B. Brotherhood of Railway, Airline & Steamship Clerks, 6300 River Road, Rosemont, Ill. 60018.
D. (6) $3,500. E. (9) $1,244.14.

A. W. M. Trevarrow, 601 National Press Building, Washington, D.C. 20004.
B. American Motors Corp., 14250 Plymouth Road, Detroit, Mich. 48232.
D. (6) $4,500. E. (9) $137.75.

A. Matt Triggs, 425 13th Street NW., Washington, D.C.
B. American Farm Bureau Federation, 225 West Touhy Avenue, Park Ridge, Ill.
D. (6) $2,579. E. (9) $84.28.

A. Trustees for Conservation, 251 Kearny Street, San Francisco, Calif. 94108.
D. (6) $75. E. (9) $127.77.

A. United Mine Workers of America, 900 15th Street NW., Washington, D.C. 20005.
E. (9) $27,785.43.

A. United States-Japan Trade Council, 1000 Connecticut Avenue NW., Washington, D.C. 20036.
D. (6) $549.50. E. (9) $549.50.

A. R. Dick Vander Woude, 10600 West Higgins Road, Rosemont, Ill. 60018.
B. National Education Association, 1201 16th Street NW., Washington, D.C. 20036.
D. (6) $353.75. E. (9) $75.

A. Wald, Harkrader, & Ross, 1320 19th Street NW., Washington, D.C. 20036.
B. INA Corp., 1600 Arch Street, Philadelphia, Pa. 19101.

A. DeMelt E. Walker, 1730 Rhode Island Avenue NW., Washintgon, D.C.
B. Credit Union National Association, Inc., 1617 Sherman Avenue, Madison, Wis.
D. (6) $682.84. E. (9) $49.75.

A. Charles S. Walsh.
B. National Cable Television Association, Inc., 918 16th Street NW., Washington, D.C.
D. (6) $127.50. E. (9) $15.

A. James A. Warren, 5500 Friendship Boulevard, Chevy Chase, Md. 20015.
B. REA Express, Inc., 219 East 42d Street, New York, N.Y. 10017.
D. (6) $450. E. (9) $150.

A. Washington Research Project Action Council, 1763 R Street NW., Washington, D.C. 20009.
E. (9) $6,047.65.

A. Fred W. Wegner, 1225 Connecticut Avenue NW., Washington, D.C. 20036.
B. American Association of Retired Persons/National Retired Teachers Association, 1225 Connecticut Avenue NW., Washington, D.C. 20036.

A. Bernard J. Welch, 1800 K Street NW., Washington, D.C. 20006.
B. Pan American World Airways, Inc., 1800 K Street NW., Washington, D.C. 20006.
E. (9) $120.42.

A. Paul S. Weller, 1129 20th Street N.W., Washington, D.C. 20036.
B. National Council of Farmer Cooperatives, 1129 20th Street NW., Washington, D.C.
D. (6) $2,100. E. (9) $144.65.

A. Lee C. White, 1156 15th Street NW., Washington, D.C. 20005.
B. American Natural Gas Co., and subsidiaries, 1 Woodward Avenue, Detroit, Mich. 48226.

A. Robert E. Wick, 1800 K Street NW., Washington, D.C.
B. Pan American World Airways, Inc., 1800 K Street NW., Washington, D.C. 20006.
E. (9) $107.54.

A. Leonard M. Wickliffe, 11th and L Building, Sacramento, Calif. 95814.
B. California Railroad Association, 11th and L Building, Sacramento, Calif. 95814.
D. (6) $2,750. E. (9) $6,414.38.

A. Wilmer, Cutler, & Pickering, 900 17th Street NW., Washington, D.C. 20006.
B. J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, N.Y. 10019.
D. (6) $980. E. (9) $27.36.

A. Women's International League for Peace and Freedom, 1213 Race Street, Philadelphia, Pa. 19107.
D. (6) $9,133.56. E. (9) $8,654.97.

A. Burton C. Wood, 1625 L Street NW., Washington, D.C. 20036.
B. National Association of Home Builders of the United States, 1625 L Street NW., Washington, D.C. 20036.
D. (6) $5,109.39. E. (9) $557.35.

A. V. T. Worthington, 1500 North Quincy Street, Box 7116, Arlington, Va. 22207.
B. Association of Petroleum Re-Refiners, 1500 North Quincy Street, Arlington, Va. 22207.
D. (6) $375.

A. Jack Yelverton, 1303 New Hampshire Avenue NW., Washington, D.C. 20036.
B. Fleet Reserve Association, 1303 New Hampshire Avenue, NW., Washington, D.C. 20036.

A. John L. Zorack, 1709 New York Avenue NW., Washington, D.C.
B. Air Transport Association.
D. (6) $1,415. E. (9) $152.75.

A. Nicholas H. Zumas, 1225 19th Street NW., Suite 702, Washington, D.C. 20036.
B. National Music Publishers Association, 110 East 59th Street, New York, N.Y. 10022.
D. (6) $150.

SENATE—*Wednesday, May 16, 1973*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

Almighty God, Creator and Ruler of all that is, help us to love Thee with our whole heart and mind and soul, to love our Nation, to cherish its heritage and to further its ideals. Fit us for service by expelling from our lives all that corrupts or obstructs the doing of Thy will. Implant Thy law deep in our hearts and give us grace to live by it. Make sensitive our conscience to monitor our actions according to Thy law. For the sake of the world, for the sake of America, for the sake of Thy kingdom, give us grace and wisdom to do the right thing.

We pray in His name who went about doing good. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 15, 1973, be dispensed with.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, with the exception of the Federal Power Commission.

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

The PRESIDENT pro tempore. The nominations on the Executive Calendar, with the exception of the last two nominations, will be stated.

DEPARTMENT OF LABOR

The legislative clerk read the nominations in the Department of Labor, as follows:

Richard F. Schubert, of Pennsylvania, to be Under Secretary of Labor.

Bernard E. DeLury, of New York, to be an Assistant Secretary of Labor.

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

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

ADMINISTRATION ON AGING

The legislative clerk read the nomination of Arthur S. Flemming, of Virginia, to be Commissioner on Aging.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

FEDERAL HIGHWAY ADMINISTRATION

The legislative clerk read the nomination of Norbert T. Tiemann, of Nebraska, to be Administrator of the Federal Highway Administration.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL COMMISSION ON MATERIALS POLICY

The legislative clerk read the nomination of Frederick B. Dent, of South Carolina, to be a member of the National Commission on Materials Policy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

LEGISLATIVE SESSION

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

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

COLLECTION OF FEES FOR USE OF FEDERAL AREAS FOR OUTDOOR RECREATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 140, S. 1381.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

S. 1381 to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, line 5, after "U.S.C.", strike out "460L (b)" and insert "4601–5"; and, on page 2, line 8, after the word "facilities", insert "or combination of those facilities"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first paragraph of section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4601–5), is amended to read as follows:

"(b) SPECIAL RECREATION USE FEES.—Each Federal agency developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense: *Provided,* That in no event shall there be a charge for the day use or recreational use of those facilities or combination of those facilities or areas which virtually all visitors might reasonably be expected to utilize, such as, but not limited to, lightly developed or back-country campgrounds, picnic areas, boat ramps where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors' centers, scenic drives, and toilet facilities."

LIMITATION ON USER FEES

Mr. DOLE. Mr. President, as one of the original sponsors of S. 1381, the bill to limit user fees charged at Federal lakes administered by the Corps of Engineers, I am pleased to urge its passage by the Senate today.

This bill was introduced in an effort to meet a basic unfairness, a distortion of congressional intent and a clear case of administrative impracticality. I would point out these matters briefly, for I have earlier detailed the circumstances leading to introduction of this bill.

THREE FACTORS

First, the Corps of Engineers, quite unadvisedly in my opinion, issued a very highhanded and inaccurate announcement of its user fee policies. This announcement led to widespread alarm among thousands of campers, boaters, and picnickers in Kansas and elsewhere that they were to have their recreation activities taxed beyond their ability to afford them—perhaps as much as $30 for a family of four per weekend. As it turned out the actual fees were finally established at a much lower and more reasonable level. But, nonetheless, a great deal of ill-will and irritation was generated by the handling of these proposals.

Second, as the fees were finally set they included assessments on the utilization of so-called day-use recreation facilities. These fees were not so excessive as originally feared, but a serious question arose about Congress intent that such fees were to be charged at all. These day-use areas are the types of facilities which almost every visitor to a lake could be expected to use, and it was felt that Congress never intended to impose a tax on everyone who comes for a hike, a picnic, an afternoon in the sun or a day's fishing.

Third, although these fees were not set on a per-person basis as the original announcement indicated, even collecting a charge from each carload of visitors to an area will be such a costly, time-consuming operation that these collections will never break even. Manpower and administrative costs will almost inevitably consume more than the revenues brought in by the fees, so it does not appear to make much sense to collect them. In addition to irritation and inconvenience—both to visitors and Corps of Engineers personnel—will further add to the overall negative aspects of these fees.

This bill does not seek to eliminate all fees, only those which are impractical and inconsistent with congressional intent. For example, overnight camping fees, generally set at $1 or $2, are not affected by the bill. There has been no great objection to such fees, either; for the public, quite fairly I believe, does not object to paying a reasonable charge for a worthwhile privilege or service.

URGE SENATE APPROVAL

So, Mr. President, I firmly support this bill and urge that my colleagues in the Senate vote it their approval. Its passage will be a major step toward eliminating an unnecessary, unwise and useless irritation and inconvenience to the millions of Americans who each year enjoy the attractions of our Federal lakes and recreation areas.

I am hopeful that the House of Representatives can follow favorable Senate action with its own approval, so this measure can become law at the earliest possible date.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HUDDLESTON. Mr. President, I am most gratified that the Senate has acted favorably on S. 1381, legislation which reinforces stated congressional intent that day use recreational facilities and other ordinary visitor facilities operated by the Corps of Engineers should not be subject to fees.

This legislation will both eliminate a source of aggravation and inconvenience to the user-public and will additionally remove from the Corps of Engineers what can only be an unnecessary and costly administrative burden.

I know that the news of the passage of this bill will be welcomed by the citizens of Kentucky who have had to bear the burden of double payments—payments in support of the original construction of the facilities through Federal taxes and payments for continued use of the facilities which they had every right to believe would be furnished as a matter of course. This will affect such Corps of Engineers properties as Rough River, Green, Barren, Buckhorn, and Nolin reservoirs in my State of Kentucky.

I am pleased to have supported this legislation which I know will be of benefit to many citizens of the Commonwealth of Kentucky.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Montana is recognized.

(The remarks Senator MANSFIELD made at this point on the introduction of Senate Joint Resolution 109, providing for a 6-year term for President, and remarks by Senators SCOTT and AIKEN are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

(The remarks Senator SCOTT made at this point on the introduction of Senate Joint Resolution 110, to establish a nonpartisan commission on Federal election reform, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Utah (Mr. Moss) is recognized for not to exceed 15 minutes.

(The remarks of Senator Moss made at this point on the introduction of S. 1825 and S. 1826, providing expanded nursing home and home health benefits under the Social Security Act, are printed in the RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 6768) to provide for participation by the United States in the United Nations environment program, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 6768) to provide for participation by the United States in the United Nations environment program,

was read twice by its title and referred to the Committee on Foreign Relations.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

LIMITATION ON ARTIFICIAL ACCOUNTING LOSSES

Mr. BARTLETT. Mr. President, the American consumer will be the one who suffers most if proposals by the administration regarding "Limitation on Artificial Accounting Losses" become law. At a time when the consumer is already feeling the effects of the energy crisis, the administration has proposed a crippling blow against those who would help in reducing the crisis.

The President's recent energy message, although not going far enough, was an encouraging sign to those who know that the energy crisis is upon us. The Treasury Department's proposals are inconsistent with policies designed to solve our present energy problems.

I firmly believe that these proposals should be rejected for the following reasons:

First. They greatly reduce the incentive to drill for oil and gas at the very time in our Nation's history that those incentives are needed the most. The National Petroleum Council estimates the energy needs from the current $9 billion to approximately $33 billion annually in order to guarantee our national security in times of emergency and to fulfill our day-to-day needs in normal times. The Treasury proposals will decrease rather than increase capital outlay.

Second. The proposals unquestionably result in fewer oil and gas wells being drilled, and there has been a sharp decline in the last 15 years in drilling for oil and gas in this country. Oil and gas exploration at best is a highly risky business. Without tax incentives, the risks are usually not worth taking as compared to other forms of investment on the outside.

Third. They will reduce competition in the energy industry. The proposals are aimed solely at individual investors. In the energy industry, the small independent producer will suffer, because he is the one who has to rely on individual investors to finance oil and gas exploration. The major companies will also suffer, as will the consumer, because less drilling will be done and less production found by the independent. The damage to the independent will reduce competition and help the big get bigger, which is against the national interest.

Fourth. The proposals add unneeded complexity to our tax laws. The concepts involved in the LAL proposals may add significantly to accountants' and lawyers' costs but will do nothing to advance our national energy policy.

Fifth. The proposals are discriminatory in that they make an item deductible to one type of taxpayer and deny deductibility for the same item to other taxpayers.

Sixth. The proposed effective date of April 30, 1973, has already discouraged and, in some cases, eliminated proposed drilling activities. The uncertainty which has been created by the proposals will discourage many who would not even be affected by the proposals if adopted in their present form. The cost to our Nation of this uncertainty far outweighs any revenue gain.

Seventh. The proposals will aggravate our balance-of-payments problems now and in the future. Any slight gain in revenue will seem small by comparison to the outflow of dollars which will result from a continuing inadequate energy supply; it will seem miniscule in comparison to the increased cost of oil and gas to the American consumer; it will be negligible in contrast with the shortages and inconveniences caused by these inconsistent, contradictory proposals.

Eighth. The administration proposals will inhibit development by unreasonably restricting the definition for tax purposes of an exploratory well. Under the administration definition, an exploratory well must be located at least 2 miles in all directions from any well which is producing or has produced in the past. Oklahoma has a surface area of 60,000 square miles and we have had 212,000 producers. Obviously, there are relatively few sites in Oklahoma where a test can be located so as to meet the administration guidelines for the Exploratory Drilling Investment Credit. The LAL proposal, by requiring related income before allowing deductions, will greatly discourage new enterprises. Most startup business have losses in the first year or so. Denying deductions on the theory that there is not enough income in that business to offset expenses is unwise and fallacious. When expenses exceed income in any business, it is obvious that income taxes are less, but unfair to say that the Government's money is being used. In the long run, tax revenues are increased through policies that stimulate investment.

Some may question the use of tax policy to encourage or discourage investment. But the fact is that any major alteration in our tax structure inevitably leads to that result. In the final analysis, the LAL proposal discourages investments in cattle operations at a time when housewives are crying over meat prices; discourage investments in real estate at a time when we claim to want better housing for all our citizens; and discourage investments in oil and gas at a time when the "energy crisis" is not merely a phrase but a reality.

The LAL proposal, although possessing certain initial emotional appeal, is detrimental to the national interest and is inconsistent with fundamental and important national policies.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. BARTLETT. I yield.

Mr. CURTIS. I would like to commend the distinguished Senator from Oklahoma for the speech he is making.

We should review our tax laws from the standpoint of the public good and the needs of our economy. I am afraid that some politicians in the country have been carried away by cliches, by statements that have had appeal without substance.

Prior to the nominating conventions and the Presidential race last year, I heard speeches that advocated changes in our tax laws that not only were unsound but were misinforming the American people. Some of those speakers said, "Well, there are rich men paying no taxes. Your taxes ought to be reduced. Therefore, I will do something."

In the first place, the alleged facts were inaccurate; but, in the second place, we have to have a tax law that makes it possible that individuals spending hundreds of thousands and millions of dollars in a search for oil or gas be treated equitably in their tax returns; that if they have other income, the fact that they have sought oil or gas and did not get it is a just factor to be taken into account. That is just, it is fair, but, furthermore, it is in the public interest.

Likewise, few people understand that if there is oil underneath the ground, it is irreplaceable. We can plant some crops on the surface, and can plant more crops the following year. It is a recurring annual production. But when we take the oil out of the ground and sell it, we are selling something that is not replaceable. It is not a recurring production. It is like selling one's farm an acre at a time. It is not ordinary income. And that is where the whole theory of the depletion allowance comes in—one is depleting his capital; he is not engaged in an annual production of something.

Mr. BARTLETT. Does not this proposal increase the taxes, and hence the cost of doing business for those engaged in the oil and gas business, and hence would it not need to be passed on to the consumer?

Mr. CURTIS. That is correct. Furthermore, it increases the shortages. It is an unsound tax law. It is unsound conservation and development of our natural resources. It is unsound from the standpoint of the needs of our people.

I think the individuals who make that proposal are well meaning, but they certainly do not understand either the tax law or our resources or the needs of our economy, and I am including certain individuals in the Treasury in that regard.

We had an experience in 1969. There was a big hue and cry—"Let us reform the tax laws. Let us plug the loopholes." When we got through, we had done two or three things: In the first place, we had decreased our revenues about $6 or $7 billion—more by present standards because that law is still in effect. Second, at the very time we were on the verge of an energy crisis, we took action in that tax law to discourage exploration, finding, and development of petroleum and natural gas. Somewhat parallel to this is the proposal of the Treasury with reference to an added value tax. The disturbing of the right of an individual who may want to charge off certain expenses now allowed in farming against his income is another. It will not bring in enough revenue to give anybody a noticeable reduction in his taxes, but it will discourage the production of livestock, and no doubt other food substances. It

will increase the shortages just as the Tax Act of 1969 increased the shortage of fuel and energy resources. At the same time, the rank-and-file taxpayer will not get any benefit. It is a wrong theory.

We are very much indebted to the distinguished Senator from Oklahoma for calling the matter to the attention of the Senate today as he has. I apologize for taking up so much of his time, and I do appreciate the Senator's yielding to me.

Mr. BARTLETT. I thank my good friend and colleague from the State of Nebraska, whose views are well taken and who has made a contribution to this subject.

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

Mr. BARTLETT. I yield.

Mr. JOHNSTON. Mr. President, I want to congratulate the Senator from Oklahoma for his excellent dissertation on the very bad effect of the proposed tax law. We know that this is not just a question of what these laws would do if enacted, but also a question of what these proposals are doing today by virtue of the retroactive effect that Secretary Shultz advocated when he proposed the new section for the IRS Code.

I criticize the proposal for two reasons: First of all, it is not fair because the tax laws explicitly permit the deduction of tangible costs of drilling an oil well against other nonrelated income. Second, it discourages, rather than encourages, the drilling of oil.

If one has other oil income, he can deduct the intangible costs of drilling an oil well. If one is not rich, but is an ordinary person who wants to invest $500 or $1,000 in a wildcat oil well, he cannot deduct it. It will be the fat cats who have plenty of oil income who can continue to enjoy the benefit of these deductions. Those individuals who do not have other oil income will not be able to do so.

The problem of equity is one with which the Congress has wrestled for years, always trying to make the tax equitable. And that is a serious consideration. However, more serious is the fact that this proposal tends to discourage the drilling of wildcat wells at a time when our Nation has a severe energy crisis.

Seventy-five percent of the oil wells drilled in the lower 48—that is the United States exclusive of Alaska and Hawaii—are drilled by independents and not by the big companies. Most of these are wildcat wells and wildcatting is a very risky business. Considerably less than one out of five wildcat or exploratory wells are successful. Approximately 83 percent of all exploratory wells result in dry holes. Frequently these "long post holes" can cost $500,000 to $1,000,000. This is most assuredly a high risk business.

What does the independent do when he wants to drill an oil well—keeping in mind that this constitutes 75 percent of the oil wells drilled in this country? First, he must locate and obtain the rights to a geologically feasible prospect. Then he must contact people who have a little extra money, people usually in a higher tax bracket—such as our friends the doctors who seem to have lots of extra money. He will ask, "Will you invest with me and put up $1,000 for this purpose? If we are not successful on the wildcat, you can deduct the entire cost of it on your income tax this year. If we do hit, you can deduct the intangible costs and you will have a break in terms of depletion allowance."

That is the way that most wells are drilled by independents in the lower 48. It is done because people are willing to put up risk capital in a very risky business.

The President has proposed that we disallow the intangible drilling cost deduction as now applied and compounded this error by making it retroactive to April 30.

As a practical matter, the result of this proposal is a diminution of the attractiveness of investing in drilling ventures. The independent is now forced to approach his wealthy doctor friends and say, "I have a rich prospect. Let me have x dollars for this purpose." The doctor will ask, "Can I deduct that from my other income on my tax return if we hit?" The oilman must tell him, "I do not think so, at least if the present proposed tax legislation passes."

Mr. President, even if we defeat the proposed legislation, the retroactive aspect of this proposal will nonetheless kill oil drilling in the lower 48 while are considering the matter.

Mr. President, I want to join in the strongest way possible with my distinguished friend, the distinguished Senator from Oklahoma in urging not only that Congress defeat this ill-conceived measure, but also that Congress see that the retroactive provisions of the measure which make it retroactive to April 30, are deleted and deleted now.

If it should be decided by the Congress that the original proposal has merit, the Congress can pass it, but not retroactively; because even suggesting that it be made retroactive does kill oil drilling in north Louisiana, where I live, and also in south Louisiana, where the business is very big. I imagine this is also true in the great State of Oklahoma represented by my friend, the Senator from Oklahoma.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired. Under the previous order, the Senator from Louisiana (Mr. JOHNSTON) is now recognized for not to exceed 15 minutes.

Mr. JOHNSTON. Mr. President, I thank the Chair. Now that I have stolen all the time of the Senator from Oklahoma I will yield him such time as he wants of my time.

Mr. BARTLETT. Mr. President, I thank my good friend, the Senator from Louisiana, for his very astute remarks spoken at a time in this country when our energy sources are not sufficient and at a time when we are not facing up to the many problems that exist today.

I believe the impression given by the administration's proposed action would be that we do not have any real concern about our sources of enegry, that perhaps we have sufficient sources.

I refer to an article in the newspaper this morning and last night about the nation of Libya cutting off its suppies of production for 24 hours and three other nations joining for 1 hour to show us that they do not like our foreign relations with respect to Israel.

So we face not only the question of bankruptcy by virtue of buying so much foreign oil, but we also face the problem of severe blows to our economy because of the negative balance of payments. I would point out that we also face the problem of blackmail by nations which could take advantage of our inadequate supply.

The proposal of the administration, as the Senator from Louisiana so very ably stated, is not timely.

Mr. President, I have some additional statements that I would like to make.

Mr. GRIFFIN. Mr. President, would the Senator yield?

The PRESIDING OFFICER. The Senator from Louisiana has the time.

Mr. JOHNSTON. Mr. President, I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, is time allotted to me under a special order this morning?

The PRESIDING OFFICER. The Senator is correct. The Senator from Michigan has 15 minutes under a special order.

