my heart, it was what he did not do and what he did do while here. I do not think it was the appearance, because you know, he and I were up here together before you——

Chairman PROXMIRE. Of course it was the appearance. It was what he said when he appeared before the Committee and what he did not say.

Admiral KIDD. It was but one more, and in this case, as far as I am concerned, since I am in charge of that ball club over there, the last log on the fire. He just can't—and as I said, he smiled and said, "Well, I just had to do it and I hope it was not in vain."

Chairman PROXMIRE. Now, you have told me that you talked this over with Secretary Warner the night before and the day you came over. Did you talk to any other official about this? Was this a decision entirely made by Secretary of the Navy Warner and yourself?

Admiral KIDD. I do not think I could give you a precise answer to that. There were many gentlemen with whom it was discussed. The decision was made among the many alternatives that he would be accorded the opportunity to retire as he previously had offered.

Chairman PROXMIRE. Who were the gentlemen? Who were the principal people with whom you discussed this? This was a decision of considerable importance. You have told us that he is a superb procurement expert and I think that was an honest response, and I think it is right, and to take what is perhaps your top expert, certainly one of your top experts, and transfer him under these circumstances is a very great decision. You have told us you discussed this with the Secretary of the Navy. Who else?

Admiral KIDD. I think he was the top man. It was indeed a grave decision, but I just never know what he is going to do next and I just finally made up my mind that I was not going to put up with it any longer. This had been going on for about 13 months now.

Chairman PROXMIRE. Have you ever discussed the resignation or the possible resignation of Mr. Rule prior to this? You have said that he offered his resignation.

Admiral KIDD. Retirement.

Chairman PROXMIRE. And you have testified this morning that on the night of the 19th and the morning of the 20th, you discussed the resignation with Mr. Warner and you say others subordinate to Mr. Warner, is that correct?

Admiral KIDD. Yes.

Chairman PROXMIRE. Did you at any other time discuss this?

Admiral KIDD. Yes sir. Correction, if you please, Mr. Chairman.

Chairman PROXMIRE. Yes sir.

Admiral KIDD. Retirement rather than resignation.

Chairman PROXMIRE. I beg your pardon.

Admiral KIDD. Apparently, there is a difference. I think there is.

Yesterday, I had—going back, when I first got to this job 13 months ago, I was told by advisers far and wide that I was going to have three problems—Litton, Grumman, and Mr. Rule. And I do.

Chairman PROXMIRE. I am sure you have other problems. What do you mean by that?

Admiral KIDD. Many other problems. These are probably as or more time consuming then most of the others put together.

Chairman PROXMIRE. I can see a distinction right here. Grumman and Litton have cost the taxpayers hundreds of millions of dollars. Mr. Rule has saved the taxpayers hundreds of millions of dollars. What other connection is there?

Admiral KIDD. I just made that comment that I was told I was going to have three problems.

But this is not a new thing. You must understand that. It is not a new thing. Mr. Rule is a loner, and a pretty good one on some occasions.

Chairman PROXMIRE. Boy, we need them, people who will stand up under these pressures.

Admiral KIDD. But when you make a decision, you have to expect and be able to depend upon performance. You cannot have the whole doggone team going to the right and one player out there to the left all by himself. You just can't do it and win very often.

Chairman PROXMIRE. Well, when that man out in the left is blowing the whistle and informing the Congress and simply responding to Congress, it seems to me he is serving a very vital central purpose in a democratic government.

Let me ask Mr. Rule to comment.

You have not had chance to comment for sometime, Mr. Rule, on the testimony of the Admiral.

Mr. RULE. Well, I would just like to say that if he has three problems, Litton, Grumman and Rule, I hope he is not as screwed up in the negotiations with Litton and Grumman as he is with me.

Chairman PROXMIRE. Admiral, have you ever discussed the decision to seek Mr. Rule's resignation or anything having to do with his testimony before this Committee with anybody in the White House?

Admiral KIDD. I missed about the first three words.

Chairman PROXMIRE. Have you ever discussed the decision to seek Mr. Rule's resignation or anything having to do with his testimony before this Committee with anyone employed in the White House?

Admiral KIDD. No to resignation and no to the question.

Chairman PROXMIRE. In the Office of the Secretary of Defense?

Admiral KIDD. Well, there have been many gentlemen interested down there. I would not attempt to begin to name them.

Chairman PROXMIRE. But you have discussed it with the Secretary, Mr. Laird?

Admiral KIDD. I have kept him informed, Mr. Chairman.

Chairman PROXMIRE. You have kept him informed? Did you discuss, let them know what you intended to do before you confronted Mr. Rule? Did you let Secretary Laird know?

Admiral KIDD. No sir.

Chairman PROXMIRE. Did you let any Under Secretary or anybody at the Assistant Secretary level know at the Department of Defense?

Admiral KIDD. No sir, I worked through Navy channels. You might be interested to know, just as an aside, after turning over in my mind Mr. Rule's visit with me the Friday afternoon preceding the Tuesday he was up here, when he told me how important it was to have leaks, I told him I just could not understand that philosophy and I thought about that real hard over the weekend and I recommended again on Monday morning to my advisers and other gentlemen that he be denied permission to appear before you that next day, because I did not know what he was going to say. And he did. He did it. He just blew it.

Chairman PROXMIRE. What did he blow? You have not been able to point to a single part of the negotiations that have been prejudiced. What he did was he responded to a question I asked him specifically about the appointment of Mr. Ash. Now, how did that blow anything?

Admiral KIDD. I think the answer to that lies in Mr. Rule's statement to me when I went to see him at home when he smiled and he said, "I had to do it." So he knew exactly wherein he found it impossible to conform.

Chairman PROXMIRE. Mr. Rule, what did you have in mind when you say you had to do it?

Mr. RULE. Senator, let's go back just a little. The Admiral talks about 13 months of not knowing what I am going to say or do, and I guess he is right. I happen to have a job description that is in the record describing my job; it is to challenge. That is the basic nature of my job, to challenge business aspects of contractual arrangements or negotiations that I do not think are in the best interest of the government. That is what I am getting paid for. That is what is in the record. A copy is attached to the letter I sent to the Commission, the Civil Service Commission, and I reserve the right to do that.

Now, I see this situation, the Litton and the Grumman situation, as a perpetuation of what I previously testified is dead wrong in the Navy. You know that Admiral Sonenshein took it upon himself as Chief of the Naval Ship Systems Command to negotiate the Avondale and Lockheed settlement and I have testified that I thought that was wrong.

Now, here is Admiral Kidd——

Chairman PROXMIRE. What that did was to cut you out, cut the challenge out?

Mr. RULE. It cut me out. I will get to that. It cut out the people on the operating level who know much more about negotiations—they are professionals—much more about how to handle the companies. But the contractors, you see, always want to come in and start at the top. They do not want to start at the bottom and have a proper decision staffed up if necessary.

Now, here is Admiral Kidd negotiating personally with Grumman and Litton. It is a repeat performance of what Admiral Sonenshein did and I think it is wrong.

Chairman PROXMIRE. What you are saying is that it cuts out the challenge, it cuts out the criticism, it cut out the opportunity for the government's case on a bid basis to be presented effectively. Is that right?

Mr. RULE. Well, yes. The working level people, the professionals down there ought to have a chance to sift these cases, make a tentative decision, and if necessary, check it out topside. But these contractors do not want that.

I can tell you that the people in the Naval Ships Systems Command, if left alone, they will handle the Litton situation a hell of a lot better than it will get handled in Admiral Kidd's office.

Chairman PROXMIRE. Why?

Mr. RULE. Because they are professionals and they know what they are doing. This man has been in procurement 12 months, 13 months. All of a sudden he is an instant expert.

Admiral KIDD. May I respond.

Chairman PROXMIRE. What is your answer to that, Admiral Kidd?

Admiral KIDD. He is right. He is right. I have no corner on the market in brains.

Chairman PROXMIRE. Wait a minute. Is he right in protesting the challenge having been eliminated?

Admiral KIDD. He has been, as he often describes it, a conscience, and in that, he has done a pretty fine job. He is right in the need for contractors dealing with professionals, no question about it. When I was designated as the negotiator, the first thing I did was surround myself with a team of these gentlemen, experts, whose names Mr. Rule recommended to me, and they are the ones making the decisions, whose advice I have taken completely. There has been no overriding. To reassure you, because I have heard often and read that you feel that the civilians must be the gentleman, because of their continuity, their age and experience, they are in the majority in each case.

Chairman PROXMIRE. Yes, but in this case, what effect did it have, psychological effect, direct? They are human beings, as you have indicated—when you knock out Mr. Rule, whose function it is to challenge this, who has the expertise and the professionalism to do it in a proper and effective way. To take him out of the picture, then you leave it up to the people in your office, what kind of a message do they get? Take it easy. Soften up.

Admiral KIDD. No, no.

Chairman PROXMIRE. Why do they not get that message? I would if I were in your office.

Admiral KIDD. No, there are many other very competent senior experienced civilian gentlemen like Mr. Rule who are, I am sure, as good as he, perhaps better, and there are others there to carry on.

Chairman PROXMIRE. Admiral, I am sure that there are senior, competent men perhaps as good as Mr. Rule technically, but I doubt very much if you have any other loners who will stand up against the position taken by the Administration—any administration. I am not talking in a partisan way—Johnson, Nixon, it does not matter; we have had problems in procurement with both of them—to stand up against this kind of touch pressure, or pressure I get from Congress as we have had so often in these settlements. Mr. Rule has shown he has the guts and the heart to stand up. It is that kind of rare capacity which we need and which is being destroyed when you make him a consultant or a teacher instead of giving him the business job he had.

Admiral KIDD. No, there you and I differ. There are just so many gentlemen who have this intestinal fortitude to stand up and be counted and they do a very fine job of it. I do not believe that it is necessary to have as an ancillary capability the determination to circumnavigate the system, go outside the system to present your views once decisions have been made contrary thereto. This we do not need, Mr. Chairman.

Chairman PROXMIRE. Admiral, if we can't get people who will go outside the system once in a while, there is no possibility of Congressional control or civilian control.

It seems to me the problem with Mr. Rule—as you have indicated, he is very capable, he is a man who deserved the award that he received—do you not really mean Mr. Rule is the problem because he had the habit of telling his superiors the truth?

Admiral KIDD. Absolutely not. No sir. He has come down and told me wherein I have been in error on many occasions and where I have been able to take his advice, I have. He has identified one area here just now that, instead of negotiating claims for agonizingly long periods, we do the best we can, we send them then to the courts, if the contractor declines to accept our offer.

Chairman PROXMIRE. Well, how has he been a problem?

Admiral KIDD. Sir?

Chairman PROXMIRE. How has he been a problem?

Admiral KIDD. Well, we have not touched on one area here, on the matter of my not being able to count on the preciseness of his responses. This sort of thing shakes an individual's confidence. This came about last summer. This is just one more piece of the puzzle, where he came down to my office and indicated that he had a document which was exceedingly sensitive and would be a bomb, as he described it. I asked if I might see it. He showed it to me. I said, where did you get it?

He told me. He said, this thing should not be on the loose, it ought to be classified.

The next morning I asked my Vice Commander, because I was going to be out of town the next day, to get him down and track down this document.

Chairman PROXMIRE. Why should it be classified? Was it giving aid and comfort to the enemy?

Admiral KIDD. It was the same document that Mr. Kelly got hold of that was reported on in two parts here, beginning Friday of the week before you had your hearing.

Chairman PROXMIRE. Why should that be classified?

Admiral KIDD. Sir?

Chairman PROXMIRE. Why should that be classified?

Admiral KIDD. Because it reflected confidences by a contractor which I do not believe the contractor wanted or felt should be put in the public domain at that time.

Mr. RULE. Which is just exactly where I think it should be. The contents of this document—it is unclassified and I took it as soon as I saw it to Admiral Kidd and asked him if he knew about it. They are minutes of a meeting with Mr. Ash. And he did say, how about classifying it, and he did have his deputy call me.

Chairman PROXMIRE. Who said that? Admiral Kidd said how about classifying it?

Mr. RULE. Admiral Kidd did not say it at that time. His deputy called the next day and said he wanted to classify it. I said I am not going to classify it, it is not my document.

Chairman PROXMIRE. If you will be just a little more clear in explaining what this is. It is now in the public domain, as you say; Orr Kelly has had a column on it.

Mr. RULE. It is a memorandum, minutes of a meeting on June 16, 1972, with Mr. Ash, president of Litton, Assistant Secretary of the Navy Gill, Admiral Kidd and Admiral Woodfin from Ships. And it is not classified. Any boy, I do not think there is a thing in there that the public should not know. This is a company——

Chairman PROXMIRE. What is the substance of the memorandum?

Mr. RULE. Do you want to put the memorandum in the record?

Admiral KIDD. Do you have it?

Chairman PROXMIRE. Will you put that in the record? Can we make that part of our record, Admiral Kidd?

Admiral KIDD. Since it has been written about, I suppose it would not do too much harm.

Chairman PROXMIRE. All right, then, it is part of the record.

Mr. RULE. Offered by Admiral Kidd.

Admiral KIDD. No, you are the one who had it.

We are getting wide of the mark here, Mr. Chairman.

Chairman PROXMIRE. What is that, sir?

Admiral KIDD. We are getting wide of the mark. The document itself becomes academic at this point in time.

Mr. Rule told me that might he had gotten it from Officer A. This disturbed me, because in the first place, he had no business having it. In the second place, it was a direct indictment of Officer A's ability to keep things properly secured.

The next morning, Mr. Rule changed his story with my Vice Commander and said he did not get it from Officer A. When the article appeared first in the Evening Star, indicating that this document was on the loose, I had Mr. Rule down again and this time, he told me he had gotten it from still a third place.

Now, this, to me, is tampering with the truth and I cannot have people in positions

of great responsibility and authority on whom I cannot depend to give me a straight answer.

Chairman PROXMIRE. Mr. Rule?

Mr. RULE. Senator, I could not have said that I got it from Officer A, because Officer A did not give it to me and I never said it. I did say that it came from his office and it did come from his office. And one of the peculiar positions, an unfortunate position, that I find myself in, being completely cut out by Admiral Kidd and his subordinates from these negotiations, is that people that are in the negotiations who do not like what is going on in the negotiations for some reason or other come to me. They either cry on my shoulder personally or I find documents on my desk.

Now, this is the result of the way these things are being handled and this is what Admiral Kidd does not like and I guess I would not like it either if I were in his place. But I would be conducting the negotiations in a way that this would not have to happen.

Chairman PROXMIRE. Mr. Rule, would you read that document that has now been made a part of the record that Admiral Kidd agreed could go into the record in view of the fact that it has already been written about?

It is very short, as I understand it, one page, one and a half pages?

Admiral KIDD. May I withdraw my concurrence on that properly?

Chairman PROXMIRE. Why do you want to withdraw it? You said it is already in the record. We already have information on it.

Admiral KIDD. Well, I just do not think it is fitting.

Chairman PROXMIRE. Why isn't it fitting?

Admiral KIDD. I feel a burden to anybody that I do business with to conduct business properly. You have a law of the land here some place that I am looking for that makes it a Federal offense to have proprietary contractual information floating around loose. And while I might not agree with the contractor or I might get furious over his intransigence or what not, I still have a burden from laws of the land that gentlemen like you pass to protect it.

Chairman PROXMIRE. What laws?

Admiral KIDD. Well, I will find it here in a minute.

Why don't you just go ahead, sir, and I will come up with it.

Mr. RULE. Senator, while the Admiral is looking for something, just let me say on this point that he now raises lack of confidence, I would like to make the point on behalf of a lot of other civil servants that this lack of confidence bit works both ways. It does not work just from the top down. There are a lot of competent, long in grade or, rather, in their job, personnel who can just as easily lose confidence in some of their superiors, military and civilian—in other words, it is a two-way street. Again, this may sound egotistical, but it goes to the point and I have to do it.

Here is the Distinguished Civilian Service Award that I got from the Secretary of the Navy. And it says, "Mr. Rule has consistently demonstrated extraordinary acumen, judgment, initiative and integrity," et cetera. But it specifically mentions judgment that Admiral Kidd now says he hasn't got any of.

I know what is going on just as well as a lot of other people do. And I will just say this: ever since I rejected the Avondale claim in July 1971, there have been efforts made—they have changed my job sheet, they have taken duties away from me, and I know what is going on. And I know that Admiral Kidd probably thinks I am a burr up his ass and he wants me out.

But this letter, Senator, from Assistant Secretary of the Navy Warner to get me that award says "His is the responsibility to challenge, to question, and to disapprove when such action is necessary, regardless of other considerations or consequences."

Now, that is my job, and believe me, boy, I have been doing it, so well that it does become a burr.

Chairman PROXMIRE. Thank you very much, Mr. Rule.