Mr. GRIFFIN. Mr. President, if it is agreeable to the other Senators, I ask unanimous consent that the Senator from Oklahoma have some additional time, if he desires, out of my time.

Mr. BARTLETT. Mr. President, I thank the Senator from Michigan. However, I think there will be ample time since other Senators have special orders. I appreciate the offer of the Senator from Michigan.

I would like to point out that the action of the Treasury Department would tend to reduce competition, as the Senator from Louisiana has said, from among that part of the oil and gas industry that is generally referred to as the independents, the small businessmen, because they are the ones who principally supply the funds from outside of the industry for the purpose of financing drilling ventures.

It is reported and it is generally agreed that 75 percent of the oil funds in this country are spent by the independents. The wells are subsequently purchased by major oil interests.

So the competition would be reduced by this proposal. It would also tend to reduce the number of small businessmen and the independents.

The retroactive feature, as the Senator from Louisiana has so very ably stated, has already discouraged some willing funds from continuing their drilling activities. Unless this feature is removed immediately, it will eliminate the drilling of other wells.

It is interesting that the amount of capital invested in the oil and gas industry in recent years has come, most of it, from funds other than those generated by the industry itself—other than profit.

The change from 1961 to 1971 is an increase from 13 percent of total funds coming from outside to 29 percent. So this particular suggestion or proposal if

allowed by the Treasury Department, would increase very markedly the moneys available for exploration.

The definition, for tax purposes, of an exploratory well would deal quite a blow to States that have mature oil developments such as the State of Louisiana, the State of Oklahoma, or the State of Texas, because it provides that an exploratory well must be located at least 2 miles in all directions from any well which is producing or has produced in the past. Oklahoma has a surface area of 69,000 square miles and we have had 212,000 producers. Obviously, there are relatively few sites in Oklahoma where a test can be located so as to meet the administration guidelines for the Exploratory Drilling Investment Credit. If those wells were evenly distributed, which of course they are not, it would take only some 17,000 producing wells rather than the 212,000 to cover the whole State.

This clearly shows that there would be immense areas of the State that would no longer enjoy the same tax advantages that are now available to the entire industry and to outside sources of revenue.

Also, the definition that they provide does not make sense because so much of the drilling today is deeper, and the fact that a well did produce at one time at a shallow depth in no way has any relationship to whether or not there will be production at a deeper and more expensive level. So this guideline is very unfair, and particularly unfair to those, again, who are in the independent sector of the oil and gas industry, because they are the ones who are more apt than the others to probe and drill around in the older areas, the shallower areas, perhaps going deeper, perhaps trying for secondary recovery, perhaps attempting to recover more oil from areas which have already been depleted.

Mr. President, I yield the remaining time of the Senator from Louisiana back to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I again congratulate the distinguished Senator from Oklahoma. I would like to add just one additional thought, and try to emphasize it as much as I can. I point out that my friends who are independent oil operators in the State of Louisiana have informed me that so long as this measure is under consideration, they are out of business; that there will be no more independent wells financed by independent money so long as the Treasury Department proposal is under consideration by Congress because the thing business hates worst is uncertainty. Indeed, anyone harboring uncertainty about what the potential tax treatment of his investment is simply not going to make an investment, and is not going to explore for oil and gas.

So, in the strongest way possible, I would urge the Treasury Department to withdraw the retroactive provision of this measure, and let it be considered by Congress in due course without any consideration of it as a retroactive measure.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma (Mr. BELLMON) is recognized for not to exceed 15 minutes.

Mr. BELLMON. Mr. President, I wish to commend my distinguished colleague from Oklahoma for the leadership he is displaying today in calling the attention of the Senate and the country to the dangers inherent in the recent recommendations of the Secretary of the Treasury.

It may not be well known by the Members of the Senate, but Senator BARTLETT is one of the most respected and knowledgeable leaders in the petroleum industry from my State. He is highly trained in petroleum science. He has had the advantage of a lifetime of active participation in the oil and gas industry. He is a highly respected former Governor of the State of Oklahoma, and while in that capacity, he served for a time as chairman of the Interstate Oil Compact Commission. I doubt that the Senate has ever had a more knowledgeable or better informed Member on energy matters, and I again congratulate and commend him for the leadership he has taken in attempting to show the Senate this morning the danger in the present situation.

Mr. President, last weekend while in my Oklahoma City Office I was visited by a constituent who had a problem which dramatically demonstrates the extent of the damage being done in this Nation's critically short energy supply by the so-called tax reform proposals made by Secretary Shultz.

My visitor was a former employee of the Chase Manhattan Bank. He had given up his position there and came to Oklahoma to join with a small independent oil and gas exploration firm in an attempt to develop a natural gas field. The group had taken an oil and gas lease on several thousand acres in an area which had been thoroughly drilled for oil and generally abandoned as being only marginally productive and economically unattractive. Since natural gas prices have been held at uneconomic low levels, previous exploration activities had disregarded possible gas producing zones.

This group had hoped to come into that old field and produce gas commercially. The group set up a drilling fund to raise capital needed to drill and complete wells for natural gas production. Shares in the fund were being offered to out-of-State investors with high incomes from sources unrelated to oil and gas production.

With the announcement of Secretary Shultz' proposals, sales of shares in the drilling fund came to a screeching halt. Two provisions in the Secretary's proposals have caused investors to turn away from drilling funds—first is the provision that present deductions relating to intangible drilling and development costs be limited to professional oil operators. This is the point my colleague from Louisiana was making just a moment ago.

And second, the proposed change in the rules applies as of May 1, 1973, even though congressional action on the Secretary's proposals is months—perhaps years away. In fact, it is my opinion that these two elements of his recommendations are headed for the legislative scrap heap where they belong.

I told my constituent that he should go back to his potential investors and tell them that the recommendations of the Secretary of the Treasury literally had no chance of passage, and that he should therefore not stop his drilling fund share sales, or stop his efforts to produce the gas which this Nation desperately needs.

Mr. President, here is what these proposals would do: First, they would largely end exploration for and development of new oil and gas fields in the mid-continent area.

The reason is that the mid-continent area is so picked over that professionals including the major oil companies have largely withdrawn from the area and are devoting their talents and capital to offshore and foreign operations. This means that most of the new discoveries in the mid-continent area are made by independents using capital raised from investors whose incomes come from outside the petroleum industry. The drilling fund is the most common device for raising the capital which these independent operators must have.

Mr. President, if we dry up this source of oil and gas exploration funds we will bring exploratory efforts in the mid-continent area to a halt because the professionals are engaged elsewhere and the amateurs simply do not have the capital available to drill in these economically hazardous areas.

The problem is made even more acute by the provisions in the Secretary's recommendations that any transaction or commitment entered into after May 1, 1973, will be governed by the provisions which he has proposed. If the Secretary had intended to stop oil and gas exploration in its tracks, he could not have thought of a more devilishly effective means of accomplishing his ends. Why would any sane high-income taxpayer currently invest in a drilling fund when he knows that the present rules may be later changed to take away from him any economic advantage that comes from success in finding a producing oil and gas field?

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum which outlines the detrimental aspects of the administration's tax proposal.

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

MEMORANDUM, ADMINISTRATION TAX PROPOSALS

Secretary Schultz submitted his tax reform proposals to the House Ways and Means Committee in a 175 page book on April 30, 1973. Those proposals most directly related to the oil and gas industry and the probable effects thereof are summarized herein:

1. A useful idea is presented in the "Exploratory Drilling Investment Credit" (EDIC). Exploratory drilling investment is so defined as to include the total intangible drilling and development costs incurred in connection with domestic exploration, including geological and geophysical cost incurred in the taxable year up to $50,000 multiplied by the number of domestic ex-

ploratory tests actually drilled. An investment credit of 7% may be taken for unsuccessful exploratory holes and an additional 5%, totalling 12% credit is allowed for successful exploratory tests. Unfortunately, an "exploratory test" must be located at least two miles in all directions from any well which is producing or has produced in the past. Oklahoma has a surface area of 69,000 square miles. Nearly 300,000 tests (including 212,000 producers) have been drilled in the state. Obviously there are relatively few sites where a test can be located so as to meet the "exploratory" definition provided in the Schultz proposal. The American Petroleum Institute and others have previously developed definitions for exploratory wells which should be considered.

2. Another interesting suggestion is the "Limitation on Artificial Accounting Losses" (LAL). This provides intangible costs and other losses can be deducted only the extent offset by income to the investor from oil and gas sales. Dry holes would be deductible regardless of the LAL limitation. This provision would seriously reduce the participation of non-oil industry people in funding oil and gas exploration. In the continental United States between $500 million and $1 billion from non-industry sources would have been expended in calendar year 1973. It can be expected that these investments will virtually disappear. Obviously exploration will suffer greatly.

Another unfortunate effect of this provision would be abandonment of exploratory wells which normally would be completed as relatively small producers. An operator drilling an exploratory test decides at total depth whether or not the possible oil and gas showings encountered justify expending completion costs, and if so, the completion attempt is usually made. Monies spent on the test to reach the objective depth are already expended, thus they are not considered in the completion cost estimate. The changed situation, however, would require that the operator convince himself that the reserves to be encountered would pay out completion costs plus the dollar amount of expected tax savings resulting from abandonment of the test as a dry hole. Assuming 50% tax rate, since cost of completion average about 50% of cost incurred to that point, the exploratory test would have to justify twice the investment to enable completion as has been the case.

3. The Schultz proposal calls for effective date to be retroactive to April 30, 1973, regardless of date of enactment of the proposal. Were the proposed effective date to be amended to date of passage, activities during 1973 and to passage date would continue at an accelerating pace. With the April 30, 1973 effective date, however, investors will not put up their funds in face of such retroactive application and exploration will be severely curtailed, beginning immediately, thus defeating the purpose of the act, i.e., to stimulate exploration and development.

In summary, it appears that the proposal offers substantial benefits to a relatively small number of offshore operators but that inland exploration, conducted by several thousand individuals and companies, will be severely curtailed.

Mr. BELLMON. The Secretary has demonstrated abysmal ignorance of the way oil and gas developments are made on shore in this country in these times. His lack of knowledge in this field goes back many years to the days of the Areeda report. At that time, the assumption seemed to be that this Nation no longer needed a strong, healthy domestic oil and gas industry because there was available abundant low-cost oil and gas from the Middle East. The claim was made that consumers could save some $5 billion a year if the domestic oil and gas industry were dismantled and this Nation increased the import of crude oil and liquefied natural gas it needed. Facts have never supported this assertion. In fact, the exact opposite is currently true.

The fallacy of the Areeda Commission's conclusions—and, by the way, Secretary Shultz was one of the principal members of that Commission—have been dramatically demonstrated in the years since that report was issued. Last winter, this Nation suffered through a series of critical and chronic severe energy deficiencies. At the present time many areas of our economy are deeply concerned that the supply of liquefied petroleum gas, diesel fuel, gasoline, jet fuel, and natural gas will be inadequate to supply the needs of food producers, electrical power generating plants, the transportation industry, and other vital segments of our economy. To state the problem in its simplest, starkest, but totally realistic form, if we have no fuel, soon we will have no food.

Efforts are being made to allocate our scarce energy supplies to keep the Nation from chaos brought on by the lack of essential services which depend upon dependable supplies of energy.

Also, at the current time, the cheapest source of environmentally desirable crude oil and natural gas is right here in the United States.

I want to emphasize that point and also that the cheapest source of crude oil and natural gas today is right here in the United States. Especially, the sweet low-sulfur crude on which most of our refineries depend.

Currently the domestic oil and gas industry is the consumers best friend.

Areeda was wrong, but his ghost lives on in the person of Secretary Shultz and in the form of the April 30 proposals for tax change from the Department of the Treasury.

In this morning's Washington Post, a story appeared stating that four of the principal oil-producing nations of the Arab world have halted the flow of oil to the West as a symbolic protest against this Nation's foreign policy.

Senator BARTLETT referred to this article earlier and I ask unanimous consent to have it printed in the RECORD.

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

ARABS HALT OIL BRIEFLY IN PROTEST

BEIRUT, May 15.—Four Arab countries staging a symbolic protest against Israel's continued existence as a nation, today temporarily halted the flow of oil to the West.

The demonstration, in response to an appeal issued following a Pan-Arab Trade Union Conference in Cairo earlier this month, supposedly was timed to coincide with Israel's 25th anniversary. The actual anniversary was May 7.

The oil stoppage had special signifiance in view of world pre-occupation with the energy crisis. Though the protest was meant to last one hour, Libya went further and shut its pumps for 24 hours. The others taking part were Iraq, Kuwait and Algeria.

There was no indication that Saudi Arabia, the world's third largest oil producer after the United States and the Soviet Union, was observing the demonstration.

At a meeting of the Arab Defense Council earlier this year in Cairo, Iraq called for use of oil in the battle against Israel and indicated that it was willing to stop the flow of oil to the West completely if such a move was launched.

Kuwait officials also said recently that their country was ready to shut off the oil pipelines the moment the battle against Israel began.

Saudi Arabia has been against stopping the flow of oil as a political weapon. King Faisal was quoted three years ago as stating that a stop to pumping was "out of the question."

But a possible change in Saudi Arabian policy was seen in an interview given last month in the United States by the Saudi Arabian minister of oil and mineral resources, Sheik Ahmed Zaki Yamani.

The minister said then that Saudi Arabia might not increase oil production "unless there was a change in the political climate." This was interpreted to mean a change in the attitude of U.S. toward support for Israel.

Mr. BELLMON. Mr. President, this could be the first of many such instances since those nations have accumulated huge currency reserves and are no longer particularly interested in producing their declining petroleum resources at a rapid rate. This uncertainty of our foreign supply, plus the heavy drain that imported energy will make upon our already disastrous negative balance-of-payments position should cause the Secretary of the Treasury, the administration, and the Congress to take immediate and dramatic action to strengthen and energize the domestic energy industry in all its forms, coal, petroleum, nuclear, and geothermal, breeder reactor, and all the exotic energy areas.

In an effort to help in this endeavor, on March 12, 1973, I introduced S. 1162, entitled the National Energy Resources Development Act of 1973. This proposal includes nine steps that I feel could and should be taken immediately to place the emphasis upon the development of this Nation's abundant energy resources, so that this country could again become self-sufficient in meeting its energy needs.

I am appalled and amazed that Secretary Shultz has seen fit to lead the administration's attack on the energy problem in exactly the wrong direction.

I have joined other Members in a letter to him stressing the damaging effects of his proposals and I sincerely hope they will be quickly withdrawn.

Mr. President, Congress and the administration must immediately make a decision as to the direction this Nation will take in meeting its energy needs. If we wish to become dependent upon foreign sources for our energy and are willing to pay the price in further unfavorable balance-of-payments problems, and are willing to live with the uncertainty of supply, and with loss of control over this Nation's destiny, then the proposals of Secretary Shultz are clearly right on target.

If, on the other hand, we wish to develop the abundant natural energy resources that we have, and the Secretary of the Interior estimates that we have enough coal, uranium, gas, and oil, to last this Nation from 500 to 1,000 years, then these proposals of the Secretary of the Treasury must be looked upon as a retrograde movement.

Mr. President, I hold in my hand a table from a report published by the U.S. Geological Survey, showing what this Nation's oil and gas reserves are estimated to be. It shows that we have proved reserves of oil of 40 billion barrels and unproved reserves of 280 billion barrels. If we are going to go after this potential reserve of 280 billion barrels just in oil, we must have available the funds from outside the oil and gas industry to drill the exploration wells and bring them into production.

According to this table, on natural gas we have potential reserves of 1,200 trillion cubic feet. The same thing is true, if we want this gas, we are going to have to make available the capital it take to bring it into production.

Mr. President, the effect of the proposals of the Secretary of the Treasury to end the search for these desperately needed reserves means that the major oil companies are looking elsewhere and, without outside investors, the independents simply do not have the capital to do the job.

Mr. President, I believe that the Secretary's proposals must be rejected immediately to avoid further paralysis of our energy development efforts.

Let me again congratulate my colleague from Oklahoma for rendering a real service to the Senate and the Nation, and to stress once more my feeling that those who understand the problem must continue to lead the fight against the ignorance and the lack of understanding which seems to affect the U.S. Treasury Department and, to some extent, the entire administration.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement on S. 1162, the National Energy Resource Development Act of 1973.

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

S. 1162.—NATIONAL ENERGY RESOURCE DEVELOPMENT ACT OF 1973

PROVISIONS

I. Expands Joint Committee on Atomic Energy into Joint Committee on Energy.

II. Establishes the Office of Under Secretary of the Interior for Energy and Mineral Resources.

III. Establishes Production Payment and Work Performance Guidelines for Mineral Leases.

IV. Expands present lease offerings fivefold.

V. Establishes a Commisison on Energy Utilization and Logistics.

VI. Terminates FPC authority to regulate wellhead gas prices—new, immediately; old, over 3 years.

VII. Provides for 1% increase in depletion allowance for each 5% of increased domestic production up to 10% increase in depletion. Not subject to 50% taxable income provision.

VIII. Exempts oil companies from antitrust laws for purpose of conducting research.

IX. Authorizes the Secretary of Defense to purchase hydrocarbon products produced from coal or oil shale.

Mr. BELLMON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. HASKELL). Two minutes.

Mr. BELLMON. I yield my 2 minutes to the distinguished Senator from Wyoming (Mr. HANSEN).

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I ask unanimous consent that the distinguished Senator from Ohio (Mr. TAFT) and I may change sequences in our statements here, in order that he may be heard first.

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

Mr. TAFT. Mr. President, I thank the distinguished Senator from Wyoming for yielding and reversing the order.

I want to begin my remarks by commending the junior Senator from Oklahoma and the senior Senator from Oklahoma for their initiative in this matter. The fuel crisis is one of the most important problems facing the Nation.

In Ohio it is an immediate problem. Unfortunately, the only reasonable resolution of the problem I can think of is to urge the Secretary of the Treasury to reverse the recent notice he has given with respect to proposed tax investment changes. These changes which are to become effective on May 1 could prove to be most damaging.

If he fails to do so, the result will be to absolutely cut off the supply of outside capital for development of oil and gas wells in the State of Ohio and, for that matter, so far as I know, throughout the Nation.

Mr. President, many of us are already aware of and concerned with the energy shortage which has developed in recent months. It is difficult to pick up a newspaper these days without reading about the energy shortage and its effects. The Department of the Interior has just released an extensive report on energy supply which supports to a great extent industry pronouncements on the subject.

In Ohio, last fall, a freeze was imposed which prohibited new natural gas customers, even for residences. During the winter, Ohio industrial users of natural gas saw their gas supply quotas cut even below previously announced levels, and plant expansions have been curtailed. Scores of service stations have been closed or have shortened their hours.

In view of these conditions, Congress must seriously consider any and all proposals for legislation which might adversely affect the energy supply. An example of such a proposal is contained in the tax reform provisions announced on April 30 by Secretary Shultz.

One of the major features of those proposals involves alteration of the treatment of losses resulting from expenditures for "intangible drilling and development costs" in the oil and gas industry. The proposal has the avowed intent of restricting outside investment in the oil and gas industry.

The Treasury Department explanation of the proposal specifies that it is intended that the change is to affect all transactions entered into after April 30, 1973, notwithstanding the date upon which the legislation might be passed. While such retroactive treatment is not unusual in tax law, I believe that the chilling effect of the retroactive dating on the Nation's energy supply must have been overlooked in this case.

For example, in Ohio approximately 1,300 new wells have been drilled in each of the last 4 years. As the natural gas shortage has worsened, the producers have emphasized natural gas exploration in the area. This has resulted in a significant percentage increase in production of natural gas in the State. While this is a small amount when compared with the natural gas imported from other States, it is a vital margin in a time of shortage.

It is reliably estimated that 90 percent of the new drilling in Ohio is financed at least partially by investment from outside the industry itself. One of the major factors in such investment is the present tax treatment of expenditures for intangible drilling and development costs which is afforded the investor. This treatment has been recognized since the adoption of the first income tax statute and was codified in the 1954 Revenue Code, section 263(c).

Loss of the outside investment will obviously cripple the oil and gas industry in Ohio and elsewhere. And is an immediate problem. This is because the proposed retroactive date has put a cloud on 1973 investments and each potential investor must be informed of that cloud under applicable securities laws. No doubt this is similarly affecting other States which has oil and gas production.

The problem is that in the distribution of the information regarding these investments under our security laws, it is required that there be a notification of anything that might tend to react unfavorably upon the particular investment. This means that on investments that already have been prepared, one has to put a red herring sticker on the front advising—of any request by the Secretary of the Treasury as to the effective date of legislation that might be submitted to Congress. The effect, unfortunately, is simply to cut off completely this particular type of investment to the detriment of the public generally.

The only way to eliminate the sticker requirement is for the Secretary of the Treasury to reverse the position he has taken. Such notification, in my opinion, is highly speculative and misleading anyway, in view of the attitude of Congress that we have seen in the past on these issues. The only way it can be eliminated is for the Secretary of the Treasury to pull back on the requirement.

The merits of the proposals will obviously be argued long and hard. But none of us is ready to consider a decision on the merits at this time. We do not even know if it would clear the Ways and Means Committee of the House of Representatives. It seems unlikely, in view of past decisions of this kind, that it would. This is why I feel that the proposal concerning the retroactive effective date must be reconsidered immediately. If we later reject or modify the proposals, there is no assurance that we will be able to go back and recreate the investment which has been held back because of the retroactive date suggestion. That investment will in all likelihood be lost—with the resultant loss in energy which would have been developed with the investment, and loss of any independent companies put out of business in the interim.

Incentive tax features for investments such as those involved in this question have been in effect for decades. During this period we did not face the energy supply problems which we face today. Surely, we should not allow the retroactive date proposal to further adversely affect the energy situation without congressional consideration of the relative priorities involved. All of us should call on the Treasury Department to make an announcement revoking its position on the proposal concerning the retroactive effect of any changes which are adopted. This seems to be the only course to correct a very undesirable situation.

Mr. HANSEN. Mr. President, I compliment the distinguished Senator from Ohio upon the statement he has just made. He understands far better than most of us the ramifications of the issue we are considering and the importance of taking the steps that must be taken if we are to get a resolution of this crisis as quickly as we can. It will not be easy, but certainly what he has said underscores our concern about the action that I think must be taken if we want to anticipate with reasonable assurance that we will be able to get ourselves out of the jam in which we find ourselves.

Also, I commend the distinguished Senator from Oklahoma (Mr. BARTLETT) for his perception and understanding of the energy problem which the Nation is now experiencing, and for his most appropriate remarks.

I fully agree with the able Senator from Oklahoma, who has had extensive experience as an independent operator in the oil and gas business and who knows whereof he speaks.

Mr. President, President Nixon in his recent energy message to Congress recommended that the price of newly discovered natural gas be decontrolled and that the Congress extend the investment tax credit to exploratory drilling for oil and gas. Secretary of the Treasury George Shultz, included that recommendation in his recent proposal for tax change to the Ways and Means Committee of the other body. He told the committee that the exploratory drilling credit at 1973 levels would amount to about $50 million a year.