What I am going to do in this case—I think Admiral Kidd's initial reaction was competent and correct and made sense. The memorandum has been disclosed to the press, it has been in the hands of the press, but I think in order to make this discussion comprehensible, it is necessary for me as Chairman to read two paragraphs from the letter which are the principal issues involved here. This was a meeting held on June 6, 1972, including Mr. Ash, Admiral Kidd, and others. At this meeting, paragraph 3, which is one of the two paragraphs I will read, "Mr. Ash also recommended that the Navy consider presenting this type contract problem along with other similar shipyard problems to Congress. This presentation would be in the form of a procurement policy change and would perhaps require $1 to $22 billion. Mr. Ash indicated that he discussed such an approach with Mr. Connally. Mr. Connally was quoted as saying such a program should be positively presented on a grand program scale—make it bigger than the Congress."

Then in item ten of the memorandum, Mr. Ash indicated that, "It appears that some in the Navy have a built-in sense of self-righteousness concerning Litton's performance and that the Navy would have to relax this view if Litton is expected to proceed with the contract. Mr. Ash indicated that he intended to meet with Secretaries Sanders and Warner and then on to the White House to explain the problem."

Now, Admiral Kidd, would you agree that under the circumstances, your behavior could reasonably be interpreted as an effort to badger a subordinate into leaving the government service and as a disciplinary measure for making improper and unwise statements in public?

Admiral KIDD. No, Mr. Chairman, I would not.

Chairman PROXMIRE. Why would that not be a reasonable interpretation in view of Mr. Rule's clear resistance to this, his desire to remain in the position, his feeling that this is a Siberia, in effect, and certainly the general feeling that this takes him out of the action. He no longer can protect the public interest.

Admiral KIDD. Mr. Chairman, on the surface of the thing and the voluminous material that has been written in the newspapers thus far, I can certainly understand that sort of a conclusion. But I will tell you from the bottom of my heart, when I went over there to see him, it was to earnestly take up on a previous offer to retire because I did not particularly want to see him get hurt.

Chairman PROXMIRE. Well, now, so that we clearly understand just what the situation is, you have referred to his new assignment. I would like you to state what action has been taken with regard to Mr. Rule since his testimony on December 19th. There is some confusion in press reports and in explanations offered by various members of the Administration. Tell us precisely what Mr. Rule's status is and how it has changed since December 19th?

Admiral KIDD. Aye, aye, sir.

He has been detailed, and here I must choose the words carefully because I understand there is a fine point here—he has been detailed temporarily to be the consultant at this school whose mission and purpose I earlier described. At the present time, sir, he is on leave at his request. He is still on the payroll, still drawing full pay and emoluments for his GS 17 rating. And that is where we stand.

Chairman PROXMIRE. Did you say—you have said that you did not consider the new assignment a demotion; you do not consider it a promotion. Do you consider it an increase or a reduction in his responsibilities?

Admiral KIDD. Well, sir, I would say a lateral move.

Chairman PROXMIRE. A lateral move. Right off the field.

Any comments, Mr. Rule?

Mr. RULE. Senator, I think this question can be answered very easily, because of the letter dated 9 January, just yesterday, from the Chairman of the Civil Service Commission, he laid this to bed. He said "Officially, you are still the incumbent of the position of Head, Procurement Control and Clearance Division, GS 17."

Now, that lays that one to bed, at least for the time being.

Chairman PROXMIRE. So you are officially head of the Procurement Control and Clearance Division, is that right?

Mr. RULE. That is what this letter from the Civil Service Commission, signed by the Chairman, says, and that must have come as some news to Admiral Kidd, because he had given me a memorandum about two hours before I got this, that talks about my old office and my new office, and two days ago, I was in the office, on leave, working and he sent his deputy, a Vice Admiral, up to tell me to get out of the building, that if I was going to work for the Navy, my office was in Anacostia.

Now, when the Civil Service tells me that I am officially still the incumbent of the position of Head, Procurement Control and Clearance Division, I submit that I still have an office there and I still have a secretary and I still have a right to use it.

Chairman PROXMIRE. How do you answer that, Admiral Kidd? It seems that Mr. Rule has been told by the Civil Service Commission that he is still head of the Procurement Control and Clearance Division. At the same time, Admiral Moore, your deputy, as I understand it, yesterday told Mr. Rule that you wanted Mr. Rule out of his office, and that seems to me to be a little more than a lateral move.

Admiral KIDD. No, Mr. Chairman, I think there is a very reasonable answer to that—at least in my mind, and I did it. I told the gentleman that he was going to be detailed to this job over there to do the curriculum update and review at the school in procurement matters, which he said is where he was strongest and for which he had been hired. He then came to see me and said he wanted to go on leave. This was, I think, the day after Christmas. And I said, fine. He said he had some thinking to do. I said that would be just fine, you let me know when you are going to come back.

I asked Admiral Moore a few days later how long Mr. Rule was going to be on leave and when he would take up his duties over at the school, because I had had the school prepare office space for him over there. And here the other day somebody—I have forgotten now who it was—came down and said that Mr. Rule was in his office. I said, well, by George, to myself, he is back from leave and he is over here and I told him to go over there to the school. And I just wanted to make sure that he understood that I wanted him where I want him.

Then I found that he was still on leave and was using his old office in the frame of reference that the Commission described it which he just read.

Chairman PROXMIRE. Well, Admiral Kidd, with all due respect, I think you are asking this Committee and the public to believe something that is impossible to believe. Mr. Rule has an excellent and outstanding record of service and accomplishment. Everybody agrees to that. He was given a satisfactory performance rating on December 12th. A week later he appears before a Congressional Committee after receiving permission

from the Navy to appear. He testifies, and one day later, you are at his sick bed demanding his resignation before the end of the business day. Later you transfer him to a Navy school as consultant and he is stripped of his authority as head of the Procurement Control and Clearance Division. Yesterday your deputy tells him you want him out of his office and out of the building. Yet you maintain that he is not being punished because of his testimony before this Committee. Surely you must concede that his treatment has something to do with what has happened to him since he testified.

Admiral KIDD. I have spoken to all those points already, sir. You have summarized them, I believe, without taking into account the testimony that has been given completely.

Indeed, that which occurred up here, errors of omission and commission, inability to stay within the frames of reference that were laid out for him—that, as I said, sir, was the straw that broke the camel's back.

Chairman PROXMIRE. And you feel, then, that it is perfectly proper and within the law—I have read the law once; I do not think I have to read it again—within the law to kick a man out of his office, take away his authority and responsibility, to transfer him to a job that he does not want, that he has made very emphatically clear he does not want, and you do not call that harassment, you do not feel that anything but, as you say, a lateral movement.

Admiral KIDD. Correct, I am sorry.

Mr. RULE. May I make a statement, sir?

Chairman PROXMIRE. Yes sir.

Mr. RULE. I want to change it if I said I did not want that job. I will be glad to take that job. If they want a consultant on procurement matters and if they want the course updated, I will update it on Saturday. I can take that job on and do it in addition to the one I have already, the one the Commission says I have. I do not have any objection to helping the school, I will be glad to.

I asked Admiral Kidd if this could not be done from my office in his building. I had previously gone and talked to the expert in CNM on training, school training matters. I had asked them if it was necessary to be physically located at that school that has five personnel, and they said, hell, you could do it in your living room after breakfast.

So I then wrote a memorandum to Admiral Kidd and I asked him if I could do the job from my office in his office. And he wrote back and said, oh, no, it is too important. You have to be co-located in Anacostia.

Now, the fact is he wants me out of the building. He does not want my friends, who are in these negotiations, to be crying on my shoulder. Again, I just wish he would—well, it is perfectly obvious that—to me it is perfectly obvious, and I so told the Commission—that this reassignment or detail was an afterthought. It came after I refused in my bedroom that day to sign a retirement piece of paper. It obviously is a punitive action.

Now I understand that it is the result of several things I have done over a period of 13 months that has made him lose confidence. Well, in this letter from the Commission, it says categorically that if you want to discipline anybody, you have to give them, the Commission regulations require that the agency must give the employees 30 days' advance notice of proposed adverse action, stating specifically and in detail the reasons for the proposed action, offer him opportunity to reply, consider his reply, and give him a final decision.

Now, none of this has been done and I submit to you that the very fact that the Admiral sits here this morning and details in a public meeting these things which he should have done in detail and in writing by the Commission regulation is all the proof you need that he is not following the Commission regulations and he has violated that very regulation of notice and detailed information by coming in and making that statement.

Chairman PROXMIRE. As I understand, Admiral Kidd's position is that you have not been demoted, you have not been disciplined in any way, you are simply being transferred. You are not being harassed or punished in any way, shape, or form for your appearance here. He did not like your appearance, he said so, but you are being transferred to another job which he thinks has equal dignity, equal significance and importance, and you are being physically removed to another position.

Mr. RULE. Well, I think he has a great deal more to do to sell that point of view than he has done here this morning. And Senator, you read two paragraphs from that letter.

Chairman PROXMIRE. Yes.

Mr. RULE. You missed the most important paragraph. The most important paragraph starts off at the top. I am talking about the Ash and Litton——

Chairman PROXMIRE. Yes, we have it here.

The first paragraph: "At the request of Mr. R. Ash, subject meeting was held between 1030–1200 on 6 June to discuss Litton's analysis of alternative solutions to performance of the LHA contract."

Mr. RULE. Get this, their alternative solution. This is what Litton is telling the Navy in the form of Admiral Kidd, that after talking to their lawyers, here are the following alternatives. Now, read those.

Chairman PROXMIRE. "Mr. Ash indicated that based on consultation with his lawyers, the following alternatives appear to be available to the parties:

"A., Navy continue cost reimbursement payment basis beyond the 40-month current contract limit;

"B., Navy terminate the contract;

"C., Navy order work stopped;

"D., Litton stop work;

"E., Parties agree to reformation of contract;

"F., Parties agree to reduce contract quantity from 5 to 3 LHAs;

"G., Litton could sell the West Bank facility to the Navy; or

"H., Litton could sell or spin-off the West Bank facility to absolve Litton Industries of the guarantee responsibility."

Mr. RULE. Now, it is my contention that the public has the right to know that those are the alternatives that this company, with a billion dollars LHA contract, has come in and laid on the doorstep of the Navy. Individually or cumulatively, all those alternatives spell bailout.

Admiral KIDD. May I speak to that?

Chairman PROXMIRE. Yes, sir.

Admiral KIDD. The Congress needs to know that sort of thing. The Congress knows. This was made clear in testimony when I appeared some months back. There has never been, and I would underline this again, any question in my mind of the need, the correctness, and the propriety of the Congress being made knowledgeable of things like this at an appropriate time and place.

I would also for the record want to underline the fact that the Navy rejected those proposals as being quite unacceptable. So I think we are getting a little bit wide of the mark here if you push them.

On the matter of that law, Mr. Chairman, I have a copy of it here before me, Title 1, Crimes of Procedure, Article 1905, where it covers proprietary information with the contractor.

Mr. RULE. I do not know whether the inference is that there is something proprietary in that memorandum, but if there is, I fail to see it.

Chairman PROXMIRE. If there is, why was not it labeled proprietary, why was not it classified, why was it unclassified.

Admiral KIDD. Through oversight in my own offices. It was written by one of the gentlemen in attendance, put in his personal files, and how Mr. Rule came by it I do not know. The first time I saw it was when he brought it into my office some weeks after the meeting and that was when I asked him where he got it. I told him at the time that it was a sensitive piece of paper and should be classified.

Now, the man tells one thing one evening to his boss, he tells something else the next morning to the Vice Commander, he tells his boss a third story, on the Friday before he comes up here to see you. I would respectfully submit, Mr. Chairman, my confidence in this case reached its elastic limit.

Chairman PROXMIRE. Let me say, of course, that Mr. Rule has denied that, so this is in dispute. You assert that he told you that it came from Officer A, and Mr. Rule has denied that he said that.

Admiral Kidd, isn't it correct that you have negotiated personally with Roy Ash on several occasions on several contracts awarded to Litton including the LHA and several nuclear submarines?

Admiral KIDD. That is correct.

Chairman PROXMIRE. Isn't it also true that on at least one occasion, Mr. Ash brought up the name of the then Secretary of the Treasury, John Connally, and said in your presence that Connally was in favor of presenting a 1 billion dollar to two billion dollar program to the Congress to solve the problem of the shipyards facing the Navy?

Admiral KIDD. I do not think it is quite the way you put it, Mr. Chairman. As I recall that discussion, he indeed said he had been in discussion where Mr. Connally had been present and that this proposal had come up. But I do not recall it being precisely identified whose idea it was.

Chairman PROXMIRE. Well, the memorandum said, "Mr. Ash indicated that he had discussed such an approach with Mr. Connally. Mr. Connally was quoted as saying such a program should be positively presented on a grand scale—make it bigger than the Congress."

Admiral KIDD. I would not dispute the memorandum, Mr. Chairman. I just do not remember whose idea it was in that event.

Chairman PROXMIRE. Didn't Roy Ash tell you at this meeting that this refers to that he intended to go to the White House to explain the problem he was having with respect to the shipyard claims against the Navy?

Admiral KIDD. Yes sir, he did.

Chairman PROXMIRE. In light of Mr. Ash's closeness to the President and his appointment as head of OMB, I can see how the Navy might feel somewhat jeopardized when Mr. Rule expressed his opinion about Mr. Ash's appointment. After all, Mr. Ash is going to be one of the most powerful men in government, perhaps second only to the President. Is it possible that you have felt a failure on the Navy's part to take action against Mr. Rule after his testimony on the Ash appointment might be interpreted as a Navy endorsement of Rule's view and therefore it was incumbent upon you to do something?

Admiral KIDD. Oh, no. No, that thought never crossed my mind. I was embarrassed.

Chairman PROXMIRE. That was the first thought that crossed my mind.

Admiral KIDD. Well, I guess we think a little differently, sir.

No, that thought never crossed my mind. I was embarrassed when I read his testimony, not so much for what he said but the fact that, by George, he represented himself up here as a spokesman for the Navy. You yourself, in a letter to me, said, you sent Mr. Rule.

Hell, I did not send Mr. Rule.

Chairman PROXMIRE. You permitted Mr. Rule to appear, you and your superiors permitted Mr. Rule to appear.

Admiral KIDD. I suppose.

Chairman PROXMIRE. The Secretary did.

Admiral KIDD. The Secretary did. And at the same time, as a subordinate, an employee of the United States, I told him what to stay away from. He found it impossible to comply.

Chairman PROXMIRE. You have had personal dealings with Mr. Ash. What is your opinion as to his appointment and his apparent intentions not to refrain from involving himself in budgetary matters concerning Litton's claims against the Navy?

Admiral KIDD. I would not presume to comment on that.

Chairman PROXMIRE. Why not?

Admiral KIDD. Because I do not know. He is a pretty good businessman.

Chairman PROXMIRE. What do you think? After all, he is a pretty good businessman. He went to Harvard Business School, was number one in his class. He has made millions of dollars, is one of the most artful negotiators with the government. Now he wants to press his claim with the Navy. He says he won't let up on it and he is in this very, very powerful position. Do you think that makes sense, that that is ethical, that that does not represent a distinct, clear conflict of interest?

Admiral KIDD. No, I certainly do not. You take a look at the cross section of every civilian we have in a position of responsibility in the government; he came from business life. That does not make them all crooks.

Chairman PROXMIRE. Oh, I am not saying he is a crook. What I am saying is this man has hundreds of thousands of shares, millions of dollars, that have to be liquidated over a period of time, invested in Litton and he says he is going to press this claim and he is in a position to press it with enormous force.

Admiral KIDD. Well, I think that is overstating it.

Chairman PROXMIRE. How is it overstating it?

Admiral KIDD. Because I do not know that you are correct.

Chairman PROXMIRE. Well, we have a memorandum that you said——

Admiral KIDD. I think we are pretty doggone fortunate, pretty doggone fortunate in having the gentlemen of integrity and honor and competence, business competence, and acumen that we do in appointed positions in these United States; very, very fortunate.

Chairman PROXMIRE. Well, I think we have some fine people, splendid people. I have great respect for Mr. Packard, Mr. Laird, many others. They are able people. But here you have a case where there is an explicit, direct conflict of interest affecting your own branch, the Navy, and affecting the claims of the Navy. If these claims are all granted, the Navy's capability of providing adequate security is going to be jeopardized, in my view. One billion dollars, two billion—you can't spare that, you know it. You need every penny you can get from the Congress to provide the kind of defense that I am sure you would like us to have.

Admiral KIDD. You are expostulating now, I gather, sir, that Mr. Ash would put forward some such proposition and I do not think that is a proper assumption.

Chairman PROXMIRE. I do not know how else I can read this paragraph. What Mr. Ash indicated that he intended to meet with Secretaries Sanders and Warner and then on to the White House to deal with the problem. Now, of course, he is in the White House.

Let me ask you. As you know, we originally invited you to appear on 19 December on the costs and other economic implications of the Litton ship programs, especially the LHA and DD 963 and the F–14 aircraft. You declined to come, Admiral Kidd, on the grounds that you were involved in sensitive negotiations on the LHA and F–14 contracts. Mr. Rule was then asked to testify on general Navy procurement matters. Isn't it correct that you did not object to his appearance in any way, directly or indirectly, and that the Secretary of the Navy did not object to his appearance publicly?

Admiral KIDD. No sir, that is not so.

Chairman PROXMIRE. Did you make any kind of public statement that you did not object?

Admiral KIDD. Pardon?

Chairman PROXMIRE. You made a public statement?

Admiral KIDD. No, I do not quite follow. I mentioned earlier, you will recall, that when I found out earlier that Mr. Rule had been invited personally by you, I think on Wednesday the week preceding when he was to come, after the decision had been made that Mr. Warner, Mr. Sonenshein, and the rest of us would not appropriately appear at that time, that is when I went up to see Mr. Rule and spelled out for him in words of one syllable the things that it would be inappropriate to address up here. So I do not think it is proper to say that I had no reservations.

Chairman PROXMIRE. But you did not tell him not to come. You accepted the permission granted by the Secretary of the Navy. You did not—that was it?

Admiral KIDD. Yes, sir.

Chairman PROXMIRE. Then you told him that you wanted him not to comment on certain areas.

Admiral KIDD. Pardon?

Chairman PROXMIRE. Then you told him that you wanted him not to comment or respond in certain areas that you thought were sensitive.

Admiral KIDD. I told him that before he talked to Mr. Warner.

Chairman PROXMIRE. Admiral, I have attempted on several occasions to get the Navy to appear on the Litton and F–14 contracts. Each time the Navy says they will be glad to come but at a later time. I am afraid that your appearance will be so delayed that all important decisions will have been made and it will be too late for Congress to do anything but stand by and watch millions of dollars being wasted on mismanaged, inefficiently operated, gold-plated weapons programs. I would like you to agree to come back to this Committee on a date certain in the near future and testify on the programs I have mentioned.

Can you specify a date?

Admiral KIDD. No, and I take, respectfully, issue with the sweeping implications of your statement, that we keep Congress in the dark, because by jingo, we have been up here testifying before other Committees in the greatest of detail.

Chairman PROXMIRE. Well, you have testified before this Committee and you have been very helpful to us on occasion. On this particular area, these are programs that it seems to me do involve enormous sums.

Admiral KIDD. I am talking about these programs, Mr. Proxmire. These same programs, sir. We have been up here hours on end on both of these programs.

Chairman PROXMIRE. In public testimony?

Admiral KIDD. Yes, sir, before the House and Senate Armed Services and Appropriations Committees.

Chairman PROXMIRE. Well, you will not appear before our Committee. You will appear before those Committees, but not this Committee?

Admiral KIDD. That is my understanding, yes, sir.

Chairman PROXMIRE. Why is that? Are we too critical?

Admiral KIDD. No, sir.

Chairman PROXMIRE. You will appear before the hawks but not the doves?

Admiral KIDD. No, sir; I think Mr. Warner's situation, I happened to be in the office when he talked to Mr. Kaufman, is he agreed that we would be most willing to come up before your Committee at an appropriate time.

Chairman PROXMIRE. But you will not tell us when. You will appear before the other Committees, but not before this one.

Admiral KIDD. Those Committees hold closed hearings in order to protect the proprietary interests of the contractor in accordance with those laws that I mentioned. I certainly describe to the impropriety of airing bidding on contractual fiscal situations and like matters.

Chairman PROXMIRE. I understand that and of course, nobody can, nobody would force you to answer questions that you feel are proprietary. But you could still come before this Committee in open, public sessions. This Committee does not have any function privately. To meet privately would serve no function whatever. This Committee is a fact finding Committee, the Committee tries to get information to the Congress so they can act. Other Committees meet privately. I think in many cases they are wrong to do it, but in many cases they markup legislation and they proceed in that way. Our responsibility is broader. If you cannot come up publicly, it seems to me it does not serve any purpose.

I understand there are some cases where you could come up publicly—I think there should be—and then restrict your responses and not respond in areas that you think proprietary information is involved in.

Admiral KIDD. Could I ask your advice on a matter in this regard?

Chairman PROXMIRE. Yes sir.

Admiral KIDD. Let's take the Grumman situation, where we held the line to the everlasting discomfort of the contractor, made a public statement to that effect——

Chairman PROXMIRE. And I commended you when you made that statement.

Admiral KIDD. And that was very much appreciated, sir. Then these big ads in the newspaper and all. How much more public would you like us to get, sir?

Chairman PROXMIRE. Well, I would like you to get public to the extent of coming up and submitting to cross examination. These ads in the newspapers were by Grumman.

Admiral KIDD. That is correct.

Mr. RULE. Which was exactly, Senator, the point that I made and the reason I felt at liberty to jump off as I did and talk about their buy-in. I said in the record, "The reason I mention Grumman"—this is at page 180 of the transcript—"and I have not been a participant in any of the negotiations." I made that very clear. But I certainly felt that I had a right to respond and at least comment on and talk about that full-page ad that Grumman put in the paper, not knowing anything about the negotiations. That is what I thought the Admiral was talking about, that you can't talk about negotiations. I could not talk about them anyhow.

And the same thing with Litton. "I would like to make a couple of comments about Litton. I have had no part in the negotiations with Litton, either. But the fundamental point that again I think the public and the taxpayer should know about Litton," et cetera.

Now, I am sorry if those statements got the Admiral's nose out of joint and made him "lose confidence in my judgment."

Chairman PROXMIRE. Mr. Rule, I understood you to make statements emphatically backing the Navy's position in ringing terms. It seems to me you should be commended by the Navy for being loyal to their position.

Admiral KIDD. It did not stop soon enough, Mr. Chairman.

Chairman PROXMIRE. He did not stop soon enough? He can say so much and then stop.

Admiral Kidd, I have only a couple more questions. Then we have Mr. Mondello.

I want to apologize to Mr. Mondello, the

General Counsel of the Civil Service Commission.

Are you disciplining Mr. Rule by detailing him to Anacostia or not? If not, then why can't Mr. Rule do what he said he is capable of doing—that is, do both jobs, the one he has and the new detail?

Admiral KIDD. The answer to the first question is a flat out no, Mr. Chairman. The answer to the second question is because I do not think he can and as long as I am the boss, I am calling the shots.

Chairman PROXMIRE. Well, have you considered the evidence that Mr. Rule has given this Committee this morning, in which he says that he has talked to the people over there and they feel he could do it easily?

Admiral KIDD. Quite thoroughly.

Chairman PROXMIRE. You think it can't be done without his leaving his office, going over there physically, not coming back to any of his present functions, being taken out of the act entirely as far as action and procurement is concerned?

Admiral KIDD. That is correct, Mr. Chairman.

Chairman PROXMIRE. Well, how long will it take Mr. Rule to do this job?

Admiral KIDD. I do not know, Mr. Chairman.

Chairman PROXMIRE. Well, can you find out and let us know for the record?

Admiral KIDD. I would be happy to let you know when he starts.

Mr. RULE. I asked the Admiral that question. I asked him specifically how long this detail would last. He said he did not know, that it was open-ended and that after I finished that, he had other temporary assignments in mind.

Chairman PROXMIRE. How about that, Admiral?

Admiral KIDD. He is right.

Chairman PROXMIRE. So that if he finishes this job quickly, you will assign him to some other temporary job so that he will not come back to his responsibilities he has discharged so brilliantly that he has been cited for it?

Admiral KIDD. I am going to keep my options open on that, Mr. Chairman.

Chairman PROXMIRE. How can you say you are not disciplining him under these conditions?

Admiral KIDD. Well, because I did.

Chairman PROXMIRE. You did, but how do you justify that when you have a situation where you will not let this man even know how long this job will take? That would be very easy to determine, it would seem to me.

Then you furthermore say that when he finishes it, you have a few other things in mind, maybe a bowling alley to—

Admiral KIDD. I tell you what, Mr. Chairman, when I was sent back here from something that I really knew how to do, command of the Sixth Fleet, I sort of felt I was being disciplined. Mr. Rule has suffered no loss in pay, there has been no punitive action. I think really what we are talking about here maybe is a matter of personal pride. But there has been——

Chairman PROXMIRE. Admiral, reconsider your response there. You said when you were brought back here, you were considering that a demotion. You were given a promotion, in fact. You are the second highest ranking officer in the United States Navy, is that not so?

Admiral KIDD. No sir, not quite, number five.

Chairman PROXMIRE. That is pretty high. How could you consider that to be a demotion?

Admiral KIDD. I was speaking in jest, Mr. Chairman.

Chairman PROXMIRE. Well, I am sure, especially in contrast to what has happened to Mr. Rule.

Mr. RULE. If I may say something, also in jest, it would have made about as much sense for somebody to give me a set or orders to go out and relieve the Admiral and run the Sixth Fleet as it made to give him a set of orders to come back and run Procurement.

Chairman PROXMIRE. Aren't you in effect putting Mr. Rule in permanent exile, sending him to Siberia for good?

Admiral KIDD. No. sir.

Chairman PROXMIRE. In a subtle and—

Admiral KIDD. No.

Chairman PROXMIRE. Well, you have open-ended his present job. You have indicated that when he finishes it, no matter how well he does, you have other temporary assignments in mind.

Mr. RULE. And Senator, this is the last time I will interrupt. All I am asking is that Admiral Kidd abide by what the Civil Service Commission said yesterday: "Officially, you are still the incumbent of that job." Now, I am offering to do this other work and I can do it. If I could not as a GS 17, I ought to be fired, not retired if I could not do that job of upgrading the curriculum in the capacity of consultant. And the Admiral says that he is the boss and that is it. And that is where we stand. I will be happy to take on this other work, but I want that job just exactly the way the Commission says it is. That is my official job.

Chairman PROXMIRE. That is the job in which Admiral Kidd testified earlier you did superb work?

Mr. RULE. That is right and I want that job back just the same as the Commission says I have it today and I want to perform the job just as I always did.

Chairman PROXMIRE. Admiral, I want to say to you that I have great respect for you and you have performed with considerable distinction in a tough role this morning—It is not easy to do what you have to do—but with all due deference, I think you are insulting the intelligence of this Committee and the public to tell us with a straight face that this is not disciplining Gordon Rule when you take him out of his office, kick him out of his office in effect, refuse to let him stay in his office, transfer him to Anacostia to upgrade the curriculum, a job which he says he can do easily, and then say when he finishes that, you have something else in mind.

One other question. Admiral Kidd, Secretary Warner agreed to allow you to testify on this question of Grumman and Litton. All I am trying to do is get a date. Can't you tell me when you will come?

Admiral KIDD. No sir, not because I would not even hazard a guess as to when these negotiations are finished, Mr. Chairman.

Chairman PROXMIRE. You will not come before they are finished?

Admiral KIDD. That is my understanding.

Chairman PROXMIRE. You will appear before the other Committees but not before this one on these issues?

Admiral KIDD. That is my understanding, sir. Not on the contractual part, Mr. Chairman. Not on the contractual part.

Chairman PROXMIRE. As I say, we are asking you to appear on procurement matters in general. This morning, it was, as I think it should have been, directed at what I think was the disciplining of Mr. Rule.

Thank you, Admiral, thank you very much.

Mr. Rule, did you want to make a concluding statement?

Mr. RULE. If you wait for Admiral Kidd to settle all these contractual problems with Litton, he will be long gone, because we will not settle those problems with Litton for many years to come on the contracts they have, I am sorry to say.

Chairman PROXMIRE. I think you are right and I think I will be long gone, too.

Mr. RULE. I know damn well I will be.

Chairman PROXMIRE. Admiral, do you want to conclude with anything? I do not want to cut you off?

Admiral KIDD. Just thank you very much for your courtesy and the opportunity to come up.

Chairman PROXMIRE. Thank you sir.

Our final witness is Mr. Anthony L. Mondello, General Counsel, Civil Service Commission.

Mr. Mondello, did you want to make any kind of opening statement or just respond to questions?

STATEMENT OF ANTHONY L. MONDELLO, GENERAL COUNSEL, CIVIL SERVICE COMMISSION

Mr. MONDELLO. I have no statement, Mr. Chairman.

Chairman PROXMIRE. All right, sir, will you first explain your position with the Civil Service Commission your responsibility and your qualifications to explain what recourse is open to civil servants?

Mr. MONDELLO. Yes, sir. I am the General Counsel of the Civil Service Commission and I have——

Chairman PROXMIRE. You are the General Counsel of the Civil Service Commission?

Mr. MONDELLO. Yes, sir, and I have a fair amount of familiarity with our regulations. As we change them, I have to comment on them and so forth.

Chairman PROXMIRE. How long have you been with the Civil Service Commission?

Mr. MONDELLO. I have been General Counsel of the Commission since March or April of 1968. I was formerly with the Department of Justice since '48. So I have that——

Chairman PROXMIRE. So for almost five years, you have been with the Civil Service Commission; before that, you were with the Department of Justice?

Mr. MONDELLO. Yes, sir.

Chairman PROXMIRE. And you have been the General Counsel, you say, for almost five years?

Mr. MONDELLO. About five years.

Chairman PROXMIRE. Will you explain the exact series of steps that must be taken in an appeal to the Civil Service Commission. What time period is involved, the length of time for each step and what governs the length of time for each step?

Mr. MONDELLO. There are a good many different appeals to the Civil Service Commission, depending on the matter you are involved with. Maybe it will help serve the purpose if I say this: The Congress has structured the areas in which we can entertain appeals. We can under the Classification Act, we can as a result of adverse actions which are taken initially under the Veterans Preference Act, but we have broadened out Veterans Preference right to the entire membership of the competitive service so that anybody who is a member of the competitive service against whom adverse action is taken has the right of appeal to the Commission.

The Congress has defined this action for us in Section 7511 of Title V of the U.S. Code. Reading from 7511, subsection 2, "Adverse action means a removal, suspension for more than 30 days, furlough without pay, or reduction in rank or pay." The only one that seems to require explanation is the reduction in rank, which really has to do——

Chairman PROXMIRE. Where you have a case where you have a man who is still the same rating—a GS–17, for example—so there is no reduction in pay and where his superiors say one thing—they say that it is not a demotion when they transfer him and he feels very strongly and very deeply aggrieved that he is being moved out of the function that he has the capability of performing, is there any grounds under any circumstances for the aggrieved party to appeal effectively?

Mr. MONDELLO. Yes, there are a number of things that such an aggrieved party can do and while I do not really feel free to disclose the content of the Commission's letter to Mr. Rule, which I have read, we have

suggested to him what was wrong about some of the things the Navy apparently had done, because we have not conducted the proper investigation of the facts in order to make a decision in the case.

Chairman PROXMIRE. Well, we have that letter. We are disclosing it.

Mr. MONDELLO. Well, then, let me talk to it.

Chairman PROXMIRE. So you can comment on it. We will make it a part of the record.

Explain what you mean by errors that the Navy may have made?

Mr. MONDELLO. I am speaking of the second paragraph of the letter to Mr. Rule.

Chairman PROXMIRE. "In your letter you stated that Admiral Kidd visited your home on December 20 for the express purposes of requesting you to retire. Under no circumstances can a manager coerce an employee's retirement and if this is what occurred, your refusal to agree to sign the request to retire was entirely within your rights, Federal Personnel Manual and so forth.

"You are calling this allegation to the attention of the appropriate Navy officials to assure that the appropriate action is taken?"

Mr. MONDELLO. That is right. What we say in the Personnel Manual and in our regulations with respect to involuntary retirement is the circumstances surrounding any separation from the force or any adverse action are designed to see that people get treated decently and in the event that they are treated in the kind of way that Congress has described as adverse, they have a right of appeal to the Commission where, in connection with that appeal, there will be a hearing, there will be an appeal examiner who will sit and objectively determine, in spite of conflict in the parts or conflict in the statements of the two parties, what indeed the facts were. This procedure has the virtue of being reviewed by the courts of this country and as you probably know—

Chairman PROXMIRE. It may be the fault of the Congress, may be a fault of the law, may be a fault of the Civil Service Commission or a combination of these things, but the difficulty is these appeals take forever and meanwhile the man is destroyed as an effective civil servant in his capacity. We have the case of Ernie Fitzgerald which has been going on now for three or four years.

Mr. MONDELLO. Yes, but there are things about the Fitzgerald case, of course. That case should have been over by now.

Chairman PROXMIRE. Maybe it should have, but let me ask you what is the excuse for such things taking three or four years. If there is no legal requirement for a two or three year review process, is it not simply a case of red tape and administrative paperwork?

Mr. MONDELLO. I offer you as a good critique of the Civil Service Commission system for handling appeals, particularly that part of it which is called the Agency Appeals System, a professor named Richard Merrill for the Administrative Conference of the United States who has just recently conducted a study. I happen to be a member of the Administrative Conference. The Congress has adopted already a proposal to see to the change in these procedures. Internally, I have been seeking the change in these procedures and the Commission has separately studied the matter.

But I think it is great that this independent entity, a separate agency of the United States set up by Congress just to do this kind of procedural study, has studied us to death and come up with some really procedural changes. There has been too much delay in the way things are handled, there has been too much duplication of hearings and other trappings that I do not think has gotten us any where.

Chairman PROXIMIRE. So now you have a study that has been undertaken to see how things could be speeded up, right?