But what the Lord giveth, He also taketh away, and what Mr. Shultz did not publicize was another provision buried in another part of the tax change proposals that would eliminate the application of intangible drilling expenses to nonrelated income and thereby take away one of the most important sources of financing from an independent producer. It could also wipe out the drilling fund business—some 75 of them—which has become an important source of exploratory financing to independents and several majors as well.

While Mr. Shultz was helping the industry by taking away the source of somewhere between one and one-and-a-half billion dollars a year for the $50 million the President had offered, his deputy, William Simon, who is also chairman of the President's Oil Policy Committee, was making a speech to the Financial Analysts Federation of Washington. He told that group that U.S. energy industries will need $500 billion in the next 15 years to meet soaring energy demands. Of that $500 billion, Simon said, $150 billion would be needed for exploration and production of crude oil and natural gas and another $30 billion for 58 new refineries. He said the President's recent energy message is a blueprint for action that must and will be taken. However, he did not mention what his boss, George Shultz, was telling the Ways and Means Committee.

The Senator from Texas (Mr. TOWER) and I are meeting with Mr. Shultz this afternoon in an effort to point out the absolute absurdity of such a proposal, especially at this time. It is like throwing an anvil to a drowning man.

And while some U.S. Senators and Treasury Secretaries talk about eliminating what few incentives the industry now has to explore for new reserves, Japanese groups with government financing are making package deal offers for oil in the Middle East and trying those deals down with hard cash on the barrelhead or long-term, low-interest loans.

They have $20 billion in monetary reserves accumulated from a trade imbalance with the United States, and they are using it to outbid U.S. companies.

Over the past year with increasing frequency we have seen symptoms of the energy crisis beginning to develop. Schools have been closed. Plants have been closed, resulting in unemployment. Grains untreated for lack of fuel have spoiled. Inland water transportation in the Midwest was seriously curtailed. Even in the East, it was necessary for the Government to order release of bonded jet fuel to keep some domestic airline flights going. Many independent gasoline stations have closed. Other stations will be short of fuel. Commuters and vacationers will experience spot shortages of gasoline this summer. Blackouts and brownouts may also recur this summer.

This coming winter more natural gas will be curtailed. The FPC estimates that winter 1973–74 curtailments will equal or exceed one trillion cubic feet or about 4 percent of our annual consumption. Many gas users will be trying to switch to oil to fill the natural gas gap. There will be shortages of oil and more homes, offices, factories, stores, schools and hospitals will suffer the squeeze of a national shortage of heating fuels.

These are the symptoms that the man in the street will either be experiencing himself or learning about through the media.

Behind these symptoms lie causes. The statistics paint the picture. I will not quote them. Senators have heard them before.

In 1966, over 80 percent of new Permian Basin gas was sold to interstate pipelines; by the end of the first 6 months of 1970 the proportion of new gas being committed to interstate as opposed to intrastate markets had been reversed. In the first 6 months of 1970, 90 percent of new Permian Basin gas was being sold to intrastate consumers while less than 10 percent was connected to interstate pipelines. Interestingly enough, the most dramatic change in the pattern of gas commitment took place in 1968 following a Supreme Court decision affirming the FPC's Permian Basin area rate decision.

Up until recent FPC pricing changes, it was actually costing more to find and produce gas than its return on investment.

Due to environmentalist litigation and a footdragging Federal leasing program the industry has had inadequate access to the Outer Continental Shelf to search for oil and has been unable to transport Alaskan oil to the lower forty-eight.

We have been forced to turn increasingly to foreign oil to fill the domestic production gap. If this trend continues, the National Petroleum Council estimates that our oil imports will increase from a current rate of some six million barrels a day to about 19 million barrels a day in 1985. That is to say that our total annual oil imports will increase from about 30 percent of domestic usage now to over 60 percent in 1985.

If this comes to pass, our balance of trade deficit for energy fuels alone in that year could reach $30 billion. Furthermore, the Arab countries fully understand the political leverage which goes with being the major world supplier of energy.

Why then has domestic production of oil and gas failed to keep pace with growing demands? The decline in our domestic oil and gas exploration and development has resulted from poor economics, not poor geology. From the scientific side, I need only cite the conclusion of the late Dr. William Pecora, Under Secretary of the Interior and an internationally honored earth scientist. In a speech to the conference board in New York, in April 1972, Dr. Pecora warned that steps must be taken to assure the consumer that adequate domestic oil and gas reserves will be available. Dr. Pecora said in that speech that the potential oil and gas resources remaining to be found and developed would meet our 1971 needs for these two fuels almost 100 times over.

On May 10 the Wall Street Journal in its lead editorial said:

> No one really knows how much a given increase in price will add to domestic reserves. Administration specialists are willing to guess, however, that doubling the price will increase the domestic producible supply of oil by 50%. Gas reserves would increase as much and probably more.

Besides that, there is no better way to encourage research, development, and technology in other energy fields than to make the possibility of a profit a reasonable reality. Coal gasification and shale oil recovery are classic examples.

Long before we have pumped our last barrel of oil, America can become relatively self-sufficient energywise if we get on with the job of developing our total energy resources.

Environmental restrictions, Federal, State, and local must be relaxed or stretched out to relieve the crunch.

Restrictions on the use of high sulfur coal and residual oil and the use of sour crude in some of the larger coastal refineries has had a chain reaction in aggravating an already critical fuel situation.

Federal internal combustion engine emission standards have increased the use of crude oil by more than 300,000 barrels per day and if the stricter standards are met as now called for by law, the increase will be closer to 2 million barrels per day—the ultimate capacity of the Alaska pipeline if the environmentalists ever allow it be built.

The Federal Government talks from one side of its mouth about conserving scarce fuels and out of the other of increasing their use through strict and often questionable environmental standards. We all believe in clean air and water but, if the environmentalists have their way, we will be in no shape to clean up anything. It is hard to accomplish much working in the dark when you are cold.

Mr. President, I would like to observe that none of us here disagrees with the goals and objectives of the environmentalists. All of us want these things. The question facing America today is: Are we willing to take the steps necessary at this time in order to make certain that the increasingly expensive search for oil and gas can continue, that we stretch out the supply of those sources of energy we now have, and that we use those in abundant supply—and coal is one—until we get the technology perfected to go to cleaner fuels?

I think it is a matter of time before we have a viable coal gasification process worked out. When that comes about there is no reason why gas made from coal cannot help fill the shortage that now exists with respect to natural gas supplies.

For those concerned about the price, let me add a short note on that score. At the present time LNG being imported to this country from Algeria, and perhaps other points in the Mideast, it is costing $1.25 to $1.50 per 1,000 cubic feet delivered f.o.b. New York harbor. It is not a question of whether we will be paying more for gas in the future. It is a question as to whether we will take those steps now to permit an increase in price to come about to give the encouragement necessary to our domestic industry to discover more new reserves, to discover those reserves that Dr. Pecora said may exceed or equal 100 times our use of energy in 1971, or if we are going to subject ourselves to a total reliance on foreign imports that will admittedly cost at least 3 to 4 times as much as they are now costing, according to the edicts of the Federal Power Commission.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. HANSEN. I note in today's Washington Post that officials of the Oil Heat Association of Maryland have asked Gov. Marvin Mandel to suspend air quality standards. The alternative, the industry officials told the Governor, is a shortage of home heating oil next winter.

They told the Governor that the clean air rules are requiring business and industries to use more home grade heating oil in order to meet air quality standards.

This approach will have to be taken by more States if we are to avoid a real crisis in fuel shortages for farm use this spring, summer, and fall and in another crisis in fuel for home heating and transportation next winter.

As desirable as secondary clean air standards may be, they can and must be relaxed until we can solve present and pending fuel supply and distribution problems.

A number of activities that engage the attention and the energies of the people of the United States can be put off, can be delayed, can be postponed temporarily; but there are a few that are not regulated by man; they are regulated by nature, and I submit, along with other such matters as fall in this category is the time to plant and the time to harvest. We cannot delay that. If we do, we do it at great risk to the future supplies of food in this country.

Mr. BARTLETT. Mr. President, at this point in the RECORD, at the request of the Senator from Alaska (Mr. STEVENS), I wish to state that the Senator from Alaska is opposed to the action taken by Secretary of the Treasury Shultz. The Senator from Alaska will later submit a statement for the RECORD to express his opposition.

Mr. President, I yield 2 minutes at this time to my good friend, the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. Mr. President, I thank the Senator from Oklahoma. First, I associate myself with the remarks heretofore made by the Senator from Louisiana, the Senator from Ohio, and the Senator from Wyoming, and the two Senators from Oklahoma as they concern themselves with the stated intention of the Secretary to make certain investment costs now applicable to the development of oil and gas retroactive with respect to oil and gas to April 30 of this year.

Mr. President, my remarks today are not directed at whether or not we should change the law with reference to such intangible deduction costs, but rather to whether or not the Secretary should put such a damper on the matter at this point by stating publicly that he intends to seek such retroactivity at this time.

It seems to me that it is extremely important, and the Secretary's statement does not take cognizance of the extreme hazards that exist in our country with reference to the further development of our natural resources of oil and gas.

Mr. President, I join with the many other Senators who have requested that the Secretary of the Treasury remove from the active record such intended action and leave it to the wisdom of the Congress to decide whether we will change the law.

I do not say that the law should not be changed. However, I do favor the continuance and expansion of exploration in this particular area of oil and gas.

I know that my friend, the distinguished Senator from Oklahoma is far more expert in this field. I join with him today in asking the Secretary to remove the cloud which he has now placed upon the investment approach taken by many people in this country, principally through the independents who do not have sufficient resources without the aid of outside investors.

I commend those Senators who have preceded me, particularly the Senator from Ohio for his remarks on this approach, a Senator from a State that is not in the West or Southwest.

Mr. BARTLETT. Mr. President, I commend the Senator for his remarks. I thank my colleague from Oklahoma and the Senators from Louisiana, Ohio, Nebraska, and Wyoming for their remarks this morning.

There is no question that we will be facing higher and higher prices. Perhaps there is a question as to how high the prices will go on our energy needs.

Mr. President, there is a big question on the ability of the country to provide the necessary supply. I think that the actions taken by Secretary Shultz will give the impression to the rest of the world that we are not concerned over this matter. I think that he is showing that he is out of step with the times and is turning his back on the matter. I think he is approaching the question in the same clumsy way in which he approached the matter of imports in 1969.

I think it is most important that we level with the people so that they will know that we are facing desperate times and are having difficulty in providing the needed energy to run this Nation.

I stated earlier that Libya and three other nations are restricting their production of oil, and that as a signal to this country that they do not like our attitude toward Israel, they have shown us the kind of blackmail that we can expect in the future.

I have been saying for some time that it will be forthcoming. It is now with us. It may very well be expressed in far more convincing terms in the future than it has been in the last day or so.

Mr. President, I thank my friend, the Senator from New York, for permitting me to speak at this time. I now yield back the remainder of my time to the Senator from Michigan and yield the floor to the Senator from New York.

DOMESTIC PETROLEUM EXPLORATION

Mr. DOLE. Mr. President, I wish to add an expression of my concern to that which is understandably apparent in this body today with regard to the tax proposals which would and are having the effect of decimating the ranks of domestic independent oil and gas producers. I can see no other result, for the big, integrated, international oil companies would be unaffected by these proposals. Representing a State long abandoned by these big companies, a State where the small independent explorer is the backbone of what is left of the oil and gas business, I am mystified that the administration would advance proposals to dry up the outside capital available to independent producers on a share-the-risk basis.

CONSISTENT POLICIES

There has been a great deal of lipservice given recently to the need to reverse our declining energy supply position. But we quit meeting the increased

demand for natural gas 4 years ago. We are dependent on foreign oil for a third of our need for liquid fuels. In fact, because we have peaked in gas production and are experiencing a rapid decline in our oil-producing capacity, the total increase in demand for these fuels is being met by foreign petroleum, primarily foreign oil.

If we are to reverse our deteriorating energy supply position, we are going to have to adopt policies that are consistent with the demonstrated needs. We want energy and adequate energy, but at every turn there seems to be a new roadblock tossed in the way of energy exploration and development. Some appear to delight in berating the "international oil companies," and if that is a satisfying exercise, fine. But virtually every attack or change I see put forward on public policy affecting petroleum development would wipe out the smallest first leaving the so-called giants untouched. And these particular administration proposals fall into the same category.

Last month the administration sent an energy message to the Congress. The initiatives put forth in it left room for some improvements and changes, but they were generally felt to be headed in the right direction—toward turning us around on energy development. At last it was felt, here is something that advocates encouragement, rather than economic reprisal against the people who have found most of the oil and gas in America—the thousands of venturesome independents who put their money on the line in the riskiest enterprise in America.

SURPRISE TRADEOFFS

The President's energy message even recommended improved tax incentives for domestic oil and gas exploration, in the form of small tax credits for exploration expenditures. There was not a hint in the message anywhere that Secretary Shultz would soon be forwarding the "tradeoffs" for this relatively small tax incentive that was tossed to domestic producers. But when the "tradeoffs" came, they were marked well in bold language, and the message was: If you are an independent oil producer who relies in part on outside risk capital to explore for oil and gas, your outside capital sources will be dried up.

REAL BUSINESS COSTS

Mr. President, the intangible drilling costs—IDC's—incurred by investors in oil and gas exploration and development are nonrecoverable in the strictest sense of the word. They include costs such as labor, drilling mud, cement put downhole, and site clearing. They are clearly business costs that ought to be expensed. They are the same as newsprint and labor, two large expense items in running a newspaper, which are and ought to be expensed. It was never the intent of Congress in providing for intangible writeoffs, that types of income or different sources of income should be subject to discrimination. But the treatment suggested by Secretary Shultz for intangible expenditures for outside investors in oil and gas exploration is tax discrimination.

What Mr. Shultz is saying is that if you are a dentist or a building contractor or a professional engineer, and you invest in a drilling venture you can expense your intangibles only against oil and gas income—not against your regular income. This is hair-splitting, a distinction between risk dollars depending on their source, and it does not make sense. Oil and gas exploration is a high-risk enterprise. If there are tax provisions which recognize this, they ought to apply to any willing risk dollar—and not just select risk dollars.

ENCOURAGE DOMESTIC EXPLORATION

We ought to be doing everything possible to attract all available dollars into petroleum exploration and development. We ought to be doing this particularly in the lower 48 States, onshore, because for the rest of the 1970's these 48 States which are the province of the small, independent wildcatters and explorers, offer the best hope of meeting increased needs for that essential fuel, natural gas. No other source, foreign or domestic, conventional or synthetic, offers an equivalent hope for substantially increasing natural gas supplies at comparable costs.

At this crucial time it is unrealistic, to say the very least, to put forth disturbing and discouraging tax proposals that would foreclose willing petroleum exploration investors from making a contribution to findings vitally needed new oil and gas supplies. I hope Secretary Shultz can be persuaded of this fact and will abandon this negative proposal which is at cross-purposes with the administration's declared intent to revive our domestic oil and gas exploration and development. If he does not, I trust the Congress will make the decision.

The Treasury Department acknowledges it is merely playing musical chairs with the taxpayers in these proposals. It said, accurately, that no new net revenues would be involved in these proposals. It is simply shifting the tax burden around and putting a big load on those who have dollars they are willing to risk in petroleum exploration.

TIME FOR DECISIONS

It is time the administration made a basic decision. Does it want to encourage renewed petroleum exploration, or does it merely want to shift tax dollars around and create uncertainty of a kind that will dry up half the petroleum exploration now taking place? I hope the decision will be made soon and in the proper direction. I believe the reality of our deteriorating energy situation will compel Mr. Shultz to withdraw this proposition. The sooner the air is cleared on this matter, the better—for all concerned.

RESPONSE TO SECRETARY SHULTZ' PROPOSALS FOR TAX CHANGE—AN INTRODUCTION

Mr. STEVENS. Mr. President, despite Secretary Shultz' good intentions of presenting a tax proposal to increase exploration of gas and oil in the United States to meet our growing energy needs, his plan does just the opposite.

By limiting tax deductions only to exploratory and drilling operations that have proved successful, the proposal defeats its purpose because the incentive for finding new oil is severely limited.

Many of the independent oil firms simply do not have the capital resources to survive a proposal like that offered by Secretary Shultz. Exploration and drilling is expensive and without deductions for exploration and drilling many independent firms could not embark on the search for America's energy for fear of bankruptcy.

Secretary Shultz' proposals do not only have an adverse impact on securing domestic sources of energy but they conversely put U.S. oil firms searching for oil abroad in a disadvantageous position.

THE NEED FOR NEW EXPLORATION

Petroleum exploratory and development drilling activity measured by number of wells has declined sharply since 1956: New-field wildcat wells decreased by 42 percent and development drilling by 52 percent. At the same time, there has been no decrease in expenditures for exploration and development. The reduced level of activity has been offset by increases in unit costs.

Needed additions to reserves of oil and gas have fallen severely below rising demand.

This has resulted in a steady decline in the ratio of reserves to consumption and an increased reliance on foreign oil—a reliance that has not only shocked our economy, but also has raised definite questions to this Nation's national security. Oil imports supplied 16 percent of domestic requirements in 1956, 29 percent in 1972 and are expected to account for 35 percent, more than one-third of our needs, this year.

The three major reasons why we have lagged behind in developing our energy resources at home have been in major part due to price restrictions and ever-increasing costs which have resulted in inadequate returns on new investment, delayed access to potentially productive offshore areas—especially in my home State of Alaska and, of course, real or in many cases imagined environmental concerns.

OIL PROFITS AND OIL TAXATION

It is obvious to most persons who have evaluated the oil industry to other business sectors that petroleum industry profits are not excessive by any objective standard. The rate of return on shareholders' equity has been less than the average for other manufacturing businesses in 7 of the last 10 years.

Conversely, the petroleum industry's tax burden is greater than the average for all U.S. corporations, even if sales and excise taxes are excluded. If sales and excise taxes are in fact included, the petroleum sector's taxes are over three times as high.

It has been estimated that the Federal tax changes adopted in 1969 increased the petroleum industry's tax burden by $518 million in 1970. The November 1970, crude oil price was only enough to offset this added tax burden. Price increases simply cannot stimulate more rapid source development if they just offset increased tax burdens.

However, the discouraging trends of recent years can be reversed through

adoption of a positive national energy policy—not through proposals like that of Secretary Shultz, which would just compound our already crippled effort for energy exploration.

INTANGIBLE DRILLING COSTS

Current deduction of intangible drilling costs is an incentive of vital importance to the economic health, to not only the petroleum industry, but on a larger scale to the United States.

Repeal or limitation of this deduction would cause the withdrawal of vast amounts of capital, which would delay the search for sorely needed oil and gas over the next several years.

The additional tax revenue expected from requiring IDC costs to be recovered through depreciation would be short lived. Additional tax revenue would be realized only until annual capitalized expenditures increased to the level of annual IDC expenditures. Thereafter, tax revenue would be unaffected by the change. But a reduction in the IDC expenditures would reduce discoveries and, in the long term, reduce profits and consequently tax revenues.

THE NEED TO REMAIN COMPETITIVE ABROAD

U.S. taxation of foreign source income of American petroleum companies must be evaluated in the light of the importance of their activities to the national interest of the United States. The United States will require large volumes of petroleum imports in the next 10 to 15 years—especially if the construction of the trans-Alaska pipeline continues to be delayed.

If privately owned U.S. companies were unable to continue to complete effectively in the international oil industry, this Nation would inevitably become largely dependent for its essential foreign supplies on companies owned in whole or in large part by foreign governments—especially unstable Middle Eastern governments. It is essential to realize here, that there would be no assurance of even-handed treatment of all countries in a supply crisis.

It should be noted that our balance-of-payments problem is a staggering one and that our imports of oil have contributed heavily to this deficit problem. But, the participation of U.S. companies in the world oil industry has definite positive implications for helping equalize our balance-of-payments problem. Indeed, in 1971, earnings by U.S. oil companies abroad exceeded new outlays by about $1.5 billion.

CONCLUSION

The Nation's energy needs can be met only if the supply of external capital is sharply stimulated. One such stimulas would be a marked increase in energy prices. However, price increases alone are not the answer.

Secretary Shultz' proposal is not a proposal that will stimulate exploration which would result in developing new sources of domestic energy—rather it would retard that important goal. We must give our oil industry the opportunity to go forward and find the oil we most urgently need—we must not place new handicaps on their most important and vital job.

MESSAGES FROM THE PRESIDENT

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

PROPOSED ESTABLISHMENT OF A NONPARTISAN COMMISSION ON FEDERAL ELECTION REFORM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HASKELL) laid before the Senate a message from the President of the United States, which, with the accompanying paper, was referred to the Committee on Rules and Administration. The message is as follows:

To the Congress of the United States:

A thorough-going reform of campaign practices in our Federal elections ranks high on our list of national priorities.

Many separate proposals for such reform are now pending before the Congress; in light of recent disclosures of widespread abuses during the Presidential campaign of 1972, many more will doubtless soon be made.

I believe that reform is essential, and urgent; I also believe it is vital that these proposed reforms be carefully considered not singly, but in their relation each to the others, and that this be done in a nonpartisan context.

Therefore, I recommend creation of a Non-partisan Commission on Federal Election Reform, to be established as quickly as possible and to be charged with examining our entire pattern of campaign practices and with recommending a comprehensive set of reforms. A proposed Joint Resolution to accomplish this accompanies this Message.

The Commission I propose would be composed of seventeen members. Eight of these would be chosen by and from the Congress, two Democrats and two Republicans from the Senate and two Democrats and two Republicans from the House of Representatives. It would also include the the national chairmen of the two principal political parties, and seven other, public members, to be selected by the President. No more than four of seven public members shall be members of the same political party. To further ensure its complete independence, the chairman and vice-chairman would be selected from among the members of the Commission, by the Commission itself.

The Commission's mandate would be as broad as the Federal election process itself. Nothing would be excluded. It would be authorized to examine the cost and financing of campaigns, including proposals for alternative methods of financing; laws on reporting and disclosure; the elimination from campaigns of violence and the threat of violence, and infringements on the right of privacy; curbing vote frauds; the length of political campaigns; the use and abuse of techniques such as television commercials, polling and computerized direct mail; methods of curbing the entire range of unfair or unsavory campaign practices; and anything else the Commission might consider desirable for a comprehensive reform of Federal elections and campaign practices.

It would be directed to make its final report to the Congress and the President no later than December 1, 1973. It would also be encouraged to make interim recommendations during the course of its work, in order to expedite their consideration by the Congress.

Because it bears an intimate and vital relationship to campaign reform, I recommend that the Commission also consider the question of whether the length of the terms of office of members of the Senate, of the House of Representatives or of the President should be changed.

If the Commission is to complete its work promptly, in order to allow the Congress time to consider and possibly to act on its recommendations prior to the 1974 Congressional campaigns, it is, of course, essential that the Commission begin its work soon and pursue it expeditiously. For my part, I shall do all that I can to facilitate this, and I urge the Congress to take swift and favorable action on this proposal.