Mr. MONDELLO. I am certain that they will be speeded up.

Chairman PROXMIRE. When will that study be available?

Mr. MONDELLO. I think within a day or so.

Chairman PROXMIRE. Oh, really?

Mr. MONDELLO. I think the Conference is ready to send it to the Commission in report form. It is a recommendation by the Administrative Conference of the U.S. to the Civil Service saying to the Commission, we think you ought to change your present procedures in these and these and these ways. I happen personally to have voted for that in the Conference and I am eagerly pushing it in the Commission. But I think we are that close.

Chairman PROXMIRE. That is good to hear and I want very much to see that, because I think that is the problem, the first problem, at least, that a civil servant runs into. He may have an excellent case, he may win his case, hands down.

Mr. MONDELLO. But it takes too long.

Chairman PROXMIRE. But the first thing he has to do is present his case to the agency that has aggrieved him and that can always take a long time. Then he has to go to the Civil Service Commission and there the procedures can take a long, long time. You take Gordon Rule out of action for two or three years and he is destroyed.

Mr. MONDELLO. I do not see anything in the circumstances that I heard about this morning that would require any years period to——

Chairman PROXMIRE. First he has to go to the Navy.

Mr. MONDELLO. Yes, but I think that is a very quick procedure. It is a rather shortened and relatively informal grievance procedure. Since you were openly talking today about interbranch problems and whether Mr. Rule was indeed disciplined for what he said, I think you raised a very significant First Amendment question. Those questions, because they are constitutional and might affect his rights, are perhaps the only kind of question coming out of a grievance as distinguished from an appeal procedure that a court would be willing to accept jurisdiction on.

Chairman PROXMIRE. The Civil Service Commission, as I understand it, has three members, right?

Mr. MONDELLO. Yes, sir.

Chairman PROXMIRE. And one of those members is a director of the Litton Company?

Mr. MONDELLO. That is correct.

Chairman PROXMIRE. Receives pay from the Litton Company, $7500 a year, as a director?

Mr. MONDELLO. That is correct.

Chairman PROXMIRE. That member is a woman?

Mr. MONDELLO. Yes, it is Mrs. Jane Spayne.

Chairman PROXMIRE. Right, and she has not given any indication whether she will disqualify herself or not.

Mr. MONDELLO. I think she has.

Chairman PROXMIRE. The newspapers indicated that she had not so far. Perhaps she has.

Mr. MONDELLO. No, I read Orr Kelly's article of about a week or so ago when she was first contacted about it and she said obviously, she would disqualify herself if anything came before her that involved Litton.

Chairman PROXMIRE. I read that same article. I will put it in the record, but I didn't get that interpretation from it.

Go ahead.

Mr. MONDELLO. Well, as of this morning, I understand Congressman Aspin had written to Mrs. Spayne and she has prepared a response—I assisted her with the response, as a matter of fact, although she changed it and it is hers. I suspect that has been mailed and what she says is that she has no intention of sitting on a matter that will raise either the actuality of a conflict of interest or the appearance of one, and she has already told the Chairman—I think she did yesterday—that she would not have anything to do with the Rule case if it came before the Commission.

Obviously, we don't know that it ever will, but I think she has made her position clear.

Chairman PROXMIRE. Is there any kind of custom or rule on members of the Civil Service Commission receiving outside compensation?

Mr. MONDELLO. There is more than that. There is an entire program in the Executive Branch that begins with Executive Order 11222. There is a set of umbrella regulations in Part 735 of title V of the Code of Federal Regulations, because the Civil Service Commission has a large part of the responsibility for conduct, ethics, and conflict of interest in the Executive Branch. The program anticipates that people will have private financial arrangements and that they might indeed get in the way. So we have a program of disclosure and anyone who is responsible directly to the President, for example, under the Executive Order, has to file a financial statement with the Chairman of the Civil Service Commission.

Mrs. Spayne, merely because she is subordinate to the Chairman of the Commission, also must file with them and I happen to be the individual who reviews those in conjunction with the Chairman and checks out what the duties of an individual are as compared with what his financial interests are. And whenever I see any sign of danger, I consult with the Chairman and we try to see that people divest themselves of one thing or another. Sometimes this means that the people can't serve in this particular position.

Chairman PROXMIRE. Well, in this case, the opportunity would be available only for a 2-man review. If the Commission is split, then I take it he wouldn't have any recourse, he wouldn't have any basis for having his job restored.

Mr. MONDELLO. Not at all. It is all on how the facts ultimately come out. If adverse action is taken against Mr. Rule or if the matter gets to the Commission by virtue of the Classification Act—for example, I understood from your discussion with Admiral Kidd and Mr. Rule that there has been something going on with respect to his job duties. Well, we have rules about that on the books and a person's job description has to coincide with what his duties in fact are, because his pay depends on that and we do not let people lightly fool around with that. There is a separate classification appeal if somebody has misclassified his duties, so that if this danger approaches, we will know it in relatively short order.

I presume Mr. Rule will keep us informed, and if the matter gets out of whack, so to speak, there will be one or another avenue through which he can approach this. If he wants my counsel, he can have it. He obviously can have private counsel, too. But there are a number of ways in which he can come and get this business before the Commission.

Chairman PROXMIRE. Of course, the problem here and I think in most cases is not a clearcut situation where somebody appears before a congressional committee and the next day they are fired. It happened to Ernie Fitzgerald, it has not happened to Gordon Rule. There is a situation where Admiral Kidd is willing to come before a congressional committee with the public present and call it a lateral movement. I suppose a lateral movement is something that is very hard for the Civil Service Commission to appeal. He is just in a position where he has pretty much had it.

Mr. MONDELLO. No, I appreciate Mr. Rule's current difficulties as I heard him describe them this morning. The Admiral is correct

when he described Mr. Rule's current assignment as a detail. We have regulations about details. The fact of the matter is that that detail can't run for as much as 30 days without the Navy cutting a document, a Form 52 or the equivalent, which must be placed in his official personnel folder, and he will inform us, I am sure, whether this has been done, whether he has received——

Chairman PROXMIRE. As I understand what will happen in this case is Mr. Rule has to move over physically to Anacostia for 30 days before any kind of action can begin, is that right?

Mr. MONDELLO. Well, let me back up just a little bit. Just as the Congress has given the Commission for which I work certain ways of getting into agencies to move toward correction of the grosser things that are done, and overall to see that personnel management is effective, decent, and what have you, so the Congress has also placed the power to appoint people and the heads of agencies the power to assign the duty and I would move slowly, if I were you—and the advice is free and you can reject it—but I would move slowly before I would circumscribe the ability of agency managers to do with people what the mission accomplishment seems to require.

Now, I appreciate the attitude I heard expressed from the Chair this morning and I am not unsympathetic with it at all. But managers—you place the responsibility on people. You tell them to get a job done, you give them the money to do it. Then I think it ill behooves you to take a commission like our own—obviously, we need far more resources to do it—to second-guess personnel actions before they have gotten to a stage that is so serious they can't be ignored.

Now, the measure of that gravity is already laid out for us by Congress. It might be that there is some closing of the gap you might want to do and if that is what you consider, why, we help you consider it.

Chairman PROXMIRE. That is it. You know, here we have a situation which seems just to be prima facie to me. I am a very prejudiced party in this case, I suppose, but it just seems so clear. Here is a man who was decorated, received the highest award anybody can get, only one civilian a year receives this decoration by the Navy, his rating is a satisfactory rating. The day after he appears before a congressional committee he is given this lateral transfer, they say. He is kicked out of his office, he is assigned to a job which I think he feels and I think many people feel is a pretty nothing job. He is told that job is open-ended, that when that job is ended, they can move him someplace else any time. This is a different situation from an employee who comes up and says, I think I am doing the best job I can do in this area, my boss does not agree.

You are dead right, a boss must be given a lot of discretion to move inefficient people out and put efficient people in who can do the job. That is absolutely essential. But where the facts are clear that you have an extremely efficient man, when his boss comes up and tells this Committee he is doing a superb job or has done a superb job, but that he is a loner, a whistle blower, it would seem there ought to be some way that you could act rather promptly—

Mr. MONDELLO. More quickly. Well, I think we are in about the same position that a federal district court is in when a federal employee goes to court and says, look what they are doing to me, enjoin them, make them stop it right now. The court ordinarily requires him to show that he has some prospect—

Chairman PROXMIRE. You can do that? Could you move in with an injunction and require the Navy to keep Mr. Rule in his office?

Mr. MONDELLO. I was hoping you would not ask me that. The Circuit Court of Appeals for the District of Columbia has said flatly in one case that the Commission lacks that power. I would prefer to think that whether we can do so on the basis of sheer power, having the authority given by the Congress to do it, or whether we do it by general persuasion—which is the way our presence in most cases causes informal resolution of these matters—the court has said that. So I think in all fairness, I should tell you that that is what the court has said.

Chairman PROXMIRE. I think more important than what the court has said is what you have actually done. Can you supply a list of specific cases where the Civil Service Commission has supported the claims of a government employee and has moved to assist him in his dispute with the government? Has this ever happened with the Defense Department, ever?

Mr. MONDELLO. I am sure it does.

Chairman PROXMIRE. Can you give me some specific cases, not some minor—

Mr. MONDELLO. They are not minor. To an employee caught up in something like this, it is not minor. This is his life.

Chairman PROXMIRE. I understand that. I did not mean it in that sense. I mean something that is in the public domain in such a big way that you have testimony before a congressional committee, that you have a man who can affect hundreds of millions of dollars in procurement. I am sure that at times, the Civil Service Commission has assisted somebody that in a way to them is the difference between life and death as far as their job is concerned, very important. But I am not talking about that entirely. I am talking about the big cases that affect the public treasury in the kind of way that the Rule case would.

Can you give us any instances?

Mr. MONDELLO. Well, in spite of what you may say, I am going to suggest to you that the Fitzgerald case is such a case I cannot really get to the merits of it, but the Commission can be deciding the merits of it—

Chairman PROXMIRE. Mr. Mondello, if you are citing the Fitzgerald case to me, I am really discouraged. Here is a case where this fellow was kicked out, fired from his job, everybody knows that. I asked the Justice Department to prosecute the Defense Department—I did not expect them to do it right away. But I asked them to do it. We have been waiting for years now, no action has been taken by the Justice Department. You have had hearings.

Mr. MONDELLO. We started them but they were aborted by Mr. Fitzgerald because there was an issue in the case which he felt—

Chairman PROXMIRE. That issue was he wanted them public.

Mr. MONDELLO. That is right and the issue has been litigated and we are back to hearings. Here is a case where the Defense Department, according to Mr. Fitzgerald's representations to us, used the regulations as a cloak for discharging him. There was this period when we litigated this other issue and I have nothing to say about that, it is done. But we are going to get to the mat on that issue and if the Commission finds his allegation is supported, there is no doubt in my mind that they will order the Air Force to restore him.

Chairman PROXMIRE. In this case, the court ruled that Mr. Fitzgerald was entitled to a public hearing.

Mr. MONDELLO. Yes. I think that issue was a matter of sufficient doubt and responsibility as an issue that it should have been litigated.

Chairman PROXMIRE. So the Commission caused the delay by not giving it to him in the first place.

Mr. MONDELLO. He caused the delay by asking—

Chairman PROXMIRE. Because of his asking for rights given him by the court.

Mr. MONDELLO. We have to find out what the facts are in the case yet. But we offered him the hearing and we determined to find out what the facts are.

Chairman PROXMIRE. Will you give me for the record the cases big and small, all the cases, in which the Civil Service Commission has supported the claims of a government employee and has moved to assist him in his dispute with the government? I particularly want those cases involving the Defense Department. All right?

Mr. MONDELLO. I hate to hesitate about this, but we have a complaint office in the Commission which handles I do not know how many thousand cases over a period of a year or 16 months. I do not want to list all those cases for you. I am sure a good many of them are from Army, Navy, and Air Force. Now, they are not all of the gravity you are suggesting. So let me offer this in return: I understand your question and I will go back and see what listing there is of cases that would be of the kind of importance you want.

Chairman PROXMIRE. I have great respect for you, you are obviously a man of competence, and for the commissioners, but I have a feeling—I would like to have it put to rest—that there are not many cases. There may be a few, but I would like to see a hundred at least. Don't give me the details, but just give me the names of people who have been assisted by the Civil Service Commission in getting their jobs. More than a hundred, or just go to a hundred. Can you do that over the last few years?

Mr. MONDELLO. Okay, but I like to think that one of the functions of the Commission is to assist not only employees but applicants in getting their jobs, getting assistance and—

Chairman PROXMIRE. I agree. How many cases do you process each year?

Mr. MONDELLO. I think there are something in the neighborhood of 2500 adverse action cases.

Chairman PROXMIRE. How many Civil Service personnel are involved in the review process?

Mr. MONDELLO. I guess on the Board of Appeals and Review, which is the highest level of appeals at the Commission, I think there are six or seven board members and probably the entire staff does not exceed 60 or 70.

Chairman PROXMIRE. Can you supply——

Mr. MONDELLO. The Appeals Examining Office below that level, there is one in every region, there is one locally here in Washington and they have some staff, some five to ten people.

Chairman PROXMIRE. Can you supply the Committee with a list of Civil Service Commissioners and a breakdown of their personal financial or advisory relationships with Defense contractors? We know about this one relationship Mrs. Spayne has. I would like to know about the other two Commissioners, whether or not they have any relationship whatsoever with Defense contractors?

Mr. MONDELLO. I will do that to the extent that I can do so under that Executive Order and without violating their privacy; yes, sir.

Chairman PROXMIRE. What does that mean? If it is of public record—you say they are required——

Mr. MONDELLO. It is not of public record, no, sir.

Chairman PROXMIRE. I thought you required disclosure and that was the protection.

Mr. MONDELLO. The disclosure is made to the Chairman of the Civil Service Commission. I told you I assisted in reviewing those things for the purpose of consulting with those people on what they want to get rid of.

Chairman PROXMIRE. So it is not available to the public and to members of Congress.

Mr. MONDELLO. It is not available to the public. I do not know that we have ever been asked for them by members of Congress.

Chairman PROXMIRE. So the only way we

can get the information is to get the Commissioners up here to testify.

Mr. MONDELLO. Much of the information comes out in confirmation hearings as a matter of course. I noticed the other day on Mrs. Spayne that the White House issued an announcement when they announced they were about to nominate her and that announcement said she was on the board of Litton Industries.

Chairman PROXMIRE. I am mystified. What do these Commissioners have to hide? After all, this is a very sensitive quasi-judicial function of greatest importance. Their integrity and their objectivity is immensely important. I know they want to be——

Mr. MONDELLO. Yes, sir, and I do not understand your questioning their integrity.

Chairman PROXMIRE. Why would this not be serving their interest as well as the public interest to let people know just what the situation is?

Mr. MONDELLO. It might be but I am not going to engage to give you those documents when I do not know what the Commissioners personally want.

Chairman PROXMIRE. I am asking you to request the Commissioners to give them to the Committee and if they will not give them to us, I would like to know about that.

Mr. MONDELLO. No problem.

Chairman PROXMIRE. Has there ever been a case before the Civil Service Commisison where you have supported the right of a government employee to answer questions before the Congress or to speak critically about any government practices?

Mr. MONDELLO. Yes, sir—well, before Congress, no. I do not know of any case that raises in First Amendment or other terms the prerogatives of an individual who comes up here as I am this morning and is asked questions that he either does not want to talk about or questions that he does want to talk about and somebody else thinks he should not. There are cases in the courts—First Amendment cases—including the Supreme Court, particularly a decision in the Supreme Court. The Meehan case, the case of a policeman and a union official in Panama who spoke out at a time when things were terribly restless down there and who was ultimately disciplined for it. That case got to the Court of Appeals three times.

Chairman PROXMIRE. This has a double effect. I am not only concerned about the right of government employees to speak out, speak their mind under the First Amendment. But there is another consideration which members of Congress might feel is important. That is the right of the Congress to know, our right to find out, our duty, in fact, to inquire of civil servants to understand what is going on to speak their mind.

Mr. MONDELLO. There is a provision in the Code——

Chairman PROXMIRE. A provision in the Code. I am asking you if you have ever done anything about it, if the Civil Service Commission has ever gone to bat for an employee testifying before it. All the years the Civil Service has been in operation and the Executive Branch has appeared and there are many instances where they have made statements that their bosses feel are indiscreet, if you can name any instances where the Civil Service has gone to bat for them.

Mr. MONDELLO. If you can cite cases that you know of where somebody has been discomfited by this or——

Chairman PROXMIRE. I understood you to previously answer that there were not any cases that you could cite.

Mr. MONDELLO. I am telling you about the cases I know that I have read in court decisions or that have come before the Commission where this issue is presented. I am hard pressed to discover them. I know a First Amendment case that took place at Warner Robbins Air Force base where an individual kept writing letters to editors and was chided by his superiors for doing so. I think he was critical of the war in Vietnam, but he insisted on signing his name and identifying who he was and where he was from. His supervisor cautioned him not to do that, telling him, I don't care what you say, but don't tie it to me, because I run a different kind of shop. I understand he was dismissed and if I recollect right, I think that case is somewhere in the District Court down in Georgia.

Chairman PROXMIRE. How long has that taken?

Mr. MONDELLO. I don't know.

Chairman PROXMIRE. He is dismissed and it has taken months or years? And it is still not resolved?

Mr. MONDELLO. This could be months, but I really do not know where the case is, at what stage, or whether there is a decision.

Chairman PROXMIRE. Your description is too brief to make any judgment on what you say. Any time you can't sign your name, that is pretty important.

Mr. MONDELLO. He could sign his name, but his supervisors objected to his indicating his connection with the Air Force, the Air Force taking part in this war.

You know, First Amendment problems are very serious problems. When you consider that you have this, the supervisory employees relationship, at issue before you now in this episode and then you have the overriding consideration of constitutional rights, you have some very serious business and I think it would be only appropriate to go look at what the courts are doing about these things. There are perhaps eight or ten cases I could get for you where federal or other public employees have had difficulty with being told they could not say something and the question arises as to whether they can be disciplined or removed or what have you. I think the cases are very instructive and I suppose if the Rule matter ever does get to the Commission in adverse action form, the Commission is going to have to get busy and look at those cases itself and decide what they mean.

Chairman PROXMIRE. I appreciate very much your testimony, Mr. Mondello. I hope you will submit, No. 1, the study you talk about which you say will be available in a day or so, which will tell us how this can be speeded up; No. 2, the cases that I have asked for which indicate what the Civil Service Commission has done in the past. It seems to me the Civil Service Commission has no more important task—it has many important tasks but no more important task—than protecting the right of people to speak their mind and the right in this free country of ours and the right of Congress to listen to testimony of people who have the courage to speak out critically about what is going on in the government. This is just absolutely essential and I will be very interested in seeing the extent to which the Civil Service Commission has acted.

But I very much appreciate your appearance here this morning. It has been most helpful to us. And the court case you just cited, we would like to have that.

Mr. MONDELLO. Yes, sir.

Chairman PROXMIRE. Thank you very much.

The Committee will stand in recess subject to the call of the Chair.

(Whereupon, at 1:10 p.m., the Subcommittee was adjourned, subject to the call of the Chair.)

ROBERT M. BALL, COMMISSIONER OF SOCIAL SECURITY

Mr. ROBERT C. BYRD. Mr. President, as we are witnessing a spate of resignations, voluntary and otherwise, in the administration, I should like at this time to draw attention to one involving an outstanding civil servant—Robert M. Ball, Commissioner of Social Security. I am confident that Commissioner Ball, both through the significant part he has played in the establishment of social security as we know it, and through his direction of a most competent staff, has rendered outstanding service to every Member of the Senate and to all of our constituencies. In recent months, his able handling of the black lung benefits program as an additional burden placed upon an already burdened staff, has tremendously benefited those of us who represent coal-producing States.

I ask unanimous consent to have printed in the RECORD a telegram which I directed to the President to express my admiration of the illustrious public service career of Commissioner Ball.

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

JANUARY 6, 1973.

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

DEAR MR. PRESIDENT: The removal of Robert M. Ball as Commissioner of Social Security is difficult to comprehend. Unique in his expertise in a most complex field, he has also developed and supervised what might well be considered the most competent and accommodating corps of public servants to administer programs which vitally affect the majority of our citizens. His record is a lifelong public service career, outstanding in personal accomplishment, a model for career employees.

ROBERT C. BYRD, *U.S. Senator.*

FLOOD OF DAIRY IMPORTS COULD MEAN DISASTER TO AMERICAN DAIRY INDUSTRY, CONSUMER

Mr. PROXMIRE. Mr. President, on December 30 the Department of Agriculture announced that the President had increased the import quota on nonfat dry milk by 25 million pounds. This is the added amount that can be brought into the country between December 30 and February 15.

Compare this flood of 25 million pounds over a mere 1½ months with the 1,807,000 pounds per year quota that had existed prior to December 30 and you can see that this decision will have a very substantial impact on the market for domestic dairy products.

Let us suppose the program is extended at this same level of 25 million pounds every month and a half. Then imports of nonfat dry milk would be cascading into the country at an annual rate of 200 million pounds—more than 100 times last year's quota. When we consider that it takes about 8 pounds of fluid milk to make 1 pound of nonfat dry milk we can see that such a program would displace 1.6 billion pounds of domestically produced milk and would have a significant impact on the domestic dairy market.

In essence the effect of this action will be to reduce milk prices to dairy farmers at the very time they are facing rising costs in the form of much higher prices for feed, increased wage rates, higher costs of equipment, a boost in taxes, and other items. As I will point out in a few minutes, the result could be an increase in Federal tax expenditures

and, in the long run, higher consumer prices coupled with a reduced supply of milk—especially highly perishable fluid milk.

It is particularly significant, Mr. President, that this quota increase of 1,700 percent implemented without an investigation by the Tariff Commission, which is charged under section 22 of the Agricultural Adjustment Act of 1933 with reviewing dairy import matters. In fact in its haste to allow this huge increase in destructive imports the administration has tacitly admitted that its domestic dairy program has been mishandled. Let me explain why.

The Agricultural Act of 1949 authorizes a dairy price support program in these words:

> The price of milk shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply. Such price support shall be provided through purchases of milk and the products of milk.

Each year since this legislation was enacted, the Secretary of Agriculture has set a price support level intended to result in adequate milk production to meet the needs of the market and provide dairy farmers with a proper return on their investment. Last year Secretary Butz ignored the advice of the National Milk Producers Federation, the spokesman for the Nations' dairy cooperatives, that the price support level be increased to 85 percent of parity. Instead the Secretary maintained the support price at $4.93 per hundredweight. This was 85 percent of parity on April 1, 1971 but is less than 75 percent of parity today. As a result the farmer has been receiving about 32 cents per hundredweight less for his milk.

By his failure to increase the support price Secretary Butz also failed to insure an adequate supply of milk for the American consumer. The domestic dairy farmer found that it simply was not profitable to produce milk in the quantities needed at home. Consequently the administration has taken the highly unusual action of increasing dry milk imports seventeenfold over a mere 1½-month period.

I do not deny that the prices of milk and many other dairy products, like all goods and services, have risen in recent months. I would ask those who protest such increases if it is reasonable or logical to expect that farm commodity prices should remain static while wage rates, interest rates, taxes, utility rates, equipment cost, and so forth, have risen for the farmer as they have for everyone. And I would also point out that dairy price increases over the past year have been substantially less than food price increases generally.

The point is that this import increase, ostensibly meant to hold down prices, comes at a time when domestic production has already begun its seasonal expansion. Consequently we can expect that it will result in both a further cutback in domestic milk production by farmers and, to the extent that it temporarily gluts market demand, an increase in distress purchases under the price support program. Of course this program can cost the American taxpayer hundreds of millions of dollars as domestic production, displaced by cheap foreign imports, has to be purchased with Federal dollars.

If this administration destroys the price support-market mechanism by flooding the domestic market with cheap imports whenever the supply-demand situation pushes prices up the result will be disaster for the American consumer. Dairy farmers will be forced out of business by artificially low import-compelled prices. The supply of milk produced in this country will dwindle. We will become more and more dependent on foreign sources of supply. Ultimately the consumer may have to pay a premium for milk, especially fluid milk, as our domestic supply evaporates. This will be particularly true if, through natural or political disasters, our foreign supply channels tighten up.

Since taking office 4 years ago, this administration has made much of the need for the market to play a greater role in determining farm prices. In recent months the dairy program has been operating in just such a manner. The administration's failure to increase the dairy support price last year has held down milk production to a sufficiently low level to wipe out Commodity Credit Corporation inventories of nonfat dry milk and cheese. CCC stocks of butter are at relatively low levels. The prices for these commodities has been determined by the market place rather than through an announcement by the Secretary of Agriculture. This is the often stated objective of the Nixon administration.

But now, having foresaken the price support program as a mechanism to provide adequate supplies of dairy products the administration seems to have scrapped its "marketplace" approach as well. The nonfat dry milk quota increase coupled with recent rumors of a secret trade study prepared under the direction of a top White House aide suggesting an expansion of dairy imports as a first step toward trade liberalism can only lead the American dairy farmer to wonder if there is any future in his livelihood.

Mr. President, this expansion of imports, both existing and prospective, in wholly unwarranted and ill advised. It will adversely affect farm income. It will adversely affect our balance of payments. It will increase Federal spending under the price support program. It will, ultimately, increase consumer prices.

I am currently working on legislation to counter the current import threat to the domestic dairy market. I hope to be able to introduce this proposal in the near future. I am sure that many Senators will want to join me in this move. In the meantime, I trust that the Tariff Commission will make the most thorough kind of investigation into the situation that resulted in increased nonfat dry milk imports, as required by law, and provide their report to the President. Perhaps in the light of such a study, the administration will alter what appears to be a very dangerous course.

IMPACT OF FEDERAL PAPERWORK ON SMALL BUSINESS

Mr. BIBLE. Mr. President, during the last session, the distinguished Senator from New Hampshire (Mr. McINTYRE), conducted an extensive investigation into the impact of the Federal paperwork burden on small business.

His hearings exposed some frightening facts. First, it costs the businessmen of America an estimated $18 billion to complete paperwork required by the thousands of Federal, State, and local governments.

Additionally, it costs another $18 billion a year to print, peruse, and store the more than 4½ million cubic feet of paper forms involved. That is enough to provide Government forms for every man, woman, and child in this Nation 10 times over.

The cold, hard fact is that the Federal Government is burying the small businessman under an avalanche of paper. He is overwhelmed by a variety of forms and reports which the law requires him to fill out. And he must read hundreds and hundreds of pages of Federal manuals or guidelines in order to attempt to understand the forms themselves.

For example, in its stripped down form, the Internal Revenue Code is still 1⅜-inches thick. Together with voluminous regulations, bulletins, rulings, procedures, press releases, forms, and instructions, the total tax system that confronts the small businessman is literally a mountain of material which is nearly impenetrable to those lacking special tax training.

And the Tax Code is only one of hundreds of examples of Government programs which involve a maze of paperwork.

Against this background, and because the paperwork burden falls most onerously on the small businessman, I am pleased to have joined Senator McINTYRE in sponsoring S. 200, a bill requiring congressional committees which report out legislation to provide an assessment of any proposed paperwork or reporting system which would further contribute to this growing "Federal Form Pollution problem."

Senator McINTYRE has indicated to me that this measure is just the first of several bills aimed at reducing the Federal paperwork burden which will be offered during this session. Obviously, S. 200 alone will not solve the problem, but it is an important starting point.

Hopefully, it will create a new awareness on the part of the Members of Congress and our staffs of the present intolerable paperwork burden facing small businessmen and lead to a reduction in the wasteful, confusing and all-too-often, needless number of Federal forms and reports.

At the same time, I want to call attention to a most informative article in the January issue of "Hardware Retailing," the trade journal of the Nation's hardware retailers, which documents the extent of the paperwork problem facing this industry.

And this is just one of thousands of industries facing the same massive paperwork burden. 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:

"I just can't stand it. I'm thinking of getting out and government controls and interference are some of the major reasons. Classic example . . . I've always hired kids. Minimum wage makes it impossible. So, kids walk the streets and I work harder. Who's the loser?"

"Too much . . . too much. If much more is required, I will liquidate and quit."

"Too much paperwork takes the time we should be using for merchandising displays, and keeping up inventory in each department. There is so much red tape in doing business today that it takes away all the pleasure you used to have in business."

The growing paperwork burden placed on all levels of the hardware industry has gone beyond the point of being a nuisance and an annoyance. The slowly building crescendo to the paperwork burden is expressed by the retailers above. Or, summed up, the question appears to be: "How much more will the retailer, manufacturer or wholesaler take before he throws up his hands in utter disgust?"

Hardware retailing editors conducted a one-page by-mail survey of the 3 levels of industry to gather the views, opinions and specific complaints of manufacturers, wholesalers and retailers about the growing paperwork burden. The survey brought some of the most impassioned responses to any HR survey.

WHAT DOES IT COST

From a random sample of larger stores (above $250,000), the average store volume was $981,000. The "average" store employs 20 people, fills out 19 government-required state and federal forms per store on a quarterly basis and 71 reports or forms on an annual basis. These reports and forms require 245 man-hours to complete and cost $1,792 per store (this figure is based on retailers who filled in an actual dollar amount).

Wholesalers and manufacturers also agree that the paperwork currently required by the government is costing them time and money. Only one manufacturer said he had no trouble with the forms required by the government. (Their answers were in agreement with retailers, with cost and workloads, of course, being proportionately greater).

Have you hired additional personnel to handle the paperwork and forms required by the government? Of the retails answering this question, 29 said yes, 26 said no. Those answering "no" indicated that they couldn't afford to hire anyone on a full-time or part-time basis, and therefore the responsibility fell to a current employee or to the retailer himself.

Forty-six retailers say they found it necessary to hire outside firms to prepare tax reports, while 36 answered that they also hire a firm for other accounting purposes.

At an almost two-to-one rate, hardware dealers say they received outside advice or assistance in complying with government forms from their hardware association or wholesaler. Thirty-two have received assistance, 17 have not.

WHAT KIND OF HELP?

Dealers say the associations and wholesalers have helped them understand or fill out the following reports: OSHA (Occupational Safety & Health Act), base price information, gun laws, federal and state income tax, wage and price controls, truth-in-lending, correct payments and benefits to part-time help and sales and withholding taxes.

William F. Ewert, managing director of the Illinois Retail Hardware Association, says he thinks his association has helped retailers most in the areas of accounting services. "We feel we have definitely had an increased use of the EDP accounting system due to the growing paperwork burden, because we relieve retailers of monthly sales tax reports, in addition to other state and federal accounting services such as the W2 forms," he commented.

Robert Gast of the Wisconsin Retail Hardware Association adds that one way hardwaremen are streamlining their business operations is to hire outside accountants to do the work because they're afraid of it.

"Some of the forms we help our dealers with include year-end reconciliation forms, both state and federal. There are also unemployment compensation, 941's, etc., etc. Of course, there are always rule changes, such as filing withholding tax on stores earning $2,000 or more per month within the given time limit. In this way, we try to help and keep our members as informed as we can," Gast says.

RETAILERS' COMMENTS

Hardware and home center owners and managers answering the HR survey offered the following comments on the various forms the government requires.

"We have dropped guns and ammunition because of government forms. The safety act on electrical hook-ups, especially, is a mess. No one seems to know what they want," says a San Francisco dealer.

"There are too many factions to deal with—state, federal, city, county. They are all concerned with different figures—grosses, nets, before taxes, after taxes. Some are paid, quarterly, monthly, annually, bi-annually, semi-monthly. Some pay direct to a federal bank, some to the state or direct to city, or county," laments one New York retailer.

Several midwestern hardwaremen say forms are too late in arriving, too complex and too long. They feel one must nearly have a legal background to comply with the ever-increasing load of local, state and federal government rules and regulations, forms, surveys, etc.

Do you keep records you would not normally keep as good business practice? All 3 levels of the harware industry claim they do keep what they feel are unneeded records—retailers responded 5-to-one, while manufacturers and wholesalers agreed in virtually the same percentages.

Records mentioned most often include OSHA, wage and hour, unemployment (state and federal), sales, franchise, firearms, payroll, yearly injury list, ammunition mileage charts, health, tire, boat and motors, items that are sold but not subject to sales tax, price controls, travel, explosives and various city and state taxes.

WHAT'S BEING DONE?

William G. Mashaw, managing director of NRHA, testified last May before the Senate Subcommittee on Government Regulations chaired by Sen. Thomas McIntyre (D., N.H.), and warned the subcommittee that government paperwork is forcing hundreds of small merchants out of business. (Information from the hearing is to be used to prepare legislation aimed at reducing the paperwork burden.)

Sheldon I. London, NRHA's director of government relations in Washington, D.C., adds that the possibility of new or different legislation is in the hands of the 93rd Congress convening this month.

"London, Gast and Ewert have formed a committee to gather information, forms and specific complaints that would lead to significant and positive legislative measures to help our 18,000 members reduce the paperwork load," says Mashaw.

Ernest P. Evans, chief investigator of the Select Committee on Small Business, says that the 3 bills will be introduced when Congress convenes. He labeled the bills as "the first corrective measures since 1942."

He reports that Sen. McIntyre recently finished the second set of hearings on the paperwork burden. "Sen. McIntyre did introduce the smaller 1040 form and simplified the 720 federal excise form for the small businessman," Evans says.

"We will re-examine the paperwork load and take effective steps to clear it up," the chief investigator adds.

Retailers, manufacturers and wholesalers, urging that " . . . something has to be done" . . . will acclaim his efforts—when successful.

COMMENTS

Wholesalers and manufacturers listed 4 specific factors they found particularly annoying because of the paperwork currently required by the government:

Time-consuming.

No significant changes as a result of the information given.

Costly in terms of hiring someone else to fill out forms—especially for the smaller firms or companies.

Employee benefits cause duplicate cost when insurance company and wholesaler or manufacturer have to file individual reports.