RICHARD NIXON.

THE WHITE HOUSE, *May 16, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HASKELL) 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.)

The PRESIDING OFFICER. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

WATERGATE, OUR ECONOMY AND OUR NATIONAL INSTITUTIONS

Mr. JAVITS. Mr. President, I am deeply interested that almost contemporaneously with this statement of mine and without any concert whatever, the Senator from Arizona (Mr. GOLDWATER) addressed himself substantially to the same idea in a statement issued today.

This is the effect Watergate may be having on our Nation and on broader issues of vital concern to our Nation.

The fact that our political institutions are being tested with respect to Watergate does not mean that our political institutions are not basically strong and will not survive. In fact, perhaps our institutions may be even greatly improved by this catharsis. For example, the Congress may at long last, after some decades of second class citizenship, be ready to come into its own again as an equal partner in Government in matters of war and peace as in matters of domestic revenue, expenditures, and prices and wages, thereby giving to the United States an even greater stability.

In any case, and despite the testing of our political institutions, there is no evidence whatever justifying a vote of no confidence in our economic institutions which remain the strongest national aggregation of production and technology

on Earth. We cannot affect what foreigners may think of our Government or our money, but we certainly can affect what Americans think of both, and this is both our duty and our responsibility.

There is no reason for pressing the panic button on account of Watergate. Our institutions are capable of dealing with even such a national scandal, and they are indeed in the process of dealing with this scandal in a way probably unparalleled in its directness and comprehensiveness than is possible in any other country in the world. Americans have every reason to assert their confidence in the country's economy—which is actually flourishing notwithstanding many productivity, efficiency, and morale problems still to be solved.

Yet it does seem that we are facing a vote of no confidence by the world in the U.S. political and economic institutions. I am convinced that those who are speculating on adversity will live to regret it. But additional steps need to be taken. It is required that the United States take effective action to insulate Watergate from the rest of the operations of our Government by the speedy appointment of a special prosecutor with adequate and autonomous and independent power. That can be done as a matter of law.

Second, it is imperative that additional economic actions be taken with respect to the inflationary boom we are facing and my proposals in this regard follow.

THE MONEY AND INFLATIONARY CRISES

Mr. JAVITS. Mr. President, I speak today to the money and inflationary crises which we face in the country and in the world.

The precipitate rise in the price of gold on world markets coupled with the serious continuing decline in the New York stock market signals an international vote of no confidence as far as the U.S. dollar is concerned. The continuation and acceleration of such a tendency has the capacity for such damage to the economy and stability of the whole world that it needs to be addressed immediately, for it does not represent a question of imbalance which can be corrected by another devaluation, but simply an evidence of panic psychology about the state of public affairs in the United States.

Despite the testing of our political institutions, there is no evidence whatever justifying a vote of no confidence in our economic institutions which remain the strongest national aggregation of production and technology on earth. We cannot affect what foreigners may think of our Government or our money, but we certainly can affect what Americans think of both, and this is both our duty and our responsibility.

In this regard let me say that, compared with rates of inflation in other major industrial countries we are doing far better than they are though we must continue to do much better. I predict that the dollar will still turn out to be the strongest and most desired currency on earth—and not too long from now either. But there are measures which we need to take to implement our confidence and to buttress these findings. There are five principal areas where we must direct our attention now.

I. PHASE III

Phase III controls have proven themselves to be inadequate and we must return to a more rigorous program of wage and price controls.

In announcing phase III, the President declared that the Federal Government would "retain the power—and the responsibility—to step in and stop action that would be inconsistent with our anti-inflation goals." More recently, the administration has announced that it is assembling evidence on profit margins in the larger firms, so that rollbacks could be instituted where necessary. We are being told, in other words, that the administration packs a stick in the closet and intends to use it when conditions warrant.

I maintain the present conditions fully warrant the use of the "stick in the closet" directed towards future price increases. And yet the administration appears to be unwilling to use it even to disallow future price increases, let alone to roll previous ones back. And while rollbacks might entail serious technical problems, surely the administration must make good on its stick-in-the-closet pledge with regard to future price increases if phase II is to have any substance at all.

In extending the Economic Stabilization Act Congress again gave the President the authority to take such action and it was my reading the the congressional mood that firmer action on the price front was clearly desired by the majority of the Members of the Congress. It is my hope that the administration's recently promulgated prenotification requirements will lead to this course of action.

In my opinion, a sector-by-sector application of phase II type controls in those areas where price trends are clearly excessive is one way to restore equity to our industrial economy which in the period since phase II was promulgated has shown considerable voluntary wage restraint but much less price restraint.

This approach—which is similar to the approach taken in World War II and Korea—is really the only way to deal with prices which are rising at rates of 10 to 20 percent a year. It is the only way to clamp down on the "sky's the limit" philosophy of pricing, which has yielded record increases in profits and profit margins for many firms in many industries. In recommending action aimed at this rapid increase in profits, the role of corporate profits in providing the incentives for further expansion and in creating the creditworthiness to finance new facilities must be carefully weighed.

For comparison with the profit picture, wage settlements during phase III to date are close to 5.5 percent—that is, the voluntary guideline promulgated by the administration. Until recently, labor has shown a willingness to join in restraint; however there are ominous signs that this willingness will be eroded in the face of staggering price increases. This does not bode well for the economy or for labor peace in the year ahead.

II. TAX POLICY

It may be necessary to make some hard choices about tax policy, in order to dampen the excess demand which is at the root of many of the price increases. On May 8 I introduced a bill to give the President greater flexibility in setting the rate for the investment tax credit, and I hope that the President will consider seriously scaling down the present 7 percent credit to a lower number which would cool down the activity in new plant and investment spending now at a record 19.5 percent over last year.

This alone may not be enough. Clearly, continuation of a sizable full employment deficit at a time when the economy is moving into boom conditions is the worst of all possible fiscal policies. Our Nation should not tolerate such a policy, since it is a prescription for economic disaster leading to boom and bust cycles. Tax reform is of course vital and could add materially to our revenues, but to be effective it must come in time and that will not be easy. Also on the expenditure side Congress is seeking to get better control of the overall budget and expenditure pattern, but this, too is unlikely to come soon enough as to effect materially the fiscal year 1974 deficit. Accordingly, if the balance sheet of Government revenues and Government expenditures indicate the continuation of such a deficit, I feel that the administration and the Congress may have little choice but to bite the bullet and institute an increase in the corporate income tax or a personal income tax surcharge—hopefully excluding lower incomes—or some other tax device for moderating consumer demand. Responsible fiscal policy may well demand no less. In facing this possibility let us remember that substantial tax reductions which may have been unwise were effected in 1969 and 1971. I note that the West German Government, which also is facing severe inflationary pressures, has just initiated similar measures.

Recent official Government estimates indicate that the Federal Government will experience a sizable full employment deficit in the first half of 1973 even after it is adjusted downward some $6 billion for the taxes that were overwithheld. The projected deficit for the last half of 1973 is at a $1.2 billion full employment deficit level at an annual rate. These figures are unacceptable when the economy is expanding at a rate well in excess of 10 percent. Now, I am reliably informed that these rates of deficit are moderating, and that the last half of 1973 even may show a small full employment surplus because of spending restraint combined with increased revenue flows accruing to the Federal Government.

It is my hope that these statistical trends are accurate since they would argue against a tax increase. However, if this favorable trend is not borne out by subsequent estimates, our Nation will face no alternative to a tax increase. In considering alternatives, the American people should understand that there is no more regressive tax than a high rate

of inflation and that high rates of inflation do more to erode real income and purchasing power than a temporary income tax surcharge designed to stem inflation.

III. MONETARY POLICY

It should also be recognized that this is a particularly difficult time for the managers of monetary policy in the United States. The boom conditions of the economy dictate that a restrictive monetary policy be followed and the Federal Reserve Board indeed has been implementing such a policy. However, this restrictive policy must walk an exceedingly delicate tightrope to insure that money does not become so tight that the experience of 1969–70 is repeated. At that time, it will be recalled, a highly restrictive monetary policy directly led to spiralling unemployment, credit crunches, liquidity crises, enormously high interest rates, housing shortfalls and seriously depressed financial markets.

The principal problem facing our money managers is the unsustainably high rate of business borrowing from our Nation's banks. This is not to say that the present rate of consumer borrowing is not a problem. The high rate of business expenditures which is determined by this business borrowing is a key element in the boom economic conditions now facing the country which could get out of hand. This business borrowing must be dampened and dampened quickly and this is one reason why I have urged a lowering of the investment tax credit. If the business boom gets out of control perhaps a suspension of the tax credit would be called for. This suspension will reinforce the dampening effect of higher interest rates and whatever other money management tools the Government may choose to use.

If the rate of business borrowing from our Nation's banks indeed is dampened by increasing the cost of money through a mix of monetary and tax matters, this is the best insurance that ample bank funds will be available for the mortgage needs of individuals seeking to own a home, for small business and individual loans, and for the financial needs of our municipalities. In this connection the size of the Federal Government's deficit again comes into play since the size of the deficit determines the need of the Government to enter the financial markets in competition with other users of funds.

Since the credit crunches of 1965–66 and 1968–69, important steps have been taken to insure that bank funds will be available to the small borrower at acceptable rates. I refer to the recent Federal Reserve Board action toward the establishment of a dual rate interest system which seeks to insulate the interest rate on home mortgages, small business loans, et cetera, from increases in the prime rate. This policy is welcome since it should insure that the housing market does not bear the full brunt of higher interest rates as it has in the recent past. In this connection it is also worth noting that Ginny Mae and Fanny Mae have improved their techniques which will insure further that adequate funds continue to flow into the housing market.

While I am confident that the tools in hand will be adequate to dampen the present business boom while insuring that ample bank funds remain available for other critical sectors of our economy, the business community should also be reminded that the Federal Government does have the authority to take stronger action under the Credit Control Act of 1969. Then, too, in the early 1950's when our economy also faced inflationary problems, voluntary credit allocation schemes were implemented. It is my hope that such action will not prove to be necessary.

IV. GOLD SALES

I think the Treasury must seriously take up the possibility of earmarking a portion of its monetary gold supply for sale to licensed American industrial users. At present rates of growth, gold imports alone will contribute almost $600 million to our balance-of-payments deficit. Sales of our monetary gold stock in amounts sufficient to cover this deficit would have a considerable supply effect in the thin world gold market, and would also calm the speculative fever in gold substantially. The cost of such an action would be approximately 2 percent of our Treasury gold stock per year; the benefits to our balance of payments, and to enabling domestic users to absorb the disturbing surges in gold prices, would be positive.

In addition, such an action would signal to the world that the United States takes in earnest its views, which has been expressed in official quarters before, that gold must eventually be relegated to the status of an ordinary commodity rather than as a keystone of the international monetary system. This latter view need not be abandoned at once, but surely we must strive in the direction of reducing our reliance upon monetary gold. In my view, Treasury sales of gold to licensed domestic users would speed this movement in the right direction; a movement which to date has been too slow.

V. CONGRESSIONAL BUDGETARY PROCEDURES

Finally, I am convinced that Congress itself holds the key to a restoration of confidence in the workings of Federal spending policies, and I would urge that the current debate over congressional budget control not get sidetracked from the real issue, which is how to bring Congress to bear effectively and responsibly in matching our fiscal resources with the Nation's priorities. This is not to say that I am completely happy with all aspects of the plan devised by the Special Joint Committee. I believe some aspects of the proposal should be changed, but it is urgently important that we take prompt action. Congress must honestly concede that at the present time, the President clearly has superior decisionmaking power, a power which is backed up by a large professional staff in the Office of Management and Budget and by hundreds of analysts in other parts of the executive branch. But, as literally thousands of constituent letters attest, the American people prefer these decisions to be made by their elected representatives in Congress, not by one man in the White House or by anonymous planners in the various executive branch agencies.

The current fix Congress is in—unable to gain control of the spending process—is not so much the fault of the President grabbing too much power as the Congress stumbling along with too little. We owe it to the people who sent us here, as well as to our own sense of the proper functioning of Government, to waste no time in establishing an effective "budget bureau" capability in the Congress.

Mr. President, I yield the floor and thank my colleague from West Virginia very much for his customary graciousness.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE BASE CLOSINGS IN RHODE ISLAND

Mr. PASTORE. Mr. President, on April 17, by public announcement by the Defense Department with reference to base closings, we in Rhode Island received a staggering, stunning blow. In one stroke approximately 5,000 civilian jobs will be lost if this edict is carried out. It involves military personnel as well, all inclusive perhaps 21,000. The indirect repercussion of this move with reference to civilian jobs will come almost to the figure of 19,000. The loss of payroll to my State will be one quarter of a billion dollars a year. Add to this an already existing unemployment rate of 6.4 percent.

Mr. President, there is no question at all that by the winding down of the Vietnam conflict some changes had to be made. We realize that today we have fewer ships than we had perhaps several years ago, and perhaps fewer planes, and that an evolution is taking place with reference to the weaponry of our country, as is happening in the countries of our possible adversaries. But the serious question that confronts our people is, Why take so much out of Rhode Island? Out of all of the jobs that will be lost in this national plan, one-half will be lost in the State of Rhode Island.

Mr. President, when you realize that we have less than 1 percent of the entire population of the country, you can well realize how staggering this blow is to

our economy. I do not know if our State will ever be able to recover from it.

Mr. President, many arguments have been made by the Defense Department. They have tried to rationalize much of their action, but I daresay at no point have they been convincing.

Today an editorial appeared in the Providence newspaper. The Providence newspaper is a very conservative newspaper. It is an independent newspaper. The editorial staff is quite objective. They have written an editorial today, the title of which is "A Basis for Outrage." I ask unanimous consent that it be printed in the RECORD at this point in my remarks.

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

A BASIS FOR OUTRAGE

Rhode Island's senior U.S. senator, John O. Pastore, has denounced the closing of most of Rhode Island's naval installations as "a monstrous debacle of deception." While persons may disavow the senator's rhetoric as too strong, there is basis for outrage that yet has to be fully explored.

Consider the new Newport Bridge, the most expensive tax-supported installation ever undertaken in Rhode Island. Many millions of dollars in construction costs were added to this bridge because of what the Navy then insisted upon, and which was deemed for the good of Rhode Island. The bridge had to be built high enough to allow the passage beneath of any Navy ship that was on the drawing boards, or might be on the drawing board until the year 2000. The result was a bridge with one of the highest vertical clearances in the world—215 feet from mean high water—which can accommodate easily any of the nation's largest carriers, none of whose superstructures extends vertically beyond 200 feet. Soon, perhaps, the full and bitter irony of this will sink in with Rhode Islanders—that they pledged millions of dollars in tax funds to accommodate military vessels which probably never will pass underneath because bases on the opposite sides of the bridge are now considered virtually obsolete by the Department of Defense.

Perhaps Senator Pastore is outraged, too, over the Defense Department's explanation that the new carriers won't be coming to Rhode Island because the berths are not deep enough. It should be pointed out that back in the fall of 1954, the Navy indicated that the new *Polaris* submarines would be based at Newport. This meant deepening a berth at Newport from about 35 feet to about 50 feet in order to facilitate underwater repairs. The submarines never came, but the berth was dredged and prepared.

Question: If the Navy could so easily deepen a berth for a *Polaris* submarine back in the mid-1960s on the east side of the bay, what is so insurmountable about preparing a berth on either side for the newest aircraft carriers in the 1970s? Or did the mobilization of environmentalists, intensely interested in problems of depositing the dredgings, actually figure in the Defense Department's deliberations about which home ports on the East coast were thought more important than others with respect to modernization of naval forces?

The same question can be asked with respect to DOD's observations about the landing strips at Quonset. One runway could be lengthened inland with no great problems. Lengthening a crosswind strip would mean going into the bay, a fact which again raises an environmental issue.

The Defense Department can argue that for security reasons it cannot go into all the "whys" and "wherefores" of why the Navy changed its mind about Quonset, for instance, from being one of "the most favorable sites in the Northeast for a major naval air base" to a site now considered expendable.

Senator Pastore is justifiably outraged when so momentous a change is explained solely in terms of a dredging problem and an insufficiently long airstrip.

Mr. PASTORE. Mr. President, I want the record to show that at no time were we given—I repeat, at no time were we given—an opportunity to challenge the judgment of the Defense Department. As a matter of fact, during the Presidential campaign—and I say this without venom—advertisements appeared in the Rhode Island newspapers, one as late as November 2, 1972. They appeared in the Pawtucket Times. They said that if McGOVERN was elected and if McGOVERN's plan came about, Quonset Point, Newport, and Davisville would be closed down, but that if the President was reelected, none of that would be. That was the representation made to the people of Rhode Island, Mr. President, as late as November 2, 1972. I am convinced that at that time there was already a plan on the desk of the Secretary of the Navy to close down these bases.

All we are asking for is justice. We are asking that this matter be reviewed.

Mr. President, we are willing to accept our proportionate share of the cuts, but why should they be so drastic? Why should they involve so many people? I have received letters from people who have been working at our installations for 23 years. They are not yet 50 years old, and they are asking me, "What am I going to do now? I am not eligible for retirement payments. What am I going to do now?"

I say to this Government that spreads so much of our largess all around the world in a sense of compassion. "Is this the way to deal with human beings? Is this what we do to loyal American workers?"

One man said, "Yes; they offered me a job in another place, but that place happens to be in the Aleutians." Is that the way to deal with people? Is that a satisfactory transfer?

Mr. President, this is serious business. I do not know what we are going to be able to do in order to change it, but it strikes me that the Defense Department, and indeed even the President, ought to allow a review to see whether or not justice can be done to our installations.

We in Rhode Island claim to be the cradle of our American Navy. Newport traditionally has always been a base for U.S. ships. Quonset Point came into being just before World War II. The same reasons that made them select them then exist today.

They told us that the harbor at Quonset Point is not deep enough, and yet never once have they asked for money to deepen the harbor. There was a time when it was stated they intended to port the Polaris submarine at Newport, and for that reason they asked to deepen the harbor there. We struggled to get that money, and it passed, and we deepened the harbor, and yet the Polaris submarine did not come. We built a bridge across Narragansett Bay—that was mentioned in the editorial which I placed in the RECORD—and we had to go up 215 feet above mean high water in order to give clearance to aircraft carriers, and that cost our taxpayers a lot more money than we ordinarily would have had to spend to bridge Narragansett Bay.

After we spent all this money and after we cooperated with the Navy, what did they do? With one stroke of the pen, they closed it down. Eighty percent of our activities are going. One-half of what is happening to the Nation is happening to the State of Rhode Island.

Mr. President, I ask whether that is fair. Is that how to deal with the people? The people of Rhode Island voted for President Nixon. And they voted for Nixon because these representations were made. Naturally, since the President of the United States and his committee said, "You reelect me, and I will keep these facilities open," even the Democrats voted for him. I do not blame them. I would have done the same to protect my job. And that is what we are talking about here, jobs.

I hope that someone in authority will read what I have to say. I hope they will read this editorial. I hope that they will look into this matter. I hope they will review it. And I hope that justice will be done.

Mr. President, I thank the Senator from West Virginia for yielding me the time to make this statement.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. LONG, from the Committee on Finance:

Donald C. Alexander, of Ohio, to be Commissioner of Internal Revenue; and

Edward C. Schmults, of New York, to be General Counsel for the Department of the Treasury.

The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Jack B. Kubisch, of Michigan, a Foreign Service Officer of class one, to be an Assistant Secretary of State;

Marshall Wright, of Arkansas, a Foreign Service Officer of class 2, to be an Assistant Secretary of State;

Phillip V. Sanchez, of California, to be Ambassador Extraordinary and Plenipotentiary to Honduras;

Robert J. McCloskey, of Maryland, a Foreign Service Officer of class one, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Cyprus; and

John M. Porges, of New York, to be Executive Director of the Inter-American Development Bank.

The above nominations were reported with the recommendation they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Mr. FULBRIGHT. Mr. President, from the Committee on Foreign Relations, I also report favorably sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the

expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

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

Karl D. Ackerman, and sundry other officers, for promotion in the Foreign Service; and

Robert C. Amerson, of South Dakota, and sundry other officers, for promotion in the Foreign Service.

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. MOSS:

S. 1825. A bill to amend title XVIII of the Social Security Act to authorize the provision of intermediate care services under Medicare, and for other purposes; and

S. 1826. A bill to authorize an experimental program to provide for care for elderly individuals in their own homes. Referred to the Committee on Finance.

By Mr. CASE:

S. 1827. A bill to deauthorize U.S. Army Corps of Engineers projects if Congress has not appropriated funds to carry out the projects for a period of 8 years or more since authorization. Referred to the Committee on Public Works.

By Mr. ROBERT C. BYRD (for himself and Mr. WILLIAMS):

S. 1828. A bill to require the President to appoint, with the advice and consent of the Senate, the head of the Mining Enforcement and Safety Administration, Department of the Interior. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON (by request):

S. 1829. A bill to amend section 14 of the Natural Gas Act in order to direct the Federal Power Commission to make certain studies. Referred to the Committee on Commerce.

By Mr. RIBICOFF:

S. 1830. A bill to provide Federal leadership and grants to the States for developing and implementing State programs for youth camp safety standards. Referred to the Committee on Labor and Public Welfare.

By Mr. CURTIS (for himself and Mr. MCGOVERN):

S. 1831. A bill to amend title XIX of the Social Security Act to eliminate therefrom certain provisions relating to the provision of skilled nursing and intermediate care facility services under State plans approved under such title. Referred to the Committee on Finance.

By Mr. FONG:

S. 1832. A bill for the relief of Jonabel O. Resurreccion; and

S. 1833. A bill for the relief of Sergio Osmena Jr., his wife, Lourdes R. Osmena, and their son Tomas R. Osmena. Referred to the Committee on the Judiciary.

S. 1834. A bill to amend the National Housing Act to increase the maximum mortgage amounts insurable in the case of property located in Alaska, Guam, or Hawaii, and to amend section 5(c) of the Home Owners Loan Act of 1933 to authorize an increase in the principal amount of mortgages on properties in Alaska, Guam, and Hawaii to compensate for higher prevailing costs, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HARTKE (for himself, Mr. HUGHES, Mr. TALMADGE, Mr. RANDOLPH, Mr. CRANSTON, Mr. HANSEN, Mr. THURMOND, Mr. STAFFORD, and Mr. MCCLURE):

S. 1835. A bill to amend title 38, United States Code, to increase the maximum amount of Servicemen's Group Life Insurance to $20,000 to provide full-time coverage thereunder for certain members of the Reserves and National Guard, to authorize the conversion of such insurance to Veterans' Group Life Insurance, and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. FONG:

S. 1836. A bill to amend the Act entitled "An Act to incorporate the American Hospital of Paris", approved January 30, 1913 (37 Stat. 654). Referred to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself and Mr. Moss):

S. 1837. A bill to amend section 1903 of the Social Security Act to remove limits on payments for skilled nursing homes and intermediate care facilities. Referred to the Committee on Finance.