Retailers voiced 4 general complaints about the paperwork:

Forms are too long.

Government regulations are not clear and understandable.

Too many forms to fill out, such as those on guns and ammunition.

Forms slow in arriving.

In addition to the 4 complaints listed above, 4 more aspects were frequently mentioned as trouble spots:

Employees should be responsible for paying taxes (i.e. Social Security and income tax withholding).

Too many forms and questions that appear to ask the same thing only on a different questionnaire.

The same form that has to be filled out separately because it is not in duplicate form (no carbon attached, etc.).

Dealers feel they should be compensated in some manner for all the time spent filling out reports.

RETAILERS COMMENT

". . . Time has come to reduce paperwork on the small business and give one annual report to all agencies."

"Federal reports could be used as a basis for state reports by applying a percentage method . . ."

"It accomplishes nothing . . . has a smothering effect on efforts of the average small businessman in his attempts to operate efficiently. Trend must be reversed."

". . . As for time involved filling out forms, this is too difficult to compute. We have to have a customer to sign for every box of 22 shells, which is a considerable amount. We must complete a 4473 for the sale of a firearm and this takes about 5 minutes, times about 300 guns. We sell game licenses for a 5% fee which doesn't pay the pencil cost. Our bookkeeper spends at least a half-hour per day extra computing the sales tax because of exempt items. She spends about one hour, one day per week, computing overtime for payroll whereas we used to pay on a weekly basis."

". . . If this is a necessary method of doing business, then business should be paid a fee for this work."

"Forms were more than we could handle—all are now given to an accounting firm."

"We deplore the continual intervention of government agencies into private enterprise. Forms are just one of the headaches. As an atrocious example, we sell one agency that requires 4 copies of the original invoices. Not so bad you say. True . . . if it were not

for the fact that *they return two* copies with their remittance!! What . . . did I make copies for? Me? The second area that involves forms as well as compliance to regulations is OSHA. The small businessman doesn't know where he stands. They tell you to fill out a form and then don't tell you what to do with it."

"In the last 10 years, our reports that we must prepare have doubled."

"It requires many hours—evening and Sundays—doing useless work for the government. This is the reason no young people are interested in business."

". . . We have curtailed any expansion plans due to government control."

"I'm beginning to lose track of what form is due when . . ."

"Ridiculous and getting worse daily. Unless something is done to alleviate all this paperwork, the business will soon own you, not you the business . . . I feel now if you can't be really big, then stay really small—a two or 3 man partnership—No employees."

"TODAY SHOW" TRANSCRIPT

Mr. ROBERT C. BYRD. Mr. President, on January 8, I was interviewed on NBC's "Today Show." The interview was conducted in the network's Washington studios, located at WRC–TV, and the correspondents involved in the interview were: Bill Monroe, Washington editor of "Today," NBC news correspondent Paul Duke, and "Today Show" host Frank McGee.

A number of persons have asked me for transcripts of the show, or have otherwise expressed interest in the interview. Unfortunately, those transcripts are not available.

Therefore, I ask unanimous consent that the transcript be printed in the RECORD.

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

AN INTERVIEW WITH SENATOR ROBERT C. BYRD

FRANK MCGEE. Last week the new Congress was in an opening phase, getting accustomed to new offices and committee assignments. This week the legislators are expected to get down to work. And we want to ask the Majority Whip in the Senate, Democratic Senator Robert Byrd of West Virginia, what's likely to come out of this first session of the 93rd Congress.

Senator Byrd is in our Washington studio with Today Washington editor Bill Monroe and NBC News correspondent Paul Duke.

Gentlemen?

BILL MONROE. Good morning, Frank.

Senator Byrd, the Democratic caucus in the House and the Democratic caucus in the Senate both voted overwhelmingly for the idea of legislation to end the war in Vietnam. What might come out of this?

Senator ROBERT BYRD. I think there will be a great deal of debate. I don't think that there will be a successful effort, however.

MONROE. You don't think there will be any legislation, or that the legislation itself will not bring about an end to the war?

Senator BYRD. I think the effort will be made. But I think that for the most part it will amount to an expression of the sense of the Congress, rather than being practicable with regard to bringing about the end of the war. Now, I say this because the legislation has to be passed by both houses; it would have difficulty, I would presume on the basis of the caucus votes in the House, in getting a majority vote in the House. If it were passed by both Houses, it would still be subject to a presidential veto. And I do not believe that two thirds of each house would override the presidential veto.

MONROE. How about a simple refusal to vote funds to extend the war?

Senator BYRD. I think this would have the same problem.

PAUL DUKE. Senator Byrd, you were the only member of the Democratic leadership team in either the House or the Senate who voted against the resolution in the caucus to cut off war funds. Don't you feel you're out of step with the rest of the Democratic leadership?

Senator BYRD. I don't think so. Senators are grown men. We all have our own constituencies in our own states and our own consciences to answer to. We don't fall out with one another about these things. I have supported two or three of the so-called "end-the-war amendments" in the past, and probably will do so again. We all, of course, agree that we want to see the war brought to an end, but we may disagree as to the means by which to attain the end.

DUKE. Why did you vote against the cut-off, then?

Senator BYRD. I felt that it was the wrong time and the wrong place and the wrong vehicle. The resolution would have absolutely no legal meaning; it would only serve, in my judgment, to weaken the position of our own negotiators. It would encourage the North Vietnamese to believe that the pressures in the United States and from the Congress might in the end cause them to give up less than they intended and get more than they expected. And I think it also created illusory hopes among the American people.

DUKE. Senator, if the negotiations bog down again in Paris, if there is no sign of a settlement, say, within a month or two months, what do you think Congress will do then?

Senator BYRD. I think there will be continued efforts to cut off funds.

DUKE. But you don't think they'll succeed?

Senator BYRD. I think it's difficult to anticipate their succeeding. Now, they may pass the Senate, as they have done before. I doubt that they would pass the House. If they do, they will probably have to go to conference, where the differences between the two houses would have to be resolved; and there would be problems there. If, in the final analysis, a bill should pass, then it would have to face presidential veto.

MONROE. Senator Byrd, are you among those senators who feel that the President should have arranged some kind of a consultation with Congress about the bombing that took place in December?

Senator BYRD. I am.

MONROE. How could he have done this? The White House says, among other things, that Congress was not in session.

Senator BYRD. It could have contacted the leadership of both houses without any difficulty.

MONROE. Would that consultation have changed anything?

Senator BYRD. I don't think so.

MONROE. But you think there should have been some effort, perhaps by telephone, to talk to people like Senator Mansfield?

Senator BYRD. Unquestionably.

MONROE. Scott?

Senator BYRD. Unquestionably.

DUKE. Senator, don't you think there's a more determined mood in Congress now to get the war over with?

Senator BYRD. I think there is. I think we have to remember, though, that Congress can legislate end-the-war amendments, it can legislate to cut off funds, but in the final analysis it cannot legislate to release the American prisoners of war. And I cannot envision any action on the part of the Congress to end the war without its also being conditioned on the release of American prisoners. And only the North Vietnamese can release American prisoners. And I feel that they want an agreement. I don't think that they will settle for the release of American prisoners as an even trade against our getting out of South Vietnam.

MONROE. Frank?

MCGEE. I'm a little confused. If Congress does not vote money for the war, there is, it would seem to me, nothing for the President to veto.

Senator BYRD. Congress has already appropriated funds which he can expend through January 30 . . .

DUKE. June 30.

Senator BYRD. June 30, 1973.

MONROE. Well, what about funds—going along into April, May, funds to extend the war beyond June? If they come up for a vote and Congress simply refuses to appropriate any more funds, no veto could affect that action, could it?

Senator BYRD. I don't foresee this happening. And as I say, the funds have already been appropriated which will carry us through June 30.

DUKE. Senator Byrd, suppose the bombing is resumed, the heavy bombing, which has provoked such cries of outrage from around the world and from some members of Congress. Suppose the President resorts to that tactic again in an effort to bring North Vietnamese to agree to peace terms. What do you think Congress might do in that case?

Senator BYRD. I think it would terribly upset the Congress. I hope the President will not resort to this tactic again; I don't think there's any military necessity for it.

MONROE. In order to repair the relations of the White House and Congress, which you and other senators have indicated are somewhat strained now because of lack of consultation, what kind of advice would you give to the White House about closer relationships with Congress? What should the White House do to bring the relationship closer?

Senator BYRD. It should have more meetings with the leadership and with the chairmen of committees on both sides of the aisle.

MONROE. Do you foresee any intent on the part of the White House at this point to do this?

Senator BYRD. I do.

MCGEE. Senator, have you ever met with the President?

Senator BYRD. I have . . .

MCGEE. How long . . .

Senator BYRD. On several occasions. But—

MCGEE. How long has it been, sir?

Senator BYRD. It was last year.

DUKE. Why do you suppose Mr. Nixon has been so reluctant to have meetings with members of Congress, to see people like you and Senator Mansfield, Senator Scott, when he served in Congress for such a long time himself?

Senator BYRD. I don't know why, unless it may be that he feels that everybody on the Hill is his adversary, which is not the case.

MONROE. There's also been some criticism about a lack of a speech on the part of the President to explain this bombing policy to the public. Are you among those who feel that should have been done?

Senator BYRD. I think that there should have been some explanation of this. I think that the American people should have been taken into the President's confidence. After all, he explained the Cambodian incursion. He also explained his actions on May 8th last year in—in bombing Hanoi and Haiphong and in—and in—in his actions with—with reference to the harbors.

MONROE. You do have a feeling, do you not, that the President does have some public support for the bombing policy?

Senator BYRD. I think so. I think that if he would explain his reasons to the public he would probably have more.

MONROE. Senator, we'd like to ask you

some questions about some domestic matters in just a moment. Right now back to Frank in New York.

McGEE. And we will return to Washington shortly. We'll be back after this message.

* * * * * *

McGEE. Democratic Senator Robert Byrd of West Virginia, the Majority Whip in the Senate, is in our Washington studio with Today Washington editor Bill Monroe and our congressional correspondent Paul Duke.

And, Senator, before we turn to domestic affairs, as Bill said we would, I would like to ask one more question about Vietnam. What chance do you give the current phase of Kissinger-Le Duc Tho talks, which started in Paris today—do you think there's a chance for them?

Senator BYRD. I do. I think . . .

McGEE. Could you tell—please go ahead.

Senator BYRD. I think there is a chance. I feel that if our own negotiators will demonstrate persistence and patience—I know that the meetings have been frustrating—and if the Soviet Union and the Red Chinese would apply some pressure on the North Vietnamese, I think we can get an agreement. We were led to believe that we were close to one, and I think that we can get one.

MONROE. Paul?

DUKE. Senator Byrd, as you know, there is considerable sentiment in Congress now for challenging the President on a variety of matters, not just on the war, but on the fact that he is not spending all the money appropriated by Congress, on the fact that he doesn't let White House people come up and testify on the Hill. Do you think that Congress will do anything? Do you think that Congress will now try to regain some of the power which it has given up to the Executive Branch?

Senator BYRD. I think it will. But whether it can mount a sustained effort is the real question.

DUKE. Well, now, as one example, the President recommended in 1970 a rather extensive reorganization program for Cabinet agencies. Congress sat on this and did nothing. Now Mr. Nixon has moved to implement this on his own by naming three members of the Cabinet to be super Cabinet officers. Does this offend you, that he has done this without getting Congress's approval?

Senator BYRD. I appreciate the President's desire to relieve the government of its muscle-bound condition, to use his phrase. I also share his desire to streamline the government and to get some better control over the sprawling bureaucracy. However I think that he's going about it in the wrong way. I think this is a terrible mistake, this appointing of three super Secretaries to form a—a super Cabinet. I think that it will create division and friction and ill will among the various departments. It is a downgrading of the departments of Commerce, Labor, Transportation, and Interior. I think that it will result in a fragmentation of responsibility, an overlapping of jurisdiction, a diffusal of authority that can only contribute to governmental schizophrenia and departmental chaos and confusion.

DUKE. Isn't it also a downgrading of Congress? Because he is doing it—in effect, he is thumbing his nose at Congress and saying, "I'm going to do this regardless of what Congress thinks."

Senator BYRD. I don't think there's any question about it. The Congress will have difficulty in finding out where the power lies. One Secretary will make a statement, and another Secretary will refute that statement.

DUKE. Well, what's Congress going to do about it?

Senator BYRD. I hope that Congress will go into it very thoroughly when it considers the nominations of Mr. Weinberger and Mr. Lynn. And I hope that it will possibly consider refusing the nominations if it is not satisfied with their testimony. There's a possibility down the road that it might cut off funds for some of the activities in those various departments. But I think the President's opening up a can of worms.

MONROE. Senator, would you foresee any possibility that somebody like the President's nominee for Secretary of Housing and Urban Development, Mr. James Lynn—that the Senate might hold up that appointment unless the administration gives assurance that certain housing monies that the Senate wants spent will be spent?

Senator BYRD. I think there's a possibility and I think it ought to. I think Congress has to utilize the instruments by which it can make its power felt.

MONROE. What do you think's going to happen in the argument between the Congress and the White House over spending of funds that the Congress has authorized spent and that the President doesn't want to spend, such as in the water cleanup bill? Mr. Ehrlichman, the President's assistant, said yesterday that some of these laws have mandatory language in them and indicate that the funds must be spent, but in other laws such language is not present and that in those cases the White House feels that the President can spend or not spend as he wishes.

Senator BYRD. Some of the impoundments are legal; some of them are mandated. But in most of these instances that we're talking about, they're not. And here's where the danger lies. I think that Congress ought to write into some of the bills a mandatory provision that the monies be spent for the purposes intended.

MONROE. How about the withholding of the water cleanup funds, where the President is spending about $5 billion out of $11 billion that the Congress wanted spent—is that a proper impoundment in your opinion?

Senator BYRD. I don't think so. Now, the funds haven't actually been appropriated. What he's doing, really, is impounding obligational authority, which is the same thing.

DUKE. Senator Byrd, one of the reasons the administration is trying to hold down federal spending, of course, is to avoid a tax increase. Do you think it will succeed in this objective? Or do you foresee still the possibility of a tax increase in 1973?

Senator BYRD. I think there's the possibility of a tax increase. But I do feel that both the Congress and the Executive are going to exercise some degree of responsibility in holding down spending, so that perhaps a tax increase can be put off.

MONROE. Along the lines Paul is talking about, isn't there a valid argument that comes from White House people that the Congress has been irresponsible about spending and that one reason the President's got to hold these funds back is that the Congress doesn't count up how much it's spending in relation to keeping the budget down?

Senator BYRD. There is some validity to that. There are many times when Senators offer amendments to appropriation bills on the Senate floor on which there have been no hearings, and of course these increase the overall funds. There has been this irresponsibility, if we might term it that.

DUKE. We're hearing new talk, too, about some kind of tax reform bill that would remove some of the inequities from the tax system. Is this a possibility this year?

Senator BYRD. It's a possibility. Mr. Mills has indicated that a tax reform bill might come along. I would rather think that it would be late in the year, if at all this year, and possibly next year.

DUKE. What about welfare reform? Is that a possibility?

Senator BYRD. There is no question but there is need for welfare reform. But I don't foresee it coming along.

MONROE. Do you see any sweeping reforms of congressional procedures coming out of this session, Senator? There's been a lot of talk about reforms in relation to seniority, about reforms in relation to information gathering, bringing in computers and raising staffs and that sort of thing.

Senator BYRD, I don't see any fundamental changes coming along, no.

MONROE. Do you think they're needed?

Senator BYRD. I think that senators need to reform themselves. I don't think the fault is in our stars so much as it is in ourselves. I think that if senators would stay on the job, and stop running around the country and making speeches, and apply themselves to the work, and not be absent, I think that we could get a lot more done. A few computers perhaps, yes. But why have a $100,000 computer standing around for use three days out of 365? The Congress has the General Accounting Office, the Comptroller General's Office, with 5,000 employees; this is an arm of the Congress. Why doesn't the Congress utilize these 5,000 men more?

MONROE. Aren't you talking about a reform of human nature, Senator?

Senator BYRD. No, I'm just talking about a reform of our own working habits.

DUKE. And when you suggest that senators shouldn't be running around the country, are you suggesting there should be no more senators running for President?

Senator BYRD. Well, I'm not suggesting there be no more, but perhaps there could be a fewer number.

MONROE. Senator, thank you very much for being with us this morning. Senator Robert Byrd of West Virginia, the Democratic Whip.

ORDER FOR RECOGNITION OF SENATORS HATFIELD, BUCKLEY, JAVITS, CASE, AND HARRY F. BYRD, JR., ON THURSDAY, JANUARY 18, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on Thursday, immediately following the remarks of the distinguished Senator from Alabama (Mr. ALLEN) and prior to the recognition of the junior Senator from West Virginia (Mr. ROBERT C. BYRD), the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. HATFIELD, Mr. BUCKLEY, Mr. JAVITS, Mr. CASE, and Mr. HARRY F. BYRD, JR.