By Mr. HARTKE (for himself and Mr. BIBLE):

S. 1838. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 so as to extend to all individuals who have attained age 65 coverage under part A of Medicare, to extend (without payment of premium) coverage under Part B of Medicare to all individuals covered under part A of Medicare, too revise the Social Security and Medicare tax schedules, to provide an alternative tax rate for low-income individuals, and to provide for partial general revenue financing of the Social Security and Medicare programs. Referred to the Committee on Finance.

By Mr. MANSFIELD (for himself and Mr. AIKEN):

S.J. Res. 109. Joint resolution proposing an amendment to the Constitution of the United States relating to the term of office of President and Vice President of the United States. Referred to the Committee on the Judiciary.

By Mr. SCOTT of Pennsylvania (for himself, Mr. MANSFIELD, Mr. GRIFFIN, Mr. DOLE and Mr. COOK):

S.J. Res. 110. Joint resolution to establish a Non-partisan Commission on Federal election reform. Referred to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOSS:

S. 1825. A bill to amend title XVIII of the Social Security Act to authorize the provision of intermediate care services under Medicare, and for other purposes; and

S. 1826. A bill to authorize an experimental program to provide for care for elderly individuals in their own homes. Referred to the Committee on Finance.

Mr. MOSS. Mr. President, I introduce for appropriate reference a bill amending title 18 of the Social Security Act to provide expanded nursing home and home health benefits. The enactment of this proposal would provide this Nation for the first time with a comprehensive program for treatment of the infirm elderly.

Mr. President, nursing homes continue to occupy the spotlight of public attention with seemingly endless criticism and scandals surfacing in the public press about the operation of specific nursing homes or the administration of the present medicare and medicaid programs. Despite much progress in the past 10 years, nursing homes still have a negative image with the public. I suggest that the real scandals lie elsewhere: they are, first, that we hear so little of what good nursing homes are doing and second, there is no comprehensive system of long-term-care benefits.

With respect to the first problem, the Subcommittee on Long-Term Care of the Senate Committee on Aging made great effort, in its 1969–70 hearings, to accentuate the positive. The committee's report based on these and prior hearings as far back as 1963, is under preparation. The report applauds our finer facilities and holds them as models to be duplicated in the future.

With respect to the second problem, scholars in geriatrics and gerontology are agreed that the primary problem in the field of long-term care is that there is no overall system, in effect—that rather there is an isolated series of benefits.

The need for a national policy with regard to treatment of the infirm elderly was recognized as far back as 1959, when the Subcommittee on Aging and Problems of the Aged, the predecessor of the Senate Special Committee on Aging, issued its landmark report. Two years later the White House Conference on Aging also resolved that a broad spectrum of institutional and home health services was lacking and was necessary.

The story since that time is that some gains have been made in terms of medicare and medicaid programs enacted in 1965, but there is still no comprehensive system of benefits to meet the needs of older Americans.

HOW MANY OLDER AMERICANS NEED LONG-TERM CARE?

Ethel Shanas, a respected authority in the field, in her 1967 study, "The Needs of Older Americans in Five Countries," projected that about one-fifth of our 20 million older Americans needed some degree of protective service, ranging from personal care—help in dressing, bathing, eating, and just in getting through the day—to skilled nursing care on a continuous 24-hour nursing basis.

Of these 4 million older Americans, a little over a million are presently institutionalized. There are 900,000 in nursing homes and related facilities and 111,000 in mental institutions.

The remaining 3 million individuals are found in the community. These individuals are bedfast, housebound, or ambulate only with difficulty.

While these facts should be enough to document the increasing need for long-term care, two other factors should be added.

The first relates to the fact that more and more individuals are living longer and longer. Modern medicine has lengthened the lifespan. But while mortality has been set back, disability increases sharply with advanced age.

The second factor is the prohibitive cost of long-term care. The cost of nursing home care in the United States today averages something like $600 a month. An average retired couple receives less than $300 a month in social security benefits. Nursing home care is clearly out of their reach. The services of a home health nurse which must be purchased at an average rate of $3.50 an hour are also unavailable.

WHAT DO EXISTING PROGRAMS PROVIDE?

The explicit suggestion from the previous paragraphs is that millions of older

Americans are going without needed care and services. This contention is amplified by the paucity of programs in the field of long-term care.

The medicare program which now serves our 20 million senior citizens and about 3 million disabled, provides a benefit for individuals who have been in the hospital for 3 days in a row, or who are transferred to a skilled nursing facility participating in medicare within 14 days of their discharge, providing that a physician certifies their continuing need for the kinds of services for which they were hospitalized.

In 1965, the Congress specifically considered the question of whether a nursing home benefit should be provided. The answer was negative. What was provided instead was a post-hospital benefit called "extended care." Extended care was so named because services had to be provided in separate facilities with standards just below that of the hospital itself. The level of care provided is called skilled nursing care. So last year's medicare reform bill, H.R. 1, resulted in a name change so extended care facilities are now known as skilled nursing facilities, taking the name of the acute, subhospital level of care they provide.

In 1972, this medicare nursing home program contributed only $180 million to the Nation's $3.5 billion nursing home bill. Some 70,000 nursing home patients in any given day have their care paid for by the medicare program.

The lion's share of the cost of nursing home care was assumed by the medicaid program which contributed $1.7 billion in 1972.

Medicaid is a Federal grant-in-aid program administered by HEW in which the Government pays from 50 to 83 percent of the costs incurred by the State in providing nursing home care to welfare recipients who are unable to pay for the care they need.

While it is clear that there is a great and growing need for long term care, medicare, within the institutional context, presently provides little or no help. For those willing to take the pauper's oath, medicare now provides two levels of care. In addition to skilled nursing, that level nearest to hospital care, medicaid for the first time this year provides for a level called intermediate care. Individuals requiring more than board and room, but less than skilled nursing care, fall into this category. Once again this secondary level of care, which is what most people associate with conventional nursing care, is available only to welfare patients.

NONINSTITUTIONAL CARE

What does medicare provide by way of home health benefits?

There is the skeleton of a program but no real program of substance with total outlays running less than 1 percent of medicare's $12 billion contribution care of Americans over 65.

Home health care is provided under both part A and part B of medicare. Part A provides for home health benefits—up to 100 visits for each benefit period—after an individual has been hospitalized for at least 3 days, providing that a home health plan is established for the patient within 14 days of his transfer from a hospital or medicare skilled nursing facility. Moreover, individuals must be confined to their homes and a physician must certify the need for skilled nursing care or physical therapy. Speech therapy, occupational therapy, part-time services of a home health aide and medical social services are also authorized, subject to the continuous precondition that the patient qualify for skilled nursing care.

The definition of skilled nursing care in the home health setting has been as restrictive as applied in the nursing home setting. The result has been to keep the costs of the medicare home health program down to their present minimal level and, perhaps, to deny millions of Americans the care they need.

To complete this analysis of existing programs, home health care is also provided under medicare part B, the supplementary medical insurance portion of medicare. The same preconditions for eligibility are required except for prior hospitalization which is unnecessary to claim benefits under part B. The scope of coverage is the same with the potential of benefits ranging from the services of a home health aide to speech therapy. Benefits are restricted by the limitation of qualification for skilled nursing care. In fact, home health agencies are required as a condition of participation in the medicare program to provide skilled nursing, plus one additional service. In 75 percent of the cases the other service provided is physical therapy.

Mr. President, what I have tried to make my consistent theme throughout this statement in my discussion of both the home health—non-institutional—and the institutional setting, is the need for services broader than skilled nursing care—that most acute level of long term care. The very absence of other levels of care undoubtedly leads to overutilization of hospital beds or skilled nursing facilities. The suggestion that needy patients are being denied services has by now become a ringing conclusion which necessitates legislative reforms.

SOLUTIONS: TOWARD A NATIONAL POLICY

The bill I am introducing today suggests solutions which will lead us toward a national policy. The first bill deals with the institutional setting. It authorizes a second level of nursing home care under the medicare program. The level of care will be called intermediate care and will be consistent with the definition of intermediate care under title 19—Medicaid. With the enactment of this proposal, medicare will for the first time provide assistance to the elderly needing levels of care characterizing conventional nursing home care. This bill provides that an individual will be entitled to 100 days care—total—per benefit period under medicare part A, regardless of whether such care is received in a skilled nursing facility or an intermediate care facility. Moreover, my bill deletes the 3-day prior hospitalization requirement and the 14-day transfer requirement so that physicians can place individuals in skilled nursing facilities or intermediate care facilities without the necessity of prior hospitalization. The present requirements for utilization review, medical review and professional review would be continued to insure that patients are properly placed and to prevent overutilization.

In addition, the copayment features of the medicare nursing home benefit would be retained. The first 20 days care in a nursing home would be paid for irrespective of whether the patient was in a skilled nursing facility—SNF—or an intermediate care facility—ICF—the patient will continue to pay $7.50 a day thereafter for the next 80 days.

With respect to the noninstitutional benefit, it is clear that a secondary level of care is also required. My bill proposes leaving part A, post-hospital home health assistance, pretty much intact and unchanged with the addition of the new level which provides intermediate nursing care. Once again, the definition employed is taken from the medicaid law for consistency.

Under my bill, part B of medicare will continue to authorize this same level of care in Home Health Services. However, a few other changes are suggested. First, an individual would continue to be entitled to 100 home health visits per calendar year as the law provides. My bill will provide patients with the option of exchanging one or more of these visits for a stay in a senior citizen day care center.

Following the British experience, the proposal for day care is presently very much in vogue among scholars in the field of long-term care. It is only a matter of time before America recognizes its advantages. My bill on this subject in the last Congress, S. 3267, was adopted on a demonstration basis as an amendment to H.R. 1 last year. These demonstrations will provide the Congress with the experience necessary before agreeing to the large-scale legislation suggested today.

The bill I am introducing today also makes it clear that intermediate nursing care can include homemaker's services, which is essentially an expansion of the home health aide's services presently authorized but seldom provided. My bill on this subject in the last Congress, S. 3269, was likewise included in H.R. 1 for demonstration purposes.

My new bill also suggests two other changes in medicare, part B, Home Health Services. First, it would make it possible for a needy older American to go directly to a Home Health Agency where a staff physician will be authorized to determine the need for care, and the level of care required, and to establish a plan for home health care. These determinations of the physician, of course, will be subject to the safeguards of utilization review, medical review and professional standards review. Finally, this bill repeals a portion of section 1861 (o) of the Social Security Act which prohibits the application of medicare, part B, Home Health Benefits, to individuals with mental illness.

In addition to this broad new bill, I am today reintroducing a bill which was before the last Congress as S. 3271, and which would create an experimental program to subsidize the family for the care of their elderly in their own homes. This

proposal is a recognition to the fact that nursing homes are anathema to some ethnic groups in our society with strong traditions of taking care of their own, and is an effort to give these groups some assistance in this task. It will answer the question of whether Americans are willing to pay perhaps $3 a day to help keep needy elderly in their own homes instead of the $15 a day to house them in a medicaid, welfare nursing home. The plan deserves to be tested. The proposal was accepted in the Senate version of H.R. 1 last year but deleted in conference.

SUMMARY

Mr. President, the clear and growing needs of older Americans for long term care is becoming an alarming reality. The problem will only become more acute in the future. If left unattended, the problems of the present will return in the form of an amplified crisis in the next few years. Equally as clear as this dramatic and growing need, is the failure of present Federal programs to insulate older Americans against the multiple costs and pressure of increased age with increased disability. With nursing home costs averaging $600 a month, few but the rich can afford to pay for their care. The medicare program provides help only to those who are so ill that they require hospitalization, and then only for the continuation of care provided in the hospital. This narrow range of nursing home benefits has led many misinformed older Americans to cry that medicare has become another broken promise. Only under the medicaid welfare nursing home program is there the broad range of institutional services. In the noninstitutional sphere, medicare under both part A, the hospitalization portion, and part B, the supplementary medical insurance portion of medicare, provides a home health benefit. In theory, a wide range of services is available, including physical therapy, occupational therapy, speech therapy, the services of a home health aide, and medical social services. In practice, these services are not available because of the statutory precondition that patients must continue to be eligible for that highest of levels of long term care called skilled nursing care.

The legislation I am introducing today provides a secondary, less acute level of care in the medicare programs institutional benefits and authorizes payment for this same level of intermediate care in the medicare home health programs. The enactment of these measures will give the Nation, for the first time, a comprehensive set of benefits in the field of long term care. For the first time the United States will have a national policy with regard to the infirm elderly.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD following these remarks.

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

S. 1825

A bill to amend title XVIII of the Social Security Act to authorize the provision of intermediate care services under medicare, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 1812(a)(2) of the Social Security Act is amended by striking out "post-hospital extended care services" and inserting in lieu thereof "intermediate care services or extended care services".

(2) Section 1812(b)(2) of such Act is amended by striking out "post-hospital extended care services" and inserting in lieu thereof "intermediate care services or extended care services".

(3) Section 1812(e) of such Act is amended by striking out "post-hospital extended care services" and inserting in lieu thereof "intermediate care services, extended care services".

(b) Section 1813(a)(3) of such Act is amended by striking out "post-hospital extended care services" and inserting in lieu thereof "intermediate care services or extended care services".

(c)(1)(A) Section 1814(a)(2)(C) of such Act is amended to read as follows:

"(C) in the case of extended care services, such services are or were required to be given because the individual needs or needed on a daily basis skilled nursing care (provided directly by or requiring the supervision of skilled nursing personnel) or other skilled rehabilitation services, which as a practical matter can only be provided in a skilled nursing facility on an inpatient basis, for a particular health condition including any condition with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of paragraphs (6) and (9) of section 1861(e)) prior to transfer to the skilled nursing facility or for a condition requiring such extended care services which arose after such transfer and while he was still in the facility for treatment of the condition or conditions for which he was receiving such inpatient hospital services;".

(B) Section 1814(a)(2) of such Act is further amended—

(i) by striking out "or" at the end of subparagraph (D);

(ii) by inserting "or" at the end of subparagraph (E); and

(iii) by adding after subparagraph (E) the following new subparagraph;

"(F) in the case of intermediate care services, such services are or were required because of the health condition of the individual;".

(2) Section 1914(a)(6) of such Act is amended—

(A) by striking out "post-hospital extended care services" and inserting in lieu thereof "intermediate care services or extended care services"; and

(B) by striking out "hospital or skilled nursing facility" and inserting in lieu thereof "hospital, intermediate care facility, or skilled nursing facility".

(3) Section 1814(a)(7) of such Act is amended—

(A) by striking out wherever they appear, the words "services or post-hospital" and "services or further post-hospital" and inserting in lieu thereof, the words "services, intermediate care services, or" and "services, further intermediate care services, or further", respectively; and

(B) by striking out "hospital or skilled nursing facility" and inserting in lieu thereof "hospital, intermediate care facility, or skilled nursing facility".

(d)(1) Section 1814(h) of such Act is amended by striking out "Posthospital" in the caption of such subsection.

(2) Section 1814(h)(1) of such Act is amended by striking out "post-hospital extended care services" and inserting in lieu thereof "intermediate care services or extended care services".

(e) Section 1816(a)(1) of such Act is amended by inserting "intermediate care facilities," after "extended care facilities,".

SEC. 2. Section 1816 of the Social Security Act is amended by adding at the end thereof the following new subsections:

"Intermediate Care Facility

"(aa) The term "intermediate care facility" means (except for the purposes of subsection (a)(2)) an institution (or a distinct part of a hospital or skilled nursing facility) which has in effect a transfer agreement (meeting the requirements of subsection (l)) with one or more hospitals having agreements under section 1866 and which—

"(1) provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities;

"(2) meets such such standards prescribed by the Secretary as he finds appropriate for the proper provision of the care and services described in paragraph (1);

"(3) has in effect a utilization review plan which meets the requirements of subsection (k);

"(4) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing;

"(5) has in effect an overall plan and budget that meets the requirements of subsection (z);

"(6) supplies full and complete information to the Secretary or his delegate as to the identity (A) of each person who has any direct or indirect ownership interest of 10 per centum or more in such intermediate care facility or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such intermediate care facility or any of the property or assets of such intermediate care facility, (B) in case an intermediate care facility is organized as a corporation, of each officer and director of the corporation, and (C) in case an intermediate care facility is organized as a partnership, or each partner; and promptly reports any changes which would affect the current accuracy of the information so required to be supplied;

"(7) cooperates in an effective program which provides for a regular program of independent medical evaluation and audit of the patients in the facility to the extent required by the programs in which the facility participates including medical evaluation of such patient's need for intermediate care services;

"(8) meets such provisions of the Life Safety Code of the National Fire Protection Association (21st edition, 1967) as are applicable to intermediate care facilities; except that the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon an intermediate care facility, but only if such waiver will not adversely affect the health and safety of the patients; except that the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in intermediate care facilities; and

"(9) meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Secretary may find necessary (subject to the second sentence of section 1863),

except that the Secretary shall not require as a condition of participation that medical social services be furnished in any such institution; and except that such term shall not (other than for purposes of subsection (a)(2)) include any institution which is primarily for the care and treatment of mental diseases or tuberculosis. For purposes of subsection (a)(2), such term includes any institution which meets the requirements of paragraph (1) of this subsection. The term 'intermediate care facility' also includes an institution described in paragraph (1) of subsection (y), to the extent and subject to the limitations provided in such subsection. Notwithstanding any other provision of law, all information concerning intermediate care facilities required by this subsection to be filed with the Secretary shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under titles XVIII and XIX of this Act.

"Intermediate Care Services

"(bb) The term 'intermediate care services' means services provided an individual in an intermediate care facility after admission to such facility."

SEC. 3. (a) The following sections of the Social Security Act are amended—

(1) by striking out the phrase "hospital or skilled nursing facility" or "hospitals and skilled nursing facilities" each time either such phrase appears therein and inserting in lieu thereof "hospital, skilled nursing facility, or intermediate care facility" or "hospitals, skilled nursing facilities, or intermediate care facilities", respectively; and

(2) by inserting "or intermediate care facility", or "or intermediate care facilities" after the phrase "skilled nursing facility" or "skilled nursing facilities", respectively, wherever either such phrase appears therein (except where either such phrase is part of the phrase "hospital, skilled nursing facility, or intermediate care facility" or "hospitals, skilled nursing facilities, or intermediate care facilities"):

(A) section 1814(h);
(B) section 1861(k);
(C) section 1861(l);
(D) section 1861(m)(7);
(E) sections 1861(y)(2) and (3);
(F) section 1861(z);
(G) the last sentences of section 1866(a)(1), section 1866(b), section 1866(c)(2), and section 1866(d); and
(H) section 1876(i)(3).

(b)(1) Section 1861(a)(1) of such Act is amended by striking out "services, or extended care services" and inserting in lieu thereof "services, intermediate care services, or extended care services".

(2) Section 1861(a)(2) of such Act is amended by striking out "neither an inpatient of a hospital nor an inpatient of a skilled nursing facility" and inserting in lieu thereof "not an inpatient of a hospital, a skilled nursing facility, or an intermediate care facility".

(c) Section 1861(i) of such Act is repealed.

(d) Section 1861(k)(3) of such Act is amended by striking out "services or extended care services" and inserting in lieu thereof "services, intermediate care services, or extended care services".

(e) Section 1861(n) of such Act is amended—

(1) by inserting "or intermediate care facility" after "skilled nursing facility" the first time such term appears therein; and

(2) by striking out all after "part A" and inserting in lieu thereof "intermediate care services or extended care services.".

(f) Section 1861(u) of such Act is amended by inserting "intermediate care facility," after "skilled nursing facility,".

(g) Section 1861(v) of such Act is amended—

(1) by inserting in paragraph (1)(B) of such subsection "or intermediate care services" after "extended care services";

(2) by inserting in paragraph (1)(E) of such subsection (i) "and intermediate care facilities" after "in the case of skilled nursing facilities", (ii) "and intermediate care facility services" after "the cost of skilled nursing facility services", and (iii) "or intermediate care facility" after "to any skilled nursing facility";

(3) by striking out in paragraphs (2)(A) and (3) of such subsection "or post-hospital" and inserting in lieu thereof ", intermediate care services, or"; and

(4) by striking out in paragraph (3) of such subsection "hospital or skilled nursing facility" and inserting in lieu thereof "hospital, skilled nursing facility, or intermediate care facility".

(h) Section 1861(w) of such Act is amended by inserting "intermediate care facility," after "skilled nursing facility,".

(i)(1) The caption of section 1861(y) of such Act is amended to read as follows:

"Extended Care and Intermediate Care in Christian Science Skilled Nursing Facilities and Intermediate Care Facilities".

(2) Section 1861(y)(1) is amended by striking out "The term 'skilled nursing facility'" and inserting in lieu thereof "The terms 'skilled nursing facility' and 'extended care facility'".

(3) Section 1861(y)(2) of such Act is amended by inserting "intermediate care services or" after "treated as".

(4) Sections 1861(y)(3) and (4) of such Act are amended by striking out "post-hospital extended care services" wherever such term appears in each such section and inserting in lieu thereof "intermediate care services or extended care services".

(j) Section 1864(a) of such Act is amended—

(1) by striking out "hospital or skilled nursing facility" and inserting in lieu thereof "hospital, skilled nursing facility, or intermediate care facility";

(2) by inserting "intermediate care facility," after "hospital, skilled nursing facility,"; and

(3) by inserting "or intermediate care facility" after "skilled nursing facility".

(k) Section 1866 of such Act is further amended by striking out in subsections (b)(3) and (d) "post-hospital extended care services" and inserting in lieu thereof "intermediate care services, or extended care services".

(l) Section 1877(c) of such Act is amended by inserting "intermediate care facility," after "skilled nursing facility,".

SEC. 4. (a) Section 1835(a)(2)(A) of such Act is amended—

(1) by inserting in clause (i) thereof "or intermediate nursing care" after "skilled nursing care"; and

(2) by inserting in clause (ii) thereof "or by a home health agency's screening team (consisting of a physican, a registered professional nurse, and a social worker)" after "physician".

(b) Section 1861(m) of such Act is further amended—

(1) by striking out "established and periodically reviewed by a physician" and inserting in lieu thereof "established and periodically reviewed by a physician or, in the case of benefits provided under part B, by such agency's screening team";

(2) by inserting in paragraph (1) thereof "or intermediate nursing care provided by or under the supervision of a registered professional nurse, a licensed practical nurse, or a nursing aid" after "professional nurse";

(3) by inserting in paragraph (4) thereof "or, for the purpose of benefits provided under part B, homemaker services" after "health aide"; and

(4) by adding at the end thereof the following new sentence: "For purposes of benefits provided under part B, the term 'home health services' also means such personal care, supervision, and services, as the Secretary shall by regulation prescribe, provided in day care centers which meet such standards as the Secretary shall by regulation establish.".

(c)(1) Section 1861(o)(1) of such Act is amended to read as follows:

"(1) is primarily engaged in providing skilled nursing services, intermediate nursing services, and at least two other therapeutic services;".