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

ORDER FOR ADJOURNMENT FROM THURSDAY, JANUARY 18, 1973, TO 10:30 A.M. SATURDAY, JANUARY 20, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Thursday next it stand in adjournment until 10:30 a.m. on Saturday next.

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

AUTHORIZATION FOR COMMITTEE ON ARMED SERVICES TO REPORT NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services may be authorized to report the nominations of Messrs. Richardson, Clements, and Schlesinger during the adjournment of the Senate over until Thursday next.

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

QUORUM CALL

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

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

AUTHORITY FOR COMMITTEE ON FINANCE TO REPORT NOMINATIONS

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Utah (Mr. BENNETT), I ask unanimous consent that the Committee on Finance may report the nominations of Mr. Weinberger to be Secretary of HEW and Mr. Carlucci to be Under Secretary of HEW, notwithstanding the adjournment of the Senate over until Thursday.

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

QUORUM CALL

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 (Mr. GRIFFIN). Without objection, it is so ordered.

PROGRAM FOR THURSDAY

Mr. ROBERT C. BYRD. Mr. President, the program for Thursday next is as follows:

The Senate will convene at 12 o'clock meridian. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized for not to exceed 15 minutes each and in the order stated: Mr. BELLMON, Mr. ALLEN, Mr. HATFIELD, Mr. BUCKLEY, Mr. JAVITS, Mr. CASE, Mr. HARRY F. BYRD, JR., and Mr. ROBERT C. BYRD.

At the conclusion of the special orders for the recognition of Senators, there will be a period for the transaction of routine morning business for not to exceed 1 hour, with statements limited therein to 5 minutes.

No rollcall votes are anticipated on Thursday.

When the Senate concludes its business on Thursday, it will stand in adjournment until 10:30 a.m. on Saturday next, at which time Senators will proceed in a body to the ceremony inaugurating the President and Vice President of the United States.

ADJOURNMENT UNTIL THURSDAY, JANUARY 18, 1973

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 12 o'clock meridian on Thursday next.

The motion was agreed to; and at 3:32 p.m. the Senate adjourned until Thursday, January 18, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 16, 1973:

GOVERNMENT PRINTING OFFICE

Thomas F. McCormick, of Connecticut, to be Public Printer, vice Adolphus Nichols Spence II, deceased.

IN THE COAST GUARD

The following-named officers of the Coast Guard for promotion to the grade of captain:

William D. Harvey	Howard H. Istock
Robert Russell	Robert J. Hanson
Claude W. Jenkins	Edwin H. Daniels
Edmund Janczyk	Keith B. Schumacher
Peter J. Delaat, Jr.	Ralph C. Hill
Robert C. Branham	Charles E. Mathieu
Raymond H. Baetsen, Jr.	Glenn F. Young
Robert S. Lucas	James E. Grabb
John F. Lobkovich	Edward C. Farmer, Jr.
David J. Linde	Albert G. Stirling
Robert B. Sims	Ernest E. Rowland, Jr.
Gilbert P. Sherburne	David G. Howland
Richard B. Brooks	William D. Markle, Jr.
James R. Kelly	Donald C. Hintze
William S. Black	Bernard A. Hoyland
Robert T. Platt, Jr.	William E. Lehr, Jr.
John H. Byrd, Jr.	Joseph M. Kelly
Kenneth G. Wiman	Hal F. Olson
John D. Steinbacher	Roger L. Madson
David F. McIntosh, Jr.	Walter W. Kohl, Jr.
Robert V. Hackney	James C. Irwin
Robert G. Moore	William P. Kozlovsky
Melvin W. Hallock	Edwin L. Parker
Edward J. Ard	Milton Y. Suzich
Herbert G. Lyons	Clyde T. Lusk, Jr.
Patrick M. Jacobsen	Bobby F. Hollingsworth

The following-named officers of the Coast Guard Reserve for promotion to the grades indicated:

Captain

William P. Allen
Sandiford S. Bee, Jr.

Commander

Richard W. Doherty	Lawrence C. Foley
Theodore L. Seaman	Charles L. Hayes, Jr.

The following-named officers of the Coast Guard for promotion to the grade of lieutenant commander:

Richard E. MacDonald	Herbert J. Nuse
Donald F. Potter	Jack E. Arrington
Earl J. Meiers, Jr.	John H. Freie
Grant W. Risinger	Daniel A. Sutyak
Robert R. Dudley	Doyle S. Porter
James T. Fenner	John H. Ingram
David F. Orszak	William B. Clark
Rene N. Roussel	Forrest W. Peil
James R. Norman	Paul B. Robertson
David W. Kennedy, Jr.	Frank A. Christoph
Roland W. Breault, Jr.	Louis R. Stowe
Robert R. Harber, Jr.	Frank M. Alonzo
Valentine Gaida	Charles H. Studstill
Richard E. Simpson	Richard L. Luna
Charles M. Burleson	Melvin F. Gouthro
Cordus C. Bough	Gilbert Aguilar
Lennox A. Johnson	James A. Shepard
Louis Debernardi, Jr.	Johnnie L. Hair
Owen M. Halstad	Ammon C. McDole
John E. Cutright	Allen R. Gulau
Lenwood M. Quidley	John D. Spade
John McCracken	Thomas E. Yentsch
William Aliff	Robert T. Luckritz
Melvin Long	John A. Pierson
Joseph E. Tamalonis	David K. Durry
William Race	Cecil W. Allison
Francis N. Harrell	Robert W. Mason
Brent Malcolm	Kipling E. Grassit
Stanley E. Bork	Arcangelo V. Arecchi
Willis E. Lawrence III	William H. Blanchard
Robert C. White	Michael E. Koloski
James V. O'Neill	Edward A. Chazal, Jr.
Robert F. Doughty	William H. Norris
Paul G. Smith	Frederick M. Hamilton
Frank M. Chilszczyk, Jr.	Samuel J. Dennis
Alvin K. Sumner	Thomas R. Pennington
William N. Rohrer	James A. White
John M. Lewis	Douglas H. Teeson
Marvin E. Wilmoth	Robert M. Stephan, Jr.
John F. Overath	Carl Josephson
Robert H. Stracener	Stephen L. Brundage
George E. Ellis	Kent H. Williams
Daniel R. Irving	Laurence H. Somers
Preston H. McMillan	Peter T. Poulos
Herbert L. Johnson	Jerry M. Payne
Thomas L. Young	John W. Carbin
William S. Ricks	Glenn E. Serotsky
William S. Vinson	Richard D. Manning
Douglas R. Herlihy	Paul M. Blayney
Richard E. Bruce	Donald S. Jensen
Laurence J. Murphy, Jr.	Carl H. Helman III
James F. Van Vranken	Joseph R. Offutt, Jr.
Edward Stadnicar	Howard Newhoff
Walter C. Parker	James A. Sanial, Jr.
Donald C. Hibbard	Ralph E. Anderson
William T. Foran	Robert J. Gray
Ted G. Walters	Randall D. Peterson
Cassius L. Lisk	Paul N. Samek
Theodore M. Nutting	Walter S. Viglienzone
James H. Ferguson	Gerald J. Zanolli
Jean Snyder	Richard W. Walton
Edward A. Harmes III	Thomas E. Omri
Ross Bell	James D. Morgan
Francis W. Miller	John E. Schwartz
Alton E. Turner	Richard B. Chapman
John P. Shioli	Delgene O. Phillips
Leon K. Thomas	Joseph P. Coleman
Clarence C. Martin, Jr.	Andrew T. Horsey
Michael J. Dewitt	Gene E. Bowen
Dennis L. Morrissey	Joseph M. Rogers
Charles S. Park, III	Francis J. Wright, Jr.
Roland H. Buster	Carl H. Pearce
Robert C. Hilker	Richard E. Ruhe, Jr.
Franklin L. Fountaine	Robert W. Christiansen
Stanley W. Mead	Robert L. Storch, Jr.
Forrest W. Ringsage	Larry R. Greif
Earl R. Schattenberg	Robert W. Scobie
Robert L. Perkins	Stephen H. Cox
Billy G. Bailey	James O. Alexander
Carlton P. Smith	Darwin D. Buettner
Theodore J. Polgar	Donald J. Green
John K. Jenkins	Robert E. Harrington, Jr.
Taft C. Pilcher	Richard E. Casey
James W. Amos	Richard A. Bundy
Wayne W. Becker	Harold V. Smith
William M. Simpson, Jr.	Thomas H. Robinson
	Peter L. Ehrman
	Keith E. Nichols

The following named officer to be a permanent commissioned officer in the Coast Guard in the grade of lieutenant commander having been found fit for duty while on the temporary disability retired list:

Earl D. Johnson

The following named Coast Guard Reserve officers to be permanent commissioned officers in the Regular Coast Guard to the grade of lieutenant:

Edward H. Bonekemper III	Craig F. Eisenbeis
Francis X. Owens	Richard G. Seagrave
William E. Wade, Jr.	John A. Doty
William M. Jacobs	Gerald W. Abrams
	Edward A. Altemos

The following named graduates of the Coast Guard Academy to be permanent commissioned officers in the Coast Guard to the grade of ensign:

Frederick A. Adams
Michael P. Adams
Carlos Alfonso
Thomas J. Allard
David A. Anderson
Gary M. Anderson
Kenneth F. Anderson
John J. Anthony
Michael M. Ashdown
Bruce P. Austin
Glenn M. Austin
Gregory M. Auth
Bradley N. Balch
William J. Barker
Charles A. Barrett
Jeffrey T. Barrie
David W. Beach
Steven J. Bellona
Robert G. Blythe
Timonthy C. Boardman
Dennis G. Bohlayer
Robert A. Bohlen
Michael R. Bowen
Rodney B. Bowles
Peter J. Boyd
Edward P. Boyle
Douglas I. Boyles
Kenneth D. Bradley
Deryck G. Bratton
Michael F. Breen
William B. Brooks
Clifford R. Brown
Michael W. Brown
Robert W. Bruce
Guy H. Buckelew
Robert B. Buford
John S. Burnett
Michael J. Calabro
Gregory S. Chapman
Steven E. Chapman
William D. Chappell
Brian J. Clark
Ray W. Clark
John S. Clay
Keith Coddington
Thomas J. Collins
Keith R. Colwell
James L. Converse
John D. Cook
Randal K. Corrigan
Michael J. Courtois
David B. Crawford
Stephen C. Patterson
Robin E. Crusse
James C. Devin
Robert E. Dodge
Thomas J. Donlon
Joseph F. Duncan
John T. Egbert
David E. Elliott
Daniel J. Farrell
Michael G. Fay
Robert H. Fitch
Thomas A. Fitzgerald
Harry K. Foote
Stephen H. Francis
Arthur J. French
Steven E. Froehlich
Stanley T. Fuger
Edward T. Gaines
Robert D. Gamble
David R. Gauthier
Bruce J. Good
Kenneth H. Good
Dante J. Grasso
Kevin J. Grote
George T. Gunther
Robein E. Gutridge
Thomas J. Haas
Thomas J. Hadley
Thomas W. Hathaway
William C. Helgeson
Larry L. Hereth
Douglass S. Hertz
Albert A. Hoffman
Patrick T. Hoopes
Timothy J. Howe
Tajr Hull
James W. John
Robert C. Johnson
Stephen L. Johnson
Mark D. Keyl
William D. Kline
Kenneth N. Knutson
Gary P. Kosciusko
Billy L. Laws
Grant E. Leber
Rodney M. Leis
Donald S. Lewis
Herbert A. Lewis
James R. Loew
Gary Mansi
Bruce D. Martin
Robert E. McDaniel
Samuel A. Melton
Thomas D. Meyer
Miles A. Millbach
Paul G. Miller
Peter T. Milner
Paul J. Moeller
Keith A. Moll
Freddy L. Montoya
David W. Moore
Carl V. Mosebach
Thomas J. Neill
Mark W. Newman
David R. Nicholson
Kenneth M. Morris
Robert F. O'Hara
Alan M. Orr
Louis J. Orsini
John V. Oshea
Alton J. Parks
Michael K. Parmelee
William G. Paulick
John D. Pendegraft
Allen W. Penn
Carl R. Perkins
Edward A. Perkins
Larry A. Peters
Robert F. Petko
Mark T. Piennett
Michael J. Pierce
William E. Plage
Peter A. Popko
Gregory L. Rahl
James A. Rauch
Richard J. Reardon
John C. Reed
Alan J. Rice
David M. Rice
Calvin M. Rich
Bernard J. Roan
Robert A. Robichaud
Michael A. Robinett
Michael M. Rosecrans
Robert C. Ross
Daniel J. Rothaupt
Robert F. Rzemieniewski
Michael R. Sadler
Dennis H. Schenck
Daniel J. Scherer
Warren G. Schneeweis
Robert A. Schwehr
Jimmie L. Sether
Mathew L. Sheep
Lawrence J. Shirley
Patrick L. Shuck
Freddy G. Simpson
Robert L. Skewes
David W. Smith
David W. Smith
Gary K. Sooy
William W. Spitler
John R. Sprouse
Gary S. Steinfort
Michael J. Stevens
Mason F. Stober
Frank L. Stoup
Harry P. Stratton
Daniel W. Stuhlmann
Steven B. Sullivan
Michael E. Swigert
Dale W. Thompson
James E. Tighe
Michael E. Toczek
Stephen E. Trechard
Robert O. Troxell
Noris M. Turner
George W. Uhly
John E. Veentjer
Kenneth T. Venuto
Byron D. Ward
John L. Ware
Michael R. Warren
Gary H. Watson
Michael J. Wensman
Philip P. Wieczynski
William J. Wilkinson
Robert F. Wilson
James R. Woeppel
George F. Wright
Anthony C. Yamada
David E. Young
Robert E. Young
Stanley H. Zukowski

IN THE NAVY

Vice Adm. James F. Calvert, U. S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

U.S. AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, Title 10, United States Code, as amended. All officers are subject to physical examination required by law.