(2) Section 1861(o) of such Act is further amended by striking out in the matter following paragraph (5) "regulations; and except for the purposes of part A such term shall not include any agency or organization which is primarily for the care and treatment of mental diseases." and inserting in lieu thereof "regulations.".

(d) Section 1861(u) of such Act is amended by inserting "day care center," immediately before "hospital".

SEC. 5. The amendments and repeals made by this Act shall be effective for months beginning after June 30, 1973, and shall apply to spells of illness beginning after June 30, 1973.

SEC. 6. There are hereby authorized to be appropriated from general revenues of the Government to the Federal Hospital Insurance Trust Fund and to the Federal Supplementary Medical Insurance Trust Fund for each fiscal year, beginning with the fiscal year ending June 30, 1974, such amounts as may be necessary to reimburse such Trust Funds for 100 per centum of the expenditures required to be made from such Trust Funds in each such fiscal year to carry out the amendments made by this Act.

S. 1826

A bill to authorize an experimental program to provide for care for elderly individuals in their own homes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF EXPERIMENTAL PROGRAM TO PROVIDE IN-HOME CARE FOR ELDERLY INDIVIDUALS

"SEC. 1121. (a) The Secretary is authorized to establish an experimental program of subsidization of families who agree to care for their dependents who are 65 years of age or older and who would otherwise require, because of physical or mental infirmities, the services of a skilled nursing home, in their own homes. Such subsidies may be made directly, in the form of grants, to families who are determined, in accordance with regulations prescribed by the Secretary, to be eligible for assistance under this program.

"(b) Any grant under this section shall be made on such terms and conditions, and payments thereunder shall be made in advance or by way of reimbursement and in such installments, as the Secretary may determine to be appropriate to carry out the purposes of this section and protect the financial interests of the United States.

"(c) Any grant under this section shall be made only upon application therefor, submitted in such form and containing such information and assurances as the Secretary may by regulation require."

SEC. 2. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, such sums as may be necessary to carry out the provisions of this Act.

By Mr. CASE:

S. 1827. A bill to deauthorize U.S. Army Corps of Engineers projects if Congress has not appropriated funds to carry out

the projects for a period of 8 years or more since authorization. Referred to the Committee on Public Works.

Mr. CASE. Mr. President, I am today reintroducing legislation that would focus the attention of the U.S. Army Corps of Engineers on civil works projects that reflect the changing needs and priorities of this country.

Currently there are some 1,300 Corps of Engineers projects authorized by Congress. Some of them were authorized as long ago as the late 1880's. Many of them were designed to meet objectives that were valid at the time but have long since become outdated.

Since I first introduced this legislation last year, the administration has proposed one step toward eliminating the corps' stockpile of backlogged projects and the Senate has approved a modified version of the administration proposal.

In the Flood Control Act, the Senate approved a provision that requires the Chief of the Corps of Engineers to submit annually to Congress a list of projects that have been authorized for 8 years or more that he believes should be deauthorized.

In my view, this provision places the burden of proof in the wrong place. It requires the Chief of the Corps of Engineers to review the corps own backlog of outdated projects and to recommend which ones should be deauthorized.

My bill would proclaim the intent of Congress that continued lack of funding of projects shall be taken as evidence that they do not reflect current needs and priorities. It provides for automatic deauthorization of any corps project that has been authorized for 8 years or more but has not had construction funds appropriated for it by Congress during that time.

This would eliminate any need for the Chief of the Corps annually to review a huge backlog of outdated projects. It also would eliminate the paradox of the Chief of the Corps of Engineers acting as both an advocate of projects that come under his jurisdiction and as a critic of these projects.

In formulating my bill, I had discussions with various persons who are familiar with the operations of the Corps of Engineers and interested in making the corps a more positive instrument for environmental protection in this country. Without exception, they emphasized that congressional direction was needed if the corps is to become more deeply committed to the protection of the environment.

For example, Charles H. Stoddard, former chairman of the Environmental Advisory Board of the Corps of Engineers, said:

> The slate should be wiped clean by Congress. The Corps is so imbued with traditional developmental concepts that it really cannot become committed to projects designed to protect the environment so long as it has a backlog of (traditional) projects.

It is difficult to draw any deadline without providing for some exceptions. Therefore, my bill authorizes the Secretary of the Army to submit to Congress a study and recommended plan for reauthorization of any project terminated under the provisions of the bill if the plan for reauthorization reflects environmental standards in effect at the time the plan is submitted.

The Corps of Engineers, drawing on the best of West Point's engineering graduates and supported by more than 40,000 civilian employees, is potentially the greatest single instrument in this country for the protection of the environment.

Eventually, the Corps of Engineers could provide studies, plans, and technical assistance; and in some cases, it could construct public works for the collection, purification, storage, or reuse of storm waters, sanitary sewage, waterborne industrial wastes, and other liquid wastes. It could restore land areas scarred by strip mining, construction projects, and other means. It could reclaim lakes, rivers, streams, and other bodies of water that have become polluted to an extent that they are no longer useable for recreational or commercial purposes.

The corps could develop means of reducing or disposing of solid wastes and providing for adequate supplies of potable water. It could help reclaim deteriorating areas such as waterfronts. And it could help to clear flood plain areas to help prevent flood damage.

But before all that can happen, we in Congress have to work out priorities that the corps can follow in determining which of its responsibilities it should take on first.

My bill is the first step in this direction. It is my hope that hearings can be held on this bill this year and that it will be given careful consideration.

By Mr. ROBERT C. BYRD (for himself and Mr. WILLIAMS):

S. 1828. A bill to require the President to appoint, with the advice and consent of the Senate, the head of the Mining Enforcement and Safety Administration, Department of the Interior. Referred to the Committee on Interior and Insular Affairs.

SENATE SHOULD CONFIRM MESA DIRECTOR

Mr. ROBERT C. BYRD. Mr. President, I am introducing a bill today to require that the Administrator of the recently constituted Mine Enforcement and Safety Administration of the Department of the Interior be appointed by the President of the United States and confirmed by the Senate.

I would like to provide a background summary of actions which have led up to the introduction of this bill. On May 7, 1973, the Secretary of the Interior, the Honorable Rogers C. B. Morton signed, and thus effectuated, the Secretary's order No. 2953. I ask that a copy of this order be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

ORDER No. 2953

Subject: Reorganization of Bureaus and Offices.

Sec. 1. *Purpose.* This Order outlines the implementation of the reorganization plan described in Secretary's Order 2951 dated February 6, 1973. Provided herein are brief functional descriptions of new organizations created, the transfer of various functions between organizations, and the assignment of bureaus and offices to Assistant Secretaries for Secretarial direction and supervision.

Sec. 2. *Responsibilities.* Assistant Secretaries named in Secretary's Order 2951 will be responsible for implementing the provisions of this Order as well as the development of new or revised organization statements for publication in the Departmental Manual. The Assistant Secretary–Management is responsible for the approval of all reorganization actions made pursuant to this Order as provided in 101 DM.

Sec. 3. *Authority.* This Order is issued in accordance with the authority provided by Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Sec. 4. *Secretarial Officers.* The functions, authorities, and responsibilities of all Secretarial officers, except the Solicitor, have been revised as provided in Secretary's Order 2951. The following Sections and the chart attached to this Order delineate the transfer and alignment of existing and new organizations. A description of each Secretarial officer position and the organizational entities under its jurisdiction are described below.

Sec. 5. *Assistant Secretary—Energy and Minerals.* The Assistant Secretary—Energy and Minerals discharges the duties of the Secretary with the authority and direct responsibility for programs associated with energy conservation; energy and mineral data and analysis; generation, transmission and marketing of electric power except for those functions performed in the Bureau of Reclamation; mine health, safety and training programs; topographic, geologic and mineral resources matters; oil and gas activities, including import allocations; energy, metallurgical and mining reseach and development; and emergency preparedness and natural disaster energy and minerals functions. The Assistant Secretary—Energy and Minerals exercises Secretarial direction over the described functions of the following organizations:

(a) *Geological Survey.* The Geological Survey retains its present functions and is transferred from the former Assistant Secretary—Mineral Resources.

(b) *Bureau of Mines.* The Bureau of Mines is transferred from the former Assistant Secretary—Mineral Resources and retains its traditional functions of energy, Metallurgical and mining research and development, mine health and safety research, and mineral supply. Other functions related to mine health and safety are transferred to the Mining Enforcement and Safety Administration described in Section 5(c) below.

(c) *Mining Enforcement and Safety Administration.* A new Mining Enforcement and Safety Administration is established and is responsible for administering the Federal Coal Mine Health and Safety and the Federal Metal and Nonmetallic Mine Safety Act. Mine health and safety, assessment and compliance, and education and training functions are transferred to this office from the Bureau of Mines.

(d) *Power Administrations.* The Bonneville, Southwestern, Southeastern and Alaska Power Administrations retain their present functions and are transferred from the former Assistant Secretary—Water and Power Resources.

(e) *Office of Oil and Gas.* The Office of Oil and Gas retains its present functions and is transferred from the former Assistant Secretary—Mineral Resources.

(f) *Office of Coal Research.* The Office of Coal Research retains its present functions and is transferred from the former Assistant Secretary—Mineral Resources.

(g) *Office of Energy Data and Analysis.* A new Office of Energy Data and Analysis is established to serve as the focal point in the Department for coordinating functions related to gathering and analyzing energy

data. The Office develops appropriate information systems, analyses, and studies to assist in economic forecasting and policy decisionmaking. The Office also evaluates and reviews energy data-gathering programs and functions performed in the bureaus and offices reporting to the Assistant Secretary—Energy and Minerals.

(h) *Office of Research and Development.* A new Office of Research and Development is established to coordinate energy and minerals research and development activities. The Office sets priorities and formulates research and development budgets, oversees development of new research and development programs, and evaluates the progress and results of all research and development conducted or sponsored by the Department. The Office administers a Central Energy Fund and directs the underground electric power transmission research program which is transferred to this office from the former Assistant Secretary—Water and Power Resources.

(i) *Office of Energy Conservation.* A new Office of Energy Conservation is established to promote efficiencies in the use and development of energy resources; to coordinate all Federal Energy Conservation programs; to conduct research on methods of improving the efficiency of energy usage; to promote consumer awareness of the need for energy conservation; and to develop contingency plans for nationwide power, fuel and mineral resource emergencies caused by natural disasters, civil defense emergencies or other interruptions of the Nation's energy and mineral supplies. The activities associated with the emergency minerals and emergency solid fuels functions are transferred to this office from the former Assistant Secretary—Mineral Resources. The Defense Electric Power Administration is transferred to this office from the former Assistant Secretary—Water and Power Resources.

Sec. 6. *Assistant Secretary—Land and Water Resources.* The Assistant Secretary—Land and Water Resources discharges the duties of the Secretary with the authority and direct responsibility for programs associated with land use and water planning; public land management; construction and operation of multi-purpose dams and water distribution facilities; marketing of water and specified Bureau of Reclamation hydroelectric power projects; conversion of saline water and water resources research; and emergency preparedness water resources functions. The Assistant Secretary—Land and Water Resources exercises Secretarial direction over the following organizations:

(a) *Bureau of Land Management.* The Bureau of Land Management retains its present functions and is transferred from the former Assistant Secretary—Public Land Management.

(b) *Bureau of Reclamation.* The Bureau of Reclamation retains its present functions and is transferred from the former Assistant Secretary—Water and Power Resources.

(c) *Office of Land Use and Water Planning.* A new Office of Land Use and Water Planning is established to be responsible for policy development and interagency coordination on use of public land and water resources, liaison with the Water Resources Council, coordination of River Basin Commission activities and interagency coordination with State and other Federal land use and water planning agencies. The Office of Regional Planning, under the former Assistant Secretary—Program Policy, is abolished and its functions are transferred to this office.

(d) *Office of Saline Water.* The Office of Saline Water retains its present functions and is transferred from the former Assistant Secretary—Water and Power Resources.

(e) *Office of Water Resources Research.* The Office of Water Resources Research retains its present functions and is transferred from the former Assistant Secretary—Water and Power Resources.

Sec. 7. *Assistant Secretary—Fish and Wildlife and Parks.* The Assistant Secretary—Fish and Wildlife and Parks discharges the duties of the Secretary with the authority and direct responsibility for programs associated with the development, conservation, and utilization of fish, wildlife, recreation, historical, and national park system resources of the Nation. The Assistant Secretary—Fish and Wildlife and Parks exercises Secretarial direction over the following organizations:

(a) *National Park Service.* The National Park Service retains its present functions.

(b) *Bureau of Sport Fisheries and Wildlife.* The Bureau of Sport Fisheries and Wildlife retains its present functions.

(c) *The Bureau of Outdoor Recreation.* The Bureau of Outdoor Recreation retains its present functions and is transferred from the jurisdiction of the former Assistant Secretary—Program Policy.

Sec. 8. *Assistant Secretary—Congressional and Public Affairs.* The Assistant Secretary—Congressional and Public Affairs discharges the duties of the Secretary with the authority and direct responsibility for programs associated with legislative and Congressional liaison activities; public information and communications matters; and the Department's Johnny Horizon program. The Offices of Congressional Liaison, Communications, and Legislation and the Johnny Horizon Program Office are transferred to the jurisdiction of the Assistant Secretary—Congressional and Public Affairs.

Sec. 9. *Assistant Secretary—Management.* The Assistant Secretary—Management discharges the duties of the Secretary with the authority and direct responsibility for the functions carried out by the former Assistant Secretary—Management and Budget through the offices of Management Consulting, Management Operations, Survey and Review, Organization and Personnel Management, Library Services, Secretarial Operations, Manpower Training and Youth Activities, International Activities, and Accounting Management and Policy. The Office of Budget assigned to the former Assistant Secretary—Management and Budget is transferred to the Assistant Secretary—Program and Budget as described in Section 10.

Sec. 10. *Assistant Secretary—Program Development and Budget.* The Assistant Secretary—Program Development and Budget discharges the duties of the Secretary with the authority and direct responsibility for the functions carried out by the former Assistant Secretary—Program Policy through the Offices of Environmental Project Review, Policy Analysis, Economic Analysis, and Budget. The Office of Budget is transferred from the former Assistant Secretary—Management and Budget.

Sec. 11. *Solicitor.* The authorities, functions and responsibilities of the Solicitor remain unchanged.

Sec. 12. *Commissioner of Indian Affairs.* As provided for in Secretary's Order 2951, the Commissioner of Indian Affairs reports directly to the Secretary and directs the activities of the Bureau of Indian Affairs.

Sec. 13. *Other Secretarial Officers.*

(a) *Office of Hearings and Appeals.* The Office of Hearings and Appeals retains its present functions, responsibilities and organizational placement.

(b) *Office of Territorial Affairs.* As provided for in Secretary's Order 2951, the Director, Office of Territorial Affairs, reports directly to the Secretary.

(c) *Office of Equal Opportunity.* The Office for Equal Opportunity retains its present functions, responsibilities and organizational placement.

(d) *The Office of the Science Adviser.* The Office of the Science Adviser retains its present functions and responsibilities.

Sec. 14. *Secretarial Delegations of Authority.*

(a) Broad delegations of the Secretary's authority have been made to the Assistant Secretaries by 210 DM 1.2, and such delegations are not affected by the provisions of this Order. All other delegations of authority in effect preceding the date of this Order remain in effect to the extent they are compatible with the organizations, functions and responsibilities provided in this Order.

(b) Delegations of authority which have been affected by transfer of program responsibility or abolishment of positions are reassigned to the head of the bureau or office to which the program responsibility is transferred by this Order. Such officials are responsible for immediately initiating action for appropriate amendments to the Secretary's delegations of authority provided in the 200 Series of the Department Manual. The Assistant Secretary—Management, in cooperation with the Solicitor, is responsible for the timely conversion and revision of affected Secretary's delegations of authority.

Sec. 15. *Administrative Provisions.*

(a) The Assistant Secretary—Management and the Assistant Secretary—Program Development and Budget will take appropriate actions to accomplish the transfer of personnel, funds, and property to implement the provisions of this Order.

(b) Detailed organization statements providing for the reassignment of all functions affected by this Order will be prepared and published in the DM within a 90-day transition period beginning with the effective date of this Order.

(c) Employees of bureaus and offices whose functions are reassigned from the bureau or offices in which they are employed are to be detailed to the bureau or office to which they are employed are to be detailed to the bureau or office to which the functions are assigned by this Order during the 90-day transition period.

Sec. 16. *Effective Date.* This Order is effective immediately.

ROGERS C. B. MORTON,
Secretary of the Interior.

Mr. ROBERT C. BYRD. Mr. President, this order establishes a new agency within the Department of the Interior titled, "the Mining Enforcement and Safety Administration," and assigns to it the responsibility of administering the Federal Coal Mine Health and Safety Act and the Federal Metal and Nonmetallic Mine Safety Act. In addition, this new agency will handle mine health and safety, assessment and compliance, and education and training functions.

I believe that this new agency will be handling responsibilities commensurate with the most important agencies within the Department. The Administrator of MESA will be responsible for the health and safety of the thousands of miners in this country who labor daily under the most potentially hazardous industrial conditions in the entire Nation. A vigorous and fair enforcement of the Coal Mine Health and Safety Act and the Metal and Nonmetallic Mine Safety Act can provide vitally needed protection and safeguards to the mine workers of the United States.

I believe that by requiring the Administrator of MESA to be subject to Senate confirmation, we will be taking a forceful step to insure that whatever administration is in office, it will be encouraged to appoint the most qualified individual available to fill this position.

Mr. President, thousands of miners in

West Virginia and throughout the Nation need to know that they are getting the protection they deserve from this new agency. I believe it is imperative that this important position be subject to Senate confirmation. In this way, Congress can do its part to insure selection of the most qualified individual for this post.

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

Mr. ROBERT C. BYRD. I yield.

Mr. WILLIAMS. Mr. President, I join the Senator in expressing the need for this particular office to have confirmation by the Senate. I ask the Senator to include me as a cosponsor.

Mr. ROBERT C. BYRD. Mr. President, I appreciate the Senator's remarks, and I am delighted that he has asked to be a cosponsor. I ask unanimous consent that the name of Mr. WILLIAMS be added as a cosponsor of this bill.

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

Mr. ROBERT C. BYRD. 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. 1828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the head of the Mining Enforcement and Safety Administration established pursuant to Order Numbered 2953 of the Secretary of the Interior issued in accordance with the authority provided by section 2 of Reorganization Plan Numbered 3 of 1950 (64 Stat. 1262), shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

By Mr. RIBICOFF:

S. 1830. A bill to provide Federal leadership and grants to the States for developing and implementing State programs for youth camp safety standards. Referred to the Committee on Labor and Public Welfare.

YOUTH CAMP SAFETY ACT OF 1973

Mr. RIBICOFF. Mr. President, within the next few weeks summer vacation will begin for America's students. Over 7 million of these boys and girls will spend all or part of that time at camp. For the vast majority it will be an experience they will long remember. For a few, however, it will mean injuries and even death—a nightmare neither parents nor children will ever forget.

Most parents assume that sending their child to camp is like sending them to school—competent instructors, clean and sturdy facilities, strict health standards. Unfortunately, their assumptions are often wrong because most States provide little or no supervision to protect children from the kind of accidents that can cripple or kill.

Based on the best information available, the leading cause of camp fatalities is drowning, which kills an estimated 40 youngsters each summer. Yet 40 States have no requirements for counselors who oversee water activities.

Twenty-four States require no license or set no standards for camps. Only 15 States have any camp safety legislation. Only 26 regulate sanitation and 46 have no laws concerning personnel.

Because of the almost complete absence of State standards concerned members of the camping industry, such as the American Camping Association, have tried to establish and police their own standards. Too many camps across the Nation, however, do not belong to a reputable organization and are free to ignore suggested guidelines.

Each summer newspapers are full of the tragic results of this lack of concern—a camper bleeds to death because no doctor was available, an open truck filled with boys and girls and driven by a 17-year-old overturns on a freeway, a group of youngsters are lost in the woods because their guide was untrained. It is estimated that over 250,000 campers are injured each summer, many of them seriously and some fatally.

This deplorable state of affairs was brought to my attention in 1966 by Mitch Kurman of Westport, Conn. In 1965, Mr. Kurman chose an upstate New York camp which offered canoe trips for his 15-year-old son. Like every other parent, he simply assumed the camp was safe and that his boy would have a wonderful summer.

One night he received word that his son had drowned in a canoeing accident on a branch of the Penobscot River in Maine. On checking into what was first considered to be an unfortunate accident, he learned from other campers on the trip and from Ontario and Maine police that his son's young counselor had previously had a narrow escape on a river he had been warned against and that a forest ranger had specifically warned the same counselor not to challenge the Penobscot. The counselor ignored all these warnings and led his inexperienced charges down a stretch of river which has been described as "wilder than the Niagara Gorge" in canoes that lacked fast water safety equipment.

Since that time Mr. Kurman has become a crusader for greater camp safety. He has been a vigorous supporter of the legislation I introduce today as part of his unceasing effort to insure that no more parents have to face the agony he experienced.

It has been 8 years since Mr. Kurman's son died. How many other youngsters have also perished in camping accidents in those 8 years and how many more will die before constructive action is taken?

After introducing legislation to correct this situation in every Congress since 1967, the Senate finally approved my bill on August 6, 1971, as an amendment to the Higher Education. Act.

That proposal, which I reintroduce today, would authorize the Secretary of Health, Education, and Welfare, in consultation with camping and safety experts, to establish minimum camp safety standards after surveying existing standards published by State and private organizations and the effects of these standards.

The Federal Government will not itself certify camps. This will be done by the States.

After publication of the standards, each State will be encouraged to establish its own camp safety program.

If the State's plan meets Federal standards, the Secretary is authorized to pay up to 50 percent of the cost—but not exceeding $50,000 per fiscal year—of developing and administering the program.

A camp certified by the States as complying with the Federal standards will be authorized to advertise such compliance. This will allow parents to choose with certainty a safe camp for their children.

If, after appropriate notice and hearings, the Secretary disapproves a State's plan or withdraws his approval of a plan, the State has the right to appeal to the U.S. court of appeals.

The cost of this program will be minimal—especially when compared to the cost in unfulfilled lives which will otherwise result.

Despite the Senate's positive action, a similar amendment approved by the House Education and Labor Committee was replaced on the House floor by a provision simply calling upon HEW to study the problem. That provision prevailed in conference and the study is now taking place.

Everyone familiar with the problem of camp safety knows what the study will find—because of a lack of State concern thousands of young boys and girls are injured and even die each summer at camp.

My bill will correct that problem.

We can no longer play Russian roulette with the health and safety of our children and grandchildren.

The current study is needed—but action must follow. Each day of delay means another camping accident and possible death that could have been prevented.

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. 1830

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 "Youth Camp Safety Act."

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to protect and safeguard the health and well-being of the youth camps, resident camps, and travel camps, by providing for establishment of Federal standards for safe operation of youth camps, and to provide Federal assistance and leadership to the States in developing programs for implementing safety standards for youth camps, thereby providing assurance to parents and interested citizens that youth camps meet minimum safety standards.

DEFINITIONS

SEC. 3. As used in this title—

(a) The term "youth camp" means:

(1) any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children under eighteen years of age, living apart from their relatives, parents, or legal guardians for a period of, or portions of, five days or more, and in-

cludes a site that is operated as a day camp or as a resident camp; and

(2) any travel camp which for profit or under philanthropic or charitable auspices, sponsors or conducts group tours within the United States, or foreign group tours originating or terminating within the United States, for educational or recreational purposes, accommodating within the group five or more children under eighteen years of age living apart from their relatives, parents, or legal guardians for a period of five days or more.

(b) The term "person" means any individual, partnership, corporation, association, or other form of business enterprises.

(c) The term "safety standards" means criteria directed toward safe operation of youth camps, in such areas as—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid, and medical services; food handling, mass feeding, and cleanliness; water supply and waste disposal; water safety including use of lakes and rivers, swimming and boating equipment and practices; vehicle condition and operation; building and site design; equipment; and condition and density of use.

(d) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(e) The term "State" includes each of the several States and the District of Columbia.

GRANTS TO STATES FOR YOUTH CAMP SAFETY STANDARDS

SEC. 4. From sums appropriated pursuant to section 10 of this Act, but not to exceed $2,500,000 of such appropriation for any fiscal year, the Secretary is authorized to make grants to States which have State plans approved by him under section 6 to pay up to 50 per centum of the cost of developing and administering State programs for youth camp safety standards.

SEC. 5. In developing Federal standards for youth camps, the Secretary shall—

(a) undertake a study of existing State and local regulations and standards, and standards developed by private organizations, applicable to youth camp safety, including the enforcement of such State, local, and private regulations and standards;

(b) establish and publish youth camp safety standards within one year after enactment of the title, after consultation with State officials and with representatives of appropriate private and public organizations after opportunity for hearings, and notification published in the Federal Register; and

(c) authorize and encourage camps certified by the States as complying with the published Federal youth camp standards to advertise their compliance with minimum safety standards.

STATE PLANS

SEC. 6. (a) Any State desiring to participate in the grant program under this title shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency, a State plan which shall—

(1) set forth a program for State supervised annual inspection of, and certification of compliance with minimum safety standards developed under the provisions of sections 5 and 9(a) of this title, at youth camp located in such State;

(2) provide assurances that the State will accept and apply such minimum youth camp safety standards as the Secretary shall by regulations prescribe;

(3) provide for the administration of such plan by such State agency;

(4) provide for an advisory committee, to advise the State agency on the general policy involved in inspection and certification procedures under the State plan which committee shall include among its members representatives of other State agencies concerned with camping or programs related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with organized camping;

(5) provide that such State agency will make such reports in such form and containing such information as the Secretary may reasonably require;

(6) provide assurance that the State will pay from non-Federal sources the remaining cost of such program; and

(7) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this title.

(b) Any State desiring to enable youth camps in the State to advertise compliance with Federal youth camp standards, but which does not wish to participate in the grant programs under this title, shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency a State plan which shall accomplish the step specified in (a) (1) through (3) of this section and which provides for availability of information so that the Secretary may be assured of compliance with the standards.

(c) The Secretary shall not finally disapprove any State plan submitted under this title or any modification thereof, without first affording such State agency reasonable notice and opportunity for a hearing.

DETERMINATION OF FEDERAL SHARE; PAYMENTS

SEC. 7. (a) The Secretary shall determine the amount of the Federal share of the cost of programs approved by him under section 6 based upon the funds appropriated therefor pursuant to section 10 for that fiscal year and upon the number of participating States; except that no State may receive a grant under this title for any fiscal year in excess of $50,000.

(b) Payments to a State under this title may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

SEC. 8. (a) Whenever the Secretary after reasonable notice and opportunity for hearing to the State agency administering a State plan approved under this title, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 6, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Secretary shall notify such State agency that no further payments will be made to the State under this title (or in his discretion, that further payments to the State will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payment shall be limited to programs or portions of the State plan not affected by such failure).

(b) A State agency dissatisfied with a final action of the Secretary under section 6 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but, until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

ADVISORY COUNCIL ON YOUTH CAMP SAFETY

SEC. 9. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly the promulgation of youth camp safety standards. The Council shall consist of the Secretary, who shall be Chairman, and eighteen members appointed by him, without regard to the civil service laws, from persons who are specially qualified by experience and competence to render such service. Prior to making such appointments, the Secretary shall consult with appropriate associations representing organized camping.

(b) The Secretary may appoint such special advisory and technical experts and consultants as may be necessary in carrying out the functions of the Council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

ADMINISTRATION

SEC. 10. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress at least once in each fiscal year a comprehensive and detailed report on the administration of this title.

(b) The Secretary is authorized to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics needed to carry out his functions under this title; and such department or agency is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

(c) Nothing in this title or regulations issued hereunder shall authorize the Secretary, a State agency, or any official acting under this law to restrict, determine, or influence the curriculum, program, or ministry of any youth camp.

AUTHORIZATION

SEC. 11. There are authorized to be appropriated to carry out the provisions of this Act the sum of $3,000,000 for the fiscal year ending June 30, 1974, and for each of the five succeeding fiscal years.

By Mr. FONG:

S. 1834. A bill to amend the National Housing Act to increase the maximum

mortgage amounts insurable in the case of property located in Alaska, Guam, or Hawaii, and to amend section 5(c) of the Homeowners Loan Act of 1933 to authorize an increase in the principal amount of mortgages on properties in Alaska, Guam, and Hawaii to compensate for higher prevailing costs and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. FONG. Mr. President, I am today introducing legislation that will go far to alleviate the critical shortage of mortgage money in the housing market in Hawaii, Alaska, and Guam. The bill, Mr. President, will substantially raise the levels that savings and loan institutions and banks may lend for houses in Hawaii, Alaska, and Guam, commensurate with the extremely high cost of housing there. The bill increases the amount banks may lend on single family dwellings to $66,000 by increasing the maximum FHA mortgage insurance available to $66,000 in Hawaii, Alaska, and Guam. Proportionate increases are also provided for multiple family dwellings.

Likewise the bill increases the amount federally chartered savings and loan institutions may lend on single family dwellings to $65,925, with proportionate increases for multiple dwellings.

The bill, Mr. President, removes the present inequitable $4,500 gap in Hawaii, Alaska, and Guam between the amount banks and savings and loan institutions can lend on single-family dwellings. According to my investigations, there was no existing reason for this $4,500 gap and, therefore, I attempted to give banks and savings and loan institutions equal treatment by allowing both kinds of financial lender the same approximate mortgage ceilings for comparable housing in Hawaii, Alaska, and Guam.

Although I would prefer the dollar amounts to be exactly equal, it is impossible to do so, because we dealt with two different laws, and each law had to be amended percentagewise rather than through an exact dollar amount. However, I believe that the dollar amounts are now close enough to give fair and equitable treatment to both banks and savings and loan institutions.

I hope, Mr. President, that this bill will provide a two-pronged approach to the critical housing shortage in Hawaii, Alaska, and Guam, by allowing both the banks and the savings and loan institutions to fully participate in the financing of a greater number of homes there.

By Mr. HARTKE (for himself, Mr. HUGHES, Mr. TALMADGE, Mr. RANDOLPH, Mr. CRANSTON, Mr. HANSEN, Mr. THURMOND, Mr. STAFFORD, and Mr. MCCLURE):

S. 1835. A bill to amend title 38, United States Code, to increase the maximum amount of Servicemen's Group Life Insurance to $20,000 to provide full-time coverage thereunder for certain members of the Reserves and National Guard, to authorize the conversion of such insurance to Veterans' Group Life Insurance, and for other purposes. Referred to the Committee on Veterans' Affairs.

VETERANS' INSURANCE ACT OF 1973

Mr. HARTKE. Mr. President, today I introduce legislation on behalf of the distinguished Senator from Iowa (Mr. HUGHES) who is necessarily absent today. This bill which may be cited as the Veterans' Insurance Act of 1973 will be considered in hearings on May 23 by the Veterans' Affairs Subcommittee on Housing and Insurance which Senator HUGHES so ably chairs.

Four major amendments to veterans' insurance laws are contemplated by this bill. First, Servicemen's Group Life Insurance—SGLI—would be extended to provide full-time coverage for certain members of the Ready and Retired Reserves and the National Guard. Second, the Veterans' Insurance Act would establish a new nonrenewable 5-year term insurance program to be known as Veterans' Group Life Insurance—VGLI—which would become effective upon a serviceman's discharge and the cessation of his SGLI insurance policy. Third, the maximum amount of insurance coverage under either SGLI or VGLI would be increased from the present $15,000 to $20,000. Fourth, amendments are made to the veterans' special term life insurance program authorized under section 723 of title 38 to make it a participating policy.

SGLI FOR RESERVES AND NATIONAL GUARD

Mr. President, the Veterans' Insurance Act is intended 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 for certain members of the retired Reserve up to the age of 60.

This bill would provide full-time coverage under SGLI up to $20,000 for persons who volunteer for assignment to the Ready Reserve of a uniformed service and are assigned to a unit or position in which they may be required to perform active duty or active duty for training, and each year will be scheduled to perform at least 12 periods of inactive duty training that is creditable for retirement purposes under chapter 67 of title 10, United States Code. Currently, this group, along with other reserves, are covered under SGLI only on such days as they are on active duty or active duty for training under a call or order to duty that specifies a period of less than 30 days, during the hours of scheduled inactive duty training and while traveling to or from such duties.

This bill would also provide full-time coverage under SGLI for persons assigned to, or who, upon application, would be eligible for assignment to the Retired Reserve of a uniformed service who are under 60 years of age and have completed at least 20 years of satisfactory service creditable for retirement purposes under chapter 67 of title 10, United States Code. At the present time, members of the Retired Reserves are not eligible for SGLI.

Full-time coverage of any member of the Ready Reserve would terminate 120 days after separation or release from an assignment which qualifies him for such coverage. However, if on the date of such separation or release the member was totally disabled, SGLI coverage would continue in effect during total disability up to 1 year as is provided in present law for persons on extended active duty. Further, if on the date of separation or release from such an assignment, the member has completed at least 20 years of satisfactory service creditable for retirement purposes, the full-time coverage, unless converted, would continue in force until receipt of the first increment of retirement annuity by the member or the member's 61st birthday, whichever occurs earlier. Such continued coverage would be subject to the timely payment of premiums under terms prescribed by the Administrator.

The premium charges will be paid by the member through payroll deduction. There is, of course, no cost to the Government. The Administrator is authorized to determine premiums that would include an amount necessary to cover the administrative cost of such insurance.

The Department of Defense strongly recommends extension of SGLI to these men "as a positive and feasible incentive for service in the National Guard and Ready Reserve forces, particularly the Selected Reserve."

Mr. President, America has depended upon strong, willing Reserve forces to help provide its wartime strength requirements, and their contributions have been highly important.

But we must remember that providing for strong Reserves is not now an easy thing to do. The attractiveness for service in the Reserves is not as great under present day conditions and attitudes as in previous years. The pressure of the draft has been removed and with it much of the incentive for young men to seek service in the Reserves. Reserve strength figures are dropping. If we are to make service in the Reserves sufficiently attractive to maintain adequate strength levels, we must provide new incentives.

VETERANS' GROUP LIFE INSURANCE

Mr. President, the Veterans' Insurance Act of 1973 would also provide for the conversion of Servicemen's Group Life Insurance to a nonrenewable 5-year term policy to be known as Veterans' Group Life Insurance effective on the day SGLI terminates for the servicemen. At the end of the 5-year period, the policy could then be converted to an individual policy of insurance with a commercial insurance company selected by the veteran. Presently a serviceman may be covered by Servicemen's Group Life Insurance of up to $15,000 while he is in the service. This coverage continues for 120 days following discharge or up to 1 year in the case of total disability. Within that period the veteran has the right to convert to an individual policy with a commercial insurance company of his choice. It is no secret, however, that it often takes considerable time for a veteran to completely adjust back to civilian life. Life insurance hardly appears to be a priority to the young ex-serviceman concerned with all of the obvious readjustment problems of additional schooling, of finding an adequate job, beginning a family and buying a home. One-hundred and twenty days passes quite swiftly and the veteran often finds himself with with no insurance coverage. His financial situation often prohibits him from taking out any insurance much less adequate

insurance. Veterans' Group Life Insurance is intended to provide a low-cost policy of life insurance during this readjustment period at the end of which the veteran will both recognize the value of commercial life insurance and be in a position to purchase an adequate amount. The Veterans' Administration has reported that if a veteran 23 years of age today buys a $15,000 ordinary life policy with no added benefits from a company which will pay dividends, a typical monthly premium would be about $21. The cost would of course be reduced in the future by dividends as declared. Veterans' Group Life Insurance as proposed by this bill, however, would reduce by more than 75 percent most veterans' initial outlay for the same amount of insurance during these critical years of readjustment.

The bill would automatically cover any serviceman being discharged by the service following enactment of this act unless he declined in writing to be covered. In addition, the bill would provide a partial 5-year retroactive coverage for the some 6 million Vietnam-era veterans, many of whom did not convert their SGLI policies. Under this retroactive provision VGLI would be issued for a term period equal to 5 years less any time lapse in the termination of the applicant's Servicemen's Group Life Insurance and the date of enactment of this act. For example, the veteran who was discharged a year ago would be entitled to Veterans' Group Life Insurance for a period of 4 years. A veteran discharged 2 years ago would be entitled to VGLI for a period of 3 years, and so on. For retroactive coverage, proof of good health would be required except that any veteran who could not meet the good health requirements for insurance under this subsection solely because of a service-connected disability would have such disability waived.

INCREASE SGLI AND VGLI TO $20,000

Mr. President, the Veterans' Insurance Act would also increase the maximum amount of life insurance coverage under servicemen's group life insurance and veterans' group life insurance from $15,000 to $20,000.

The importance of life insurance to all Americans should not be underestimated. People buy life insurance for a variety of reasons, but the main one is to provide financial protection for their families in case they should die prematurely. Americans purchased $189.2 billion of life insurance in 1971 and $193.6 billion in 1970, including $17.1 billion under SGLI.

Through legal reserve life insurance companies, Americans owned $1.5 trillion of life insurance by the end of 1971. If divided among all families in the Nation, each would have had $21,800 of protection at the year's end. In fact, excluding families with no life insurance, the average ownership for insured families was about $25,700.

Ninety-one percent of all families have some coverage by life insurance, insuring the man in 86 percent of all cases. Some 140 million individual policyholders, or two out of three people in the country, were insured with legal reserve life insurance companies.

Families are being insured at higher rates today. In 1971, over 50 percent of all new ordinary policies purchased was for amount of $10,000 or more, compared to 32 percent 9 years earlier. Thirty-six percent was between $10,000 and $25,000.

There have been few Federal programs that have been as successful and popular as veterans' insurance. The SGLI program is a unique combination of public and private cooperation to provide low cost insurance to our servicemen and veterans. I believe an increase in the maximum amount of insurance to $20,000 is long overdue. Of course, the insured can choose to purchase lesser amounts of insurance if he desires to.

VETERANS' SPECIAL LIFE INSURANCE

Mr. President, the Veterans' Insurance Act would also amend 38 U.S.C. section 723 to make the veterans' special term—RS—insurance a participating policy.

The veterans' special term insurance—VSLI—program was authorized to permit veterans of the Korean conflict to continue Government-sponsored life insurance following their military service—as had been true for their World War II and World War I predecessors. The Korean serviceman was in a different circumstance, since he carried no premium-paying insurance during service—rather, the Government covered his insurance requirements with a $10,000 servicemen's indemnity. Hence VSLI was created for these men following their discharge. It was the first regular Government-administered program to be written on a nonparticipating basis, that is, without dividends. It is self-supporting except that the cost of administration is borne by the Government.

There are today 562,621 VSLI policies in force, a total face value of $5.3 billion. VSLI consists of two varieties, "RS" and "W." The RS insurance is entirely term insurance with the premium rate increasing at the expiration of each 5-year period. W insurance is both term and permanent. It was created to provide RS holders with the option of exchanging their policies for a nonrenewable insurance after age 50 at a greatly reduced cost. Fifty-six percent converted from RS to W.

The total number of RS policyholders has only slightly decreased over the past few years, from 49,687 at the end of 1968 to 44,157 at the end of 1972. Yet the surplus earnings in the RS revolving trust fund has quadrupled over this same 4-year period from $2 to $8 million.

Congress never intended for the Government to overcharge war veterans for insurance. Policyholders who continued their protection on the term plan are still being charged premiums far in excess of mortality experience—up to 70 percent more than is needed to pay for the cost of claims, mortality, and administrative charges. The mortality table established at the start of VSLI is obviously out of date today.

Equity demands that these excess premiums be returned to the veterans who paid for them. This proposed amendment to section 723 would direct the Administrator of the Veterans' Administration to determine the amount in the revolving fund which is in excess of the actuarial liability, including contingency reserves, and pay such amounts as a dividend without interest less the annual cost per policy.

Mr. President, I ask unanimous consent that the text of the bill, as introduced, 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. 1835

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 "Veterans' Insurance Act of 1973".

SEC. 2. (a) That section 723 of title 38, United States Code, is amended as follows:

(1) The catchline is amended to read as follows: "Veterans' Special Life Insurance".

(2) Clause (4) of subsection (a) is amended to read as follows: "(4) all premiums and other collections on such insurance and any total disability provisions added thereto shall be credited to a revolving fund in the Treasury of the United States, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums".

(3) Clause (5) of subsection (b) is amended to read as follows: "(5) all premiums and other collections on insurance issued under this subsection and any total disability income provisions added thereto shall be credited directly to the revolving fund referred to in subsection (a) of this section, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums".

(4) Subsections (d) and (e) are hereby repealed.

(b) The analysis of chapter 19 of title 38, United States Code, is amended by deleting "723. Veterans special term insurance." and inserting in lieu thereof the following: "723. Veterans Special Life Insurance."

SEC. 3. Clause (5) of section 765 of title 38, United States Code, is amended to read as follows:

"(5) The term 'member' means—

"(A) a person on active duty, active duty for training, or inactive duty training in the uniformed services in a commissioned, warrant, or enlisted man, or grade, or as a cadet or midshipman of the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy;

"(B) a person who volunteers for assignment to the Ready Reserve of a uniformed service and is assigned to a unit or position in which he may be required to perform active duty, or active duty for training, and each year will be scheduled to perform at least twelve periods of inactive duty training that is creditable for retirement purposes under chapter 67 of title 10;

"(C) a person assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service who has not received the first increment of retirement pay or has not yet reached sixty-one years of age and has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 67 of title 10; and

"(D) a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises."

SEC. 4. Section 767 of title 38, United States Code, is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Any policy of insurance purchased by the Administrator under section 766 of this title shall automatically insure against death—

"(1) any member of a uniformed service on active duty, active duty for training, or inactive duty for training scheduled in advance by competent authority;

"(2) any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(B) of this title; and

"(3) any member assigned to, or who upon application would be eligible for assignment to, the Retired Reserve or a uniformed service who meets the qualifications set forth in section 765(5)(C) of this title;

in the amount of $20,000 unless such member elects in writing (A) not to be insured under this subchapter, or (B) to be insured in the amount of $15,000, $10,000 or $5,000. The insurance shall be effective the first day of active duty or active duty for training, or the beginning of a period of inactive duty training scheduled in advance by competent authority, or the first day a member of the Ready Reserve meets the qualifications set forth in section 765(5)(B) of this title, or the first day a member of the reserves, whether or not assigned to the Retired Reserve of a uniformed service, meets the qualifications of section 765(5)(C) of this title, or the date certified by the Administrator to the Secretary concerned and the date Servicemen's Group Life Insurance under this subchapter for the class or group concerned takes effect, whichever is the later date."

(2) Subsection (b)(2) is amended by deleting "ninety days" and inserting in lieu thereof "one hundred and twenty days".

(3) Subsection (c) is amended to read as follows: "(c) If any member elects not to be insured under this subchapter or to be insured in the amount of $15,000, $10,000 or $5,000, he may thereafter be insured under this subchapter or insured in the amount of $20,000, $15,000, or $10,000 under this subchapter, as the case may be, upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administrator. Any former member insured under Veterans' Group Life Insurance who again becomes eligible for Servicemen's Group Life Insurance and declines such coverage solely for the purpose of maintaining his Veterans' Group Life Insurance in effect shall upon termination of coverage under Veterans' Group Life Insurance be automatically insured under Servicemen's Group Life Insurance, if otherwise eligible therefor."

SEC. 5. (a) Section 768 of title 38, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting "or while the member meets the qualifications set forth in sections 765(5)(B) or (C) of this title," immediately before "and such insurance shall cease".

(2) Clauses (2) and (3) of subsection (a) are each amended by deleting "ninety days" wherever it appears therein and inserting in lieu thereof "one hundred and twenty days".

(3) Subsection (a) is further amended by adding at the end thereof the following:

"(4) with respect to a member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 765(5)(B) of this title, one hundred and twenty days after separation or release from such assignment—

"(A) unless on the date of such separation or release the member is totally disabled, under criteria established by the Administrator, in which event the insurance shall cease one year after the date of separation or release from such assignment, or on the date the insured ceases to be totally disabled, whichever is the earlier date, but in no event prior to the expiration of one hundred and twenty days after separation or release from such assignment; or

"(B) unless on the date of such separation or release the member has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 67 of title 10 and would upon application be eligible for assignment to or is assigned to the Retired Reserve, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 777(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Administrator directly to the administrative office established under section 766(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier.

"(5) with respect to a member of the Retired Reserve who meets the qualifications of section 765(5)(C) of this title, and who was assigned to the Retired Reserve prior to the date insurance under this amendment is placed in effect for members of the Retired Reserve, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Administrator, directly to the administrative office established under section 766(b) of this title."

(4) Subsection (b) is amended to read as follows:

"(b) Each policy purchased under this subchapter shall contain a provision, in terms approved by the Administrator, that, except as hereinafter provided, Servicemen's Group Life Insurance which is continued in force after expiration of the period of duty or travel under sections 767(b) or 768(a) of this title, effective the day after the date such insurance would cease, shall be automatically converted to Veterans' Group Life Insurance subject to (1) the timely payment of the initial premium under terms prescribed by the Administrator, and (2) the terms and conditions set forth in section 777 of this title. Such automatic conversion shall be effective only in the case of an otherwise eligible member or former member who is separated or released from a period of active duty or active duty for training or inactive duty training on or after the date on which the Veterans' Group Life Insurance program (provided for under section 777 of this title) becomes effective. Servicemen's Group Life Insurance continued in force under section 768(a)(4)(B) or (5) of this title shall not be converted to Veterans' Group Life Insurance. However, a member whose insurance could be continued in force under section 768(a)(4)(B) of this title, but is not so continued, may, effective the day after his insurance otherwise would cease, convert such insurance to an individual policy under the terms and conditions set forth in section 777(e) of this title."

(5) Section 768(c) is hereby repealed.

(b) The amendments made by this Act shall not be construed to deprive any person discharged or released from the Armed Forces of the United States prior to the date on which the Veterans' Group Life Insurance program (provided for under section 777 of title 38, United States Code) becomes effective of the right to convert Servicemen's Group.

SEC. 6. Section 769 of title 38, United States Code, is amended as follows:

(1) By deleting from paragraphs (1) and (2) of subsection (a) "is insured under a policy of insurance purchased by the Administrator, under section 766 of this title" and inserting in lieu thereof "is insured under Servicemen's Group Life Insurance".

(2) By redesignating paragraphs (2) and (3) of subsection (a) as paragraphs (3) and (4), respectively, and by adding after paragraph (1) a new paragraph (2) as follows:

"(2) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications of section 765(5)(B) of this title, or is assigned to the Reserve (other than the Retired Reserve) and meets the qualifications of section 765(5)(C) of this title, and is insured under a policy of insurance purchased by the Administrator, under section 766 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring such member under this policy, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any individual shall be collected by the Secretary concerned from such individual (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made."

(3) By deleting from the second sentence of paragraph (4) "subsection (1) hereof, or fiscal year amount under subsection (2) hereof" and inserting in lieu thereof "paragraph (1) or (2) hereof, or fiscal year amount under paragraph (3) hereof"; and by deleting in such paragraph (4) "this subchapter" each time it appears and "insurance under this subchapter" and inserting in lieu thereof "Servicemen's Group Life Insurance".

(4) The first sentence of subsection (b) is amended by deleting "such insurance" and inserting in lieu thereof "Servicemen's Group Life Insurance"; and the second sentence of such subsection is amended by deleting "this subchapter" and inserting in lieu thereof "Servicemen's Group Life Insurance".

(5) Subsection (c) is amended by deleting "such insurance" and inserting in lieu thereof "Servicemen's Group Life Insurance".

(6) The last sentence of subsection (d)(1) is amended to read as follows: "all premium payments and extra hazard costs on Servicemen's Group Life Insurance and the administrative cost to the Veterans' Administration of insurance issued under this subchapter shall be paid from the revolving fund".

(7) By adding at the end of such section a new subsection as follows:

"(e) The premiums for Servicemen's Group Life Insurance placed in effect or continued in force for a member assigned to the Retired Reserve of a uniformed service who meets the qualifications of section 765(5)(C) of this title, shall be established under the criteria set forth in section 771 (a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as he may determine to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing or continuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. The provisions of section 771 (d) and (e) of this title shall be applicable to Servicemen's Group Life Insurance continued in force or issued to a member assigned to the Retired Reserve of a uniformed service. However, a separate accounting may be required by the Administrator for insurance issued to or continued in force on the lives of members assigned to the Retired Reserve and for other insurance in force under this subchapter. In such accounting, the Administrator is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles".

SEC. 7. Section 770 of title 38, United States Code, is amended as follows:

(1) The first paragraph following the colon in subsection (a) is amended to read as follows:

"First, to the beneficiary or beneficiaries as the member or former member may have designated by a writing received prior to death (1) in the uniformed services if insured under Servicemen's Group Life Insurance, or (2) in the administrative office established under section 766(b) of this title if separated or released from service, or if assigned to the Retired Reserve, and insured under Servicemen's Group Life Insurance, or if insured under Veterans' Group Life Insurance;".

(2) Subsections (f) and (g) are amended by adding after "Servicemen's Group Life Insurance" wherever it appears therein "or Veterans' Group Life Insurance".

SEC. 8. Section 771 of title 38, United States Code, is amended as follows:

(1) Subsection (b) is amended by deleting "the policy or policies" and inserting in lieu thereof "Servicemen's Group Life Insurance".

(2) The third sentence of subsection (e) is amended by deleting "section 769" and inserting in lieu thereof "section 769(d)(1)".

SEC. 9. (a) Subchapter III of chapter 19 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 777. Veterans' Group Life Insurance

"(a) Veterans' Group Life Insurance shall be issued in the amounts of $5,000, $10,000, $15,000 or $20,000 only. No person may carry a combined amount of Servicemen's Group Life Insurance and Veterans' Group Life Insurance in excess of $20,000 at any one time. Any person insured under Veterans' Group Life Insurance who again becomes insured under Servicemen's Group Life Insurance may within sixty days after becoming so insured convert any or all of his Veterans' Group Life Insurance to an individual policy of insurance under subsection (e) of this section. However, if such a person dies within the sixty-day period and before converting his Veterans' Group Life Insurance, Veterans' Group Life Insurance will be payable only if he is insured for less than $20,000 under Servicemen's Group Life Insurance, and then only in an amount which when added to the amount of Servicemen's Group Life Insurance payable shall not exceed $20,000.

"(b) Veterans' group life insurance shall (1) provide protection against death; (2) be issued on a nonrenewable five-year term basis; (3) have no cash, loan, paidup, or extended values; (4) except as otherwise provided, lapse for nonpayment of premiums; and (5) contain such other terms and conditions as the Administrator determines to be reasonable and practicable which are not specifically provided for in this section, including any provisions of this subchapter not specifically made inapplicable by the provisions of this section.

"(c) The premiums of veterans' group life insurance shall be established under the criteria set forth in sections 771 (a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as he may decide to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. In any case in which a member or former member who was mentally incompetent on the date he first became insured under veterans' group life insurance dies within one year of such date, such insurance shall be deemed not to have lapsed for nonpayment of premiums and to have been in force on the date of death. Where insurance is in force under the preceding sentence, any unpaid premiums may be deducted from the proceeds of the insurance. Any person who claims eligibility for veterans' group life insurance based on disability incurred during a period of duty shall be required to submit evidence of qualifying health conditions and, if required, to submit to physical examinations at their own expense.

"(d) Any amount of veterans' group life insurance in force on any person on the date of his death shall be paid, upon the establishment of a valid claim therefor, pursuant to the provisions of section 770 of this title. However, any designation of beneficiary or beneficiaries for servicemen's group life insurance filed with a uniformed service until changed, shall be considered a designation of beneficiary or beneficiaries for veterans' group life insurance, but not for more than sixty days after the effective date of the insured's veterans' group life insurance, unless at the end of such sixty-day period, the insured is incompetent in which event such designation may continue in force until the disability is removed but not for more than five years after the effective date of the insured's veterans' group life insurance. Except as indicated above in incompetent cases, after such sixty-day period, any designation of beneficiary or beneficiaries for veterans' group life insurance to be effective must be by a writing signed by the insured and received by the administrative office established under section 766(b) of this title.

"(e) An insured under Veterans' Group Life Insurance shall have the right to convert such insurance to an individual policy of life insurance upon written application for conversion made to the participating company he selects and payment of the required premiums. The individual policy will be issued without medical examination on a plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount as premiums in the event the insured performs active duty, active duty for training, or inactive duty training. The individual policy will be effective the day after the insured's Veterans' Group Life Insurance terminates by expiration of the five-year term period, except in a case where the insured is eligible to convert at an earlier date by reason of again having become insured under Servicemen's Group Life Insurance, in which event the effective date of the individual policy may not be later than the sixty-first day after he again became so insured. Upon request to the administrative office established under section 766(b) of this title, an insured under Veterans' Group Life Insurance shall be furnished a list of life insurance companies participating in the program established under this subchapter. In addition to the life insurance companies participating in the program established under this subchapter, the list furnished to an insured under this section shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administrator and agree to sell insurance to former members in accordance with the provisions of this section.

"(f) The provisions of section 771 (d) and (e) of this title shall be applicable to Veterans' Group Life Insurance. However, a separate accounting shall be required for each program of insurance authorized under this subchapter. In such accounting, the Administrator is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles."

"(g) Any person whose Servicemen's Group Life Insurance was continued in force after termination of duty or discharge from service under the law as in effect prior to the date on which the Veteran's Group Life Insurance program (provided for under section 777 of this title) became effective, and whose coverage under Servicemen's Group Life Insurance terminated less than five years prior to such date, shall be eligible to apply for and be granted Veterans' Group Life Insurance in an amount equal to the amount of his Servicemen's Group Life Insurance which was not converted to an individual policy under prior law. Veterans' Group Life Insurance issued under this subsection shall be issued for a term period equal to five years, less the time elapsing between the termination of the applicant's Servicemen's Group Life Insurance and the effective date on which the Veterans' Group Life Insurance program became effective. Veterans' Group Life Insurance under this subsection shall only be issued upon application to the administrative office established under section 766(b) of this title, payment of the required premium, and proof of good health satisfactory to that office, which proof shall be submitted at the applicant's own expense. Any person who cannot meet the good health requirements for insurance under this subsection solely because of a service-connected disability shall have such disability waived. For each month for which any eligible veteran, whose service-connected disabilities are waived, is insured under this subsection there shall be contributed to the insurer or insurers issuing the policy or policies from the appropriation "Compensation and Pensions, Veterans' Administration" an amount necessary to cover the cost of the insurance in excess of the premiums established for eligible veterans, including the cost of administration and the cost of the excess mortality attributable to such veteran's service-connected disabilities. Appropriations to carry out the purpose of this section are hereby authorized".

(b) The analysis of subchapter III of chapter 19 of title 38, United States Code, is amended by adding at the end thereof the following:

"777 Veterans' Group Life Insurance.".

SEC. 10. This Act shall become effective as follows:

(1) The amendments made by section 2, relating to Veterans' Special Life Insurance, shall become effective upon the date of enactment of this act except that no dividend on such insurance shall be paid for any period of time prior to January 1, 1974.

(2) The amendments relating to Servicemen's Group Life Insurance coverage on a full-time basis for certain members of the Reserves and National Guard shall become effective upon the date of enactment of this Act.

(3) The amendments increasing the maximum amount of Servicemen's Group Life Insurance shall become effective upon the date of enactment of this act.

(4) The amendments enacting a Veterans' Group Life Insurance program shall become effective on the first day of the third calendar month following the month in which this Act is enacted.

By Mr. FONG:

S. 1836. A bill to amend the act entitled "An act to incorporate the American Hospital of Paris," approved January 30, 1913 (37 Stat. 654). Referred to the Committee on the Judiciary.

Mr. FONG. Mr. President, today I am introducing legislation to amend the charter of the American Hospital of Paris so as to remove the limitation on the maximum number of members of its board of governors.

As anyone who has had the misfortune to become ill while in Europe well knows, the American Hospital of Paris, located on the Boulevard Victor-Hugo in Paris, France, affords outstanding medical and surgical services.

This hospital was founded in 1910. It

was incorporated by an act of Congress (37 Stat. 654) approved January 30, 1913. It is a nonprofit institution for the express purpose of serving Americans, with or without funds, residing or traveling in France. Through the years, it has earned an international reputation for providing outstanding medical care to its patients, American as well as many other nationalities.

We all understand that management of any hospital in today's world is a very complex business, but the direction of an American hospital in a foreign country is doubly difficult. Their task is further complicated by their determination to expand the facilities and to rebuild and modernize many of the buildings on their property, some of which date back to 1910 and are no longer useful or economic to operate.

Working with the help of U.S. management engineers, the American Hospital of Paris has also begun to improve further the quality of its health care delivery system by developing a biological and scientific research institute as part of the hospital complex. This, they expect, will lead to an affiliation with one or more American universities and it will thus become a teaching institution to provide an even greater exchange of scientific ideas and talent. In this connection, some financial assistance through AID's program to help American schools and hospitals abroad is anticipated. However, the major part of the $25 million needed for the project must be privately subscribed.

I might note parenthetically, that even though the American Hospital of Paris has served as an outstanding example of American medical excellence in France since 1910, it has never asked for U.S. Government assistance until this past year.

The American community of Paris, which the hospital was founded to serve, is very special. Apart from the 25,000 to 30,000 Americans who live in Paris more or less permanently as businessmen, bankers, educators, government officials, and so forth, there are literally hundreds of thousands of other Americans who have a right to use the facilities including students, tourists, visiting officials as well as those Americans residing elsewhere in Europe. According to the expert advice of a group of American hospital consultants, demand for the use of the hospital facilities will more than double over the next 7 to 10 years.

In order to raise the money to carry on and expand its worthwhile humanitarian efforts, the president and executive governor of the American Hospital of Paris, Perry H. Culley, advises me that its management consultants feel that the interests of the hospital would be better served if they were permitted to have more governors, and thus broaden their base to include some of the younger American residents of Paris, both men and women, who represent our country either in business or government.

By its charter, its Board of Governors is limited to 20 members. My bill proposes to eliminate this restriction so that, as recommended by its management consultants, the hospital may offer Board membership to "certain individuals, preferably in the lower age bracket, who evidence some interest in maintaining and promoting better health services and who hopefully might be in a position to help financially either themselves, or through contacts with other individuals who might become contributors."

A fact sheet prepared by the American Hospital of Paris as to its operations, would, I am certain, be of interest to my colleagues.

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

One final note: The American Hospital of Paris contributes immensely in promoting good will in France and in furthering Franco-American friendship and scientific cooperation and exchange. If it were possible to measure its contribution in cash, I believe it would be worth many, many millions of dollars. It is a landmark in Europe and, through modernization and expansion, will be an even more important show place for the best of American medical and health care practice.

I ask unanimous consent that my bill be printed in the RECORD.

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

S. 1836

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Act entitled "An Act to incorporate the American Hospital of Paris", approved January 30, 1973 (37 Stat. 654) is amended by deleting "nor more than twenty".

(b) Section 6 of such Act is amended by deleting "an equal number of" wherever it appears therein.

THE AMERICAN HOSPITAL OF PARIS FACT SHEET

(1) Opened—March 1910.

(2) Chartered by an Act of Congress, January 1913.

(3) The American Hospital of Paris is the only hospital in Europe accredited by the American Joint Commission on the Accreditation of Hospitals.

(4) The American Hospital of Paris operates under regulations established by the French Ministry of Public Health and is accredited by the French Social Security.

That is, number of rooms authorized, rates charged per room, number of U.S. doctors allowed, social security benefits, etc.

(5) Number of Americans—Authorized, 6.

(6) Number of French Doctors—

1. Active staff, 95.
2. Consulting staff, 44.
3. Courtesy privileges, 267.
4. Honorary staff, 58.

(7) Number of Nurses—129.

(8) Number of persons employed (except doctors), 550.

(9) Number of beds (authorized), 187.

(10) Average number of babies born a year, 550.

(11) Number of operating rooms, 4.

(12) Average number of out-patient clinic visits per year, 38,000.

(13) Average number of in-patient operations performed yearly, 2,500.

(14) Average percentage of American patients, 25%.

(15) Average percentage of French and other nationalities, 75%.

(16) Average number of patients admitted per year, 5,500.

(17) Among outstanding facilities are:

(a) one of the finest X-Ray departments in Europe.

(b) an Intensive Care Unit of 7 beds with individual and central monitoring.

(c) a Radioactive Isotope Laboratory.

(d) a Cobalt bomb.

(e) the Eisenhower Pavillion with large private rooms and out-patient facilities.

(f) a Clinical Laboratory with autoanalyzer (automatic clinical testing unit).

(g) a Photocoagulator and a laser for the Department of Ophthalmology.

(18) The American Hospital of Paris remained open during all of World War I and World War II (even under German occupation).

(19) In 1917 the American Hospital became *Military Hospital No. 1 of the United States Army.*

(20) After the liberation of Paris in 1944, the U.S. military operated the hospital. By the late 1940's the hospital was back under civilian control but the American Army kept one floor with its own staff until late in 1967. This floor, with 50 beds, has since then been used for civilian patients.

(21) By its Charter, *all* Americans, with or without funds, are given priority treatment and many patients are stranded American students in Paris.

(22) The range of prices for rooms is presently as follows:

Ward, 127 frs. per day.

22 *Semi-private rooms* (2 beds), 183 frs. per day.

82 *Private rooms* (without all facilities), 230 frs. per day.

7 *Medium-size private rooms with bath,* 279 frs. per day.

7 *Large private rooms with bath and W.C.,* 308 frs. per day.

16 *Luxe* rooms, 316 frs. per day.

(23) Although the American Hospital of Paris functions exclusively in France, its organization is all-American, with the American Ambassador as a "working" Honorary President, an American President, Executive Governor, Chief of Medical Services and a 20-member Board of Governors, all prominent U.S. citizens who are residents of Paris.

(24) The American Hospital, a non-profit institution, receives no financial support from the American or French Governments and has been operating for the last few years at a loss of approximately $500,000 annually, including depreciation.

By Mr. WILLIAMS (for himself and Mr. Moss):

S. 1837. A bill to amend section 1903 of the Social Security Act to remove limits on payments for skilled nursing homes and intermediate care facilities. Referred to the Committee on Finance.

REPEAL OF ARBITRARY MEDICAID REPAYMENT LIMITATIONS FOR NURSING HOMES AND INTERMEDIATE CARE FACILITES

Mr. WILLIAMS. Mr. President, I introduce for appropriate reference a bill that will amend section 1903 of the Social Security Act by removing arbitrary statutory limits on payments for skilled nursing homes and intermediate care facilities.

Last year's social security and medicare reform bill, H.R. 1, (Public Law 92-603), included a provision (section 225) which limits Federal participation in nursing home rate increases for skilled nursing and intermediate care facilities to 105 percent of the previous year's commitment. This was apparently intended as a cost control measure to limit precipitous increases in the rates States pay nursing homes under the medicaid program.

Of course, medicaid is a Federal grant-in-aid program administered by HEW. Under the medicaid program the Government pays from 50 to 83 percent of the cost incurred when a State provides nursing home care to welfare patients who cannot afford it.

Since the lion's share of the medicaid funds comes from the Federal Government, limiting the Federal Government's participation to 105 percent of what it paid has a serious adverse effect. It will place a flat limit on State payments to medicaid nursing homes of 5 percent over the previous year's rates regardless of how much costs have actually increased.

Members of the American Nursing Home Association and the New Jersey Nursing Home Association have challenged this provision as arbitrary and unfair. I believe they are right and that it should be repealed. This is the effect of my bill.

There are several persuasive reasons to make the reform which I am supporting.

First, the provision of the Social Security Act in question, section 1903(j), applies only to nursing homes. It does not apply to hospitals which have essentially similar costs as far as supplies, food, and personnel.

Second, this section of the law seems to contradict section 1902(a)(13) subsection (E) which requires the States to establish cost related reimbursement for medicaid nursing homes by July 1, 1976.

Third, there is no consideration given to increases in rates which will be required to meet new and higher federally imposed standards incorporated in H.R. 1 last year.

Finally, there is no concession in the present 5 percent ceiling for inflation generally or specifically for the increases in costs of supplies, materials, food, and personnel.

On this last point, we should note that the general rate of inflation in the United States is presently about 6 percent a year while medical and health costs have been increasing twice as fast. The lack of controls on suppliers is also significant—particularly since food costs for providers will probably jump 13 to 20 percent this year.

I would also like to emphasize that there are abundant cost controls in the present law to protect against unreasonable increases in nursing home rates. Among these are Utilization Review, Professional Standards Review Organizations and Medical Review. Moreover, the Cost of Living Council controls the rates nursing homes can charge to private patients.

All of these are compelling arguments for the repeal of section 1903(j). But most important of all from my judgment is the fact that this provision effectively limits the quality of care provided to patients under the medicaid program. It has been acknowledged by most students in long-term care that medicaid rates are too low and that this is one of the primary causes for the reports of low quality of care received by indigent nursing home patients. In H.R. 1, last year the Congress made a commitment to increase these rates to a reasonable level, at least to reflect cost minimums. I intend to see that we keep our promise. The present provision is clearly arbitrary and discriminatory and patently unfair. For all these reasons and for the sake of the thousands of elderly who must spend their remaining days in a long-term care facility, we must repeal section 1903(j).

By Mr. HARTKE (for himself and Mr. BIBLE):

S. 1838. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 so as to extend to all individuals who have attained age 65 coverage under part A of medicare, to extend—without payment of premium—coverage under part B of medicare to all individuals covered under part A of medicare, to revise the social security and medicare tax schedules, to provide an alternative tax rate for low-income individuals, and to provide for partial general revenue financing of the social security and medicare programs. Referred to the Committee on Finance.

Mr. HARTKE. Mr. President, today I introduce legislation to effect several major reforms in the social security system. Specifically, my proposal would combine parts A and B of the medicare health insurance program, cover all persons over 65 under that program, eliminate the present separate premium for part B medicare, provide for partial general revenue financing of both retirement and health insurance benefits, establish an alternative rate of payroll tax for low-income individuals, and establish a payroll tax rate which will not need to be increased until the year 2020.

MEDICARE

Mr. President, medicare provides needed health insurance coverage for millions of elderly Americans. Health expenditures are the most costly item in the budget of an older American, and medicare helps to ease that burden.

At the present time, those persons eligible for part B—physicians' services—coverage pay a monthly premium of $5.80 or 69.60 a year, which is matched dollar for dollar by the Federal Government. In July of this year, that monthly premium will go up to $6.30 or $75.60 a year. Because a significant number of older Americans live below or near the poverty level, this monthly premium only serves to take away money which is needed to purchase other essentials.

I have long advocated that we should eliminate the special premium for part B medicare coverage and combine that coverage with part A—hospital insurance—coverage. Under the proposal that I introduce today, both parts would be financed from a combination of the payroll tax and Federal general revenues, with the consequent elimination of the special part B premium. In this way, the elderly can purchase both hospital and doctor coverage before they retire, rather than be saddled with part of the expense after retirement, when it can least be afforded.

Similarly, I have advocated the appropriation from general revenues of funds to pay part of the cost of medicare. This approach helps to pay for the cost of health insurance for workers who are already old, thus relieving younger workers of the burden. In order to make the medicare program fully effective in its early years, people who were already at or approaching retirement age at the time medicare began were fully covered even though some had made no contributions at all, and the rest—together with their employers had made contributions substantially below the cost of benefits paid to them. Thus, part or all of the cost of the benefits for these older workers is now met by the contributions of younger workers and future generations of workers.

The use of general revenues is also a more equitable means of paying for the health insurance program. In the cash social security program, the more one works and the higher his wages, the better his protection will be generally. In the medicare program, however, the person who has the minimum amount of coverage to be eligible to be insured and thus has paid a minimum payroll tax contribution is entitled to the same health insurance benefits as the person who has paid the maximum contributions over his entire working lifetime. Thus, the high-income worker is paying a larger total amount for the identical benefits. The use of general revenues to pay for part of the health insurance cost is a more equitable means of financing medicare.

Under the proposal I introduce today, the combined parts A and B of medicare would be paid through a one-third contribution from employees, one-third from employers, and one-third from general revenues. The general revenue contribution would be phased in over a period of 4 years, beginning with a contribution equal to one-fifth of benefit