Second lieutenant to first lieutenant

LINE OF THE AIR FORCE

Abbey, Thomas G., xxx-xx-xxxx
Abbott, Ira R., III, xxx-xx-xxxx
Abellera, James W., xxx-xx-xxxx
Aberle, John R., xxx-xx-xxxx
Accola, Thomas D., xxx-xx-xxxx
Acton, Thomas D., xxx-xx-xxxx
Acurso, Jeffrey L., xxx-xx-xxxx
Adams, Dennis W., xxx-xx-xxxx
Adams, James D., xxx-xx-xxxx
Adams, Louis S., xxx-xx-xxxx
Adkisson, Gary D., xxx-xx-xxxx
Ainslie, Robert S., xxx-xx-xxxx
Ainsworth, Loren C., xxx-xx-xxxx
Aja, Joseph G., xxx-xx-xxxx
Ake, Burton K., xxx-xx-xxxx
Albright, Kenneth R., Jr., xxx-xx-xxxx
Aldrich, Roger L., xxx-xx-xxxx
Alexander, William R., xxx-xx-xxxx
Allain, Richard S., Jr., xxx-xx-xxxx
Allen, Donald L., III, xxx-xx-xxxx
Allen, John B., xxx-xx-xxxx
Allen, Ronald R., xxx-xx-xxxx
Almeida, Roy J., xxx-xx-xxxx
Almquist, Kenneth C., xxx-xx-xxxx
Alston, James A., xxx-xx-xxxx
Altadonna, Lynn P., xxx-xx-xxxx
Alves, Jeffrey R., xxx-xx-xxxx
Amatulli, Ladis W., xxx-xx-xxxx
Ambos, Dale S., xxx-xx-xxxx
Ammon, Thomas L., xxx-xx-xxxx
Anawi, Gary R., xxx-xx-xxxx
Andersen, Theodore E., xxx-xx-xxxx
Anderson, Donald M., xxx-xx-xxxx
Anderson, William A., III, xxx-xx-xxxx
Andrews, Gary J., xxx-xx-xxxx
Andrews, James E., xxx-xx-xxxx
Andrews, Ralph E., xxx-xx-xxxx
Angelico, John D., xxx-xx-xxxx
Anthony, Thomas W., Jr., xxx-xx-xxxx
Antinone, Robert J., xxx-xx-xxxx
Antoon, David F., xxx-xx-xxxx
Aragon, Rudolph F., xxx-xx-xxxx
Arbaugh, Dana C., xxx-xx-xxxx
Arcuri, William Y., xxx-xx-xxxx
Arendt, Robert E., xxx-xx-xxxx
Arnold, Harry, xxx-xx-xxxx
Ashford, Gene M., Jr., xxx-xx-xxxx
Aucoin, James S., xxx-xx-xxxx
Aucoin, Peter A., xxx-xx-xxxx
Aufderhaar, Grant C., xxx-xx-xxxx
Austin, Gary M., xxx-xx-xxxx
Avery, Jimmie S., xxx-xx-xxxx
Babcock, Walter H., xxx-xx-xxxx
Bachmann, James L., xxx-xx-xxxx
Backstrom, Robert C., xxx-xx-xxxx
Bader, William G., xxx-xx-xxxx
Baehr, Kenneth M., xxx-xx-xxxx
Bagliebter, Gary M., xxx-xx-xxxx
Bahnson, Francis R., III, xxx-xx-xxxx
Bailey, John L., xxx-xx-xxxx
Bainter, Elaine A., xxx-xx-xxxx
Baker, Charles W., xxx-xx-xxxx
Baker, Donald L., xxx-xx-xxxx
Baker, Joseph E., xxx-xx-xxxx
Baker, Larry N., xxx-xx-xxxx
Baker, Larry M., xxx-xx-xxxx
Baker, Michael A., xxx-xx-xxxx
Baker, Raymond G., xxx-xx-xxxx
Baker, Richard A., xxx-xx-xxxx
Baker, Robert F., xxx-xx-xxxx
Baker, William L., xxx-xx-xxxx
Ballard, John A., xxx-xx-xxxx
Ballard, Robert H., xxx-xx-xxxx
Bang, Carl J., Jr., xxx-xx-xxxx
Bang, Stephen B., xxx-xx-xxxx
Baralt, Raymond A., xxx-xx-xxxx
Barker, Raymond H., Jr., xxx-xx-xxxx
Barker, Scott S., xxx-xx-xxxx
Barleben, Raymond J., xxx-xx-xxxx
Barnes, Bradley A., xxx-xx-xxxx
Barnes, Carroll T., xxx-xx-xxxx
Barnes, Stephen R., xxx-xx-xxxx
Barnette, William D., xxx-xx-xxxx
Baron, Douglas E., xxx-xx-xxxx
Barrall, James F., xxx-xx-xxxx
Barry, Marvin J., xxx-xx-xxxx
Barthel, Gerald R., xxx-xx-xxxx
Bartkowski, Michael A., xxx-xx-xxxx
Bartley, Harry M., xxx-xx-xxxx
Baskett, Robert E., xxx-xx-xxxx
Bates, Walter T., xxx-xx-xxxx
Battles, Dorsey B., xxx-xx-xxxx
Batuski, David J., xxx-xx-xxxx
Bauer, Paul A., xxx-xx-xxxx
Bauman, Donald W., xxx-xx-xxxx
Baxter, Gary L., xxx-xx-xxxx
Baxter, Harvey E., xxx-xx-xxxx
Bean, Allan K., xxx-xx-xxxx
Bean, Richard M., xxx-xx-xxxx
Beatty, Thomas R., xxx-xx-xxxx
Beaubien, James W., III, xxx-xx-xxxx
Beaulieu, Donald J., xxx-xx-xxxx
Bechtel, James B., xxx-xx-xxxx
Beck, Charles E., xxx-xx-xxxx
Beckley, Drew R., xxx-xx-xxxx
Beckman, Steven C., xxx-xx-xxxx
Bedard, Robert J. C., xxx-xx-xxxx
Beightol, Ward D., xxx-xx-xxxx
Bell, Brian S., xxx-xx-xxxx
Bell, Frank E., III, xxx-xx-xxxx
Bell, Lee P., Jr., xxx-xx-xxxx
Bence, Christopher F., Jr., xxx-xx-xxxx
Bench, Timothy P., xxx-xx-xxxx
Benedict, William N., II, xxx-xx-xxxx
Bennett, Harold J., Jr., xxx-xx-xxxx
Bennett, Keith E., xxx-xx-xxxx
Bennett, Ronald W., xxx-xx-xxxx
Benson, Dick G., xxx-xx-xxxx
Benson, William H., xxx-xx-xxxx
Bentley, Peter T., xxx-xx-xxxx
Bereit, Richard M., xxx-xx-xxxx
Berg, James A., xxx-xx-xxxx
Berkey, Robert P., xxx-xx-xxxx
Bernards, Herman W., xxx-xx-xxxx
Berry, Michael J., xxx-xx-xxxx
Berta, Steven J., xxx-xx-xxxx
Bertoldo, Donald R., xxx-xx-xxxx
Bettner, James M., xxx-xx-xxxx
Bewers, Geoffrey R., xxx-xx-xxxx
Beyer, Charles T., xxx-xx-xxxx
Bickle, Paul E., xxx-xx-xxxx
Bingham, Dennis A., xxx-xx-xxxx
Bird, Stephen E., xxx-xx-xxxx
Bisbee, Charles R., III, xxx-xx-xxxx
Bishop, John R., xxx-xx-xxxx
Bittenbender, Leona C., xxx-xx-xxxx
Bitzer, Richard L., xxx-xx-xxxx
Bjorklund, Richard D., xxx-xx-xxxx
Black, Charles, xxx-xx-xxxx
Black, Nathaniel L., Jr., xxx-xx-xxxx
Black, Robert J., xxx-xx-xxxx
Blatchley, Charles C., xxx-xx-xxxx
Blom, Raymond, xxx-xx-xxxx
Blomquist, Steven J., xxx-xx-xxxx
Bloor, Allan E., xxx-xx-xxxx
Blowers, Melvin L., xxx-xx-xxxx
Bobbish Charles E., xxx-xx-xxxx
Boe, Gary B., xxx-xx-xxxx
Boerum, Joseph E., Jr., xxx-xx-xxxx
Bohn, Charles J., III, xxx-xx-xxxx
Bohnenstiel, Robert L., Jr., xxx-xx-xxxx
Bolyard, William T., III, xxx-xx-xxxx
Bone, Terrence E., xxx-xx-xxxx
Bonesteele, Raymond G., xxx-xx-xxxx
Bonnell, Richard W., xxx-xx-xxxx
Bonner, Charles J., xxx-xx-xxxx
Bores, Joseph H., III, xxx-xx-xxxx
Borkowski, Gloria M., xxx-xx-xxxx

Bosco, Salvatore R., xxx-xx-xxxx
Bowers, Donald S., Jr., xxx-xx-xxxx
Bowie, Harold V., Jr., xxx-xx-xxxx
Box, Arthur C., xxx-xx-xxxx
Boyd, John E., Jr., xxx-xx-xxxx
Boyd, Robert W., xxx-xx-xxxx
Boyenga Kirk W., xxx-xx-xxxx
Boyles, David J., xxx-xx-xxxx
Bozeman, Charles L., xxx-xx-xxxx
Bradford, Victor P., xxx-xx-xxxx
Brady, James J., xxx-xx-xxxx
Braisted, Daniel M., xxx-xx-xxxx
Brandt, Thomas R., xxx-xx-xxxx
Brantley, Billy E., xxx-xx-xxxx
Braswell, Gary J., xxx-xx-xxxx
Braud, Stephen C., xxx-xx-xxxx
Brauner, Lonnie, Jr., xxx-xx-xxxx
Brechwald James E., xxx-xx-xxxx
Brentnall, Gerald J., Jr., xxx-xx-xxxx
Brewington, Daucey F., xxx-xx-xxxx
Brining, Donald R., xxx-xx-xxxx
Brink, Donald L., xxx-xx-xxxx
Brister, James L., xxx-xx-xxxx
Bristow, Ben M., xxx-xx-xxxx
Britton, Barry J., xxx-xx-xxxx
Broadwater, David D., xxx-xx-xxxx
Brock, James R., xxx-xx-xxxx
Brogdon, Bill D., xxx-xx-xxxx
Brogna Paul A., xxx-xx-xxxx
Brooks, Robert J., xxx-xx-xxxx
Brower, Arnold M., xxx-xx-xxxx
Brower, Charles L., xxx-xx-xxxx
Brown, Calvin W., xxx-xx-xxxx
Brown, Charles M., xxx-xx-xxxx
Brown, Keith S., xxx-xx-xxxx
Brown, Lawrence L., xxx-xx-xxxx
Brown, Paul T., xxx-xx-xxxx
Brown, Timothy A., xxx-xx-xxxx
Browning, Ronald G., xxx-xx-xxxx
Broyles, Stephen D., xxx-xx-xxxx
Bruck, Lawrence A., xxx-xx-xxxx
Brumbach, Jon R., xxx-xx-xxxx
Bruni, Jerome V., xxx-xx-xxxx
Bryant, Don R., xxx-xx-xxxx
Bryant, Robert S., xxx-xx-xxxx
Bshero, Raymond J., xxx-xx-xxxx
Buchanan, Francis, xxx-xx-xxxx
Buchanan, Donald G., xxx-xx-xxxx
Buckland, George H., xxx-xx-xxxx
Buell, Larry L., xxx-xx-xxxx
Buescher, Frank J., Jr., xxx-xx-xxxx
Bulmann, Rudolf A., xxx-xx-xxxx
Bunjer, Verl A., xxx-xx-xxxx
Buquor, Anthony F., xxx-xx-xxxx
Burgess, James L., xxx-xx-xxxx
Burke, Joseph G., xxx-xx-xxxx
Burke, Michael T., xxx-xx-xxxx
Burke, Thomas J., xxx-xx-xxxx
Burke, William E., xxx-xx-xxxx
Burke, William M., Jr., xxx-xx-xxxx
Burkett, Fred M., Jr., xxx-xx-xxxx
Burns, Hugh L., Jr., xxx-xx-xxxx
Burrow, Glenn A., xxx-xx-xxxx
Burtt, David A., II, xxx-xx-xxxx
Bush, Larry F., xxx-xx-xxxx
Bush, Patricia J., xxx-xx-xxxx
Butler, Richard E., xxx-xx-xxxx
Butt, Thomas, xxx-xx-xxxx
Butterfield, Alan V., xxx-xx-xxxx
Caldwell, Walter F., xxx-xx-xxxx
Calvert, Christopher N., xxx-xx-xxxx
Camacho, Joseph P., xxx-xx-xxxx
Campbell, Timothy R., xxx-xx-xxxx
Campbell, William H., xxx-xx-xxxx
Campbell, William L., xxx-xx-xxxx
Campione, Joseph A., xxx-xx-xxxx
Capellini, Aristide M., xxx-xx-xxxx
Caravello, Christopher, xxx-xx-xxxx
Cardinale, Richard O., xxx-xx-xxxx
Carey, Robert E., xxx-xx-xxxx
Carey, Timothy N., xxx-xx-xxxx
Carlsen, Gary A., xxx-xx-xxxx
Carlson, Douglas M., xxx-xx-xxxx
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Yasuhara, Philip K., xxx-xx-xxxx.
Yerby, Jack D., xxx-xx-xxxx.

York, Edward J., Jr., [redacted].
Young, Dennis R., [redacted].
Young, John R., [redacted].
Young, Robert F., [redacted].
Zappa, Patrick A., [redacted].
Zeigler, Michael C., [redacted].
Zimmerman, Alan L., [redacted].
Zorn, James F., [redacted].
Zuckerman, Meyer D., [redacted].
Zwick, Kent W., [redacted].

NURSE CORPS

Kuhlman, Marie A., [redacted].

MEDICAL SERVICE CORPS

Allen, Jeffrey S., [redacted].
Angstadt, Terry L., [redacted].
Ballinger, Michael B., [redacted].
Call, Scott J., [redacted].
Crow, Ronald M., [redacted].
Edwards, Robert P., [redacted].
Eickhoff, Darrell E., [redacted].
Farmer, Mavoric J., [redacted].
Fessler, David J., [redacted].
Fleming, Eugene C., [redacted].
Gillespie, Ritchie P., [redacted].
Gonzales, Eugene, [redacted].
Greene, Hedley W. D., [redacted].
Greer, Willis A., [redacted].
Hanko, James F., [redacted].
Head, William C., [redacted].
Herbert, Timothy G., [redacted].
Hettick, Larry K., [redacted].
Hooper, James J., III, [redacted].
Howard, Mark J., [redacted].
Jacobson, James M., [redacted].
Jernigan, John G., [redacted].
King, Clarence G., Jr., [redacted].
Kupko, John J., II, [redacted].
Lehman, Kent W., [redacted].
Lenihan, John P., Jr., [redacted].
Lockett, John S., [redacted].
Marsh, Byron P., [redacted].
McAlpin, Brian A., [redacted].
McLain, George E., Jr., [redacted].
Naversen, Douglas N., [redacted].
Poppell, Samuel E., [redacted].
Rapley, John W., [redacted].
Rashid, Edward R., [redacted].
Russell, John P., [redacted].
Seaman, Frank E., [redacted].
Shelton, David K., Jr., [redacted].
Smith, Ross C., Jr., [redacted].
Sorum, Larry N., [redacted].
Stadelnikas, Joseph R., [redacted].
Stratton, Robert F., Jr., [redacted].
Vandehey, James T., [redacted].
Waggoner, Jerry L., [redacted].
Weiland, Frederick L., [redacted].
Willauer, Glenn R., [redacted].
Wyrick, Michael K., [redacted].

BIOMEDICAL SCIENCES CORPS

Alworth, Gary M., [redacted].
Anderson, Michael P., [redacted].
Browne, Michael H., [redacted].
Coburn, Middleton J., [redacted].
George, Larry C., [redacted].
Kaneshiro, Duane K., [redacted].
Lamb, Neil J., [redacted].
Mudryk, Victor, [redacted].
Prather, Jefferson B., [redacted].
Rock, James C., [redacted].
Ross, Jerry W., [redacted].
Smith, Michael F., [redacted].
Stoflet, Yvonne C., [redacted].
Sweeney, Stephen J., [redacted].
Termaath, Stephen G., [redacted].
Wasem, Gary A., [redacted].
Warnken, Reimund G., [redacted].

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

To be lieutenant colonel (Medical)

Martinez, Vicente, [redacted].

To be major (Dental)

Hartman, Garrett E., [redacted].
Simpson, John M., [redacted].

To be captain (Dental)

Albright, Bruce W., [redacted].
Bowman, Dewayne C., [redacted].

To be first lieutenant (Dental)

Boggs, David E., [redacted].
Hanson, Robert W., [redacted].

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be captain

Leonor, Leonardo C., [redacted].
Shingaki, Tamotsu, [redacted].

To be first lieutenant

Cleary, Peter M., [redacted].
Graham, Allen U., [redacted].
Herold, Richard W., [redacted].
Latham, James D., [redacted].
Ratzlaff, Brian M., [redacted].

To be second lieutenant

Bates, Richard L., [redacted].
Brett, Robert A., Jr., [redacted].
Brunson, Cecil H., [redacted].
Cook, Dwight W., [redacted].
Latella, George F., [redacted].
Price, Larry D., [redacted].

The following Air Force officers for reappointment to the active list of the Regular Air Force, in the grade indicated, from sections 1210 and 1211, title 10, United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Escue, Walter H., [redacted].

To be major

Couch, Charles W., [redacted].

COMMUNICATIONS SATELLITE CORPORATION

Frank E. Fitzsimmons, of Maryland, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1975, vice George Meany, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate, January 16, 1973:

DEPARTMENT OF THE TREASURY

William E. Simon, of New Jersey, to be Deputy Secretary of the Treasury.

Edward L. Morgan, of Arizona, to be an Assistant Secretary of the Treasury.

EXTENSIONS OF REMARKS

VIEWS OF JOHN P. ROCHE ON PUBLIC BROADCASTING SYSTEM

HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, January 16, 1973

Mr. HELMS. Mr. President, I have been reading much in the press lately about the supposed interference of the administration with freedom of the press. I have not been reading very much in the same papers about the corresponding responsibilities which go along with that freedom, and the right of the public to have access to unbiased and objective accounts of current events. That is another question to go into at another time.

The truth is that I listen carefully whenever I hear accusations of Government interference with the press. It is my long-standing opinion that the Government ought not to have anything to do with disseminating the news. On the other hand, many of the complaints that are trumpeted the most loudly come from people who are really objecting to assuming the responsibility that goes along with the profession of journalism.

I have been especially interested, however, in the cries of anguish which went up recently when the Corporation for Public Broadcasting decided to go out of the news business in a big way by curtailing the tendency of the Public Broadcasting System to set up a fourth network. My basic principle still holds. There is no way in which the Government can go into the field of news and opinion without slipping into the slough of nonobjectivity. No matter how professional a Government program might be, there will always be the feeling on the part of some that the taxpayers' money is being used to promote a sectarian point of view. Given some of the activities of PBS, there was no escape from that feeling on the part of any fair-minded person.

I was pleased to see similar views expressed recently by Mr. John P. Roche. Mr. Roche, as he says himself, is "a certified liberal." Despite the liberal slant of PBS, Mr. Roche has the courage to get down to basic principles. As he says:

I don't want the United States public affairs program on television whether its content be liberal, conservative, Maoist, or vegetarian.

To that I can say, Amen, Brother Roche. We may disagree on other things, but here we are of one mind.

Mr. Roche goes on to demolish the idea that there can be any guarantees at all of noninterference with government TV. He says:

This is a charming notion, but inherently preposterous.

He points out that it is impossible of achievement, as well as irresponsible on the part of Congress in the expenditure of public funds. The basic reason however, goes back to the dangers inherent in unlimited government. He also says:

As an Augustinian liberal with a profound distrust of human nature including my own, I don't want that kind of power rattling around inside the bureaucracy.

Mr. President, I ask unanimous consent that the column by John P. Roche, entitled, "TV: Keep the Government out of the News Business," published in the Washington Post of January 13, 1973, be printed in the Extensions of Remarks.

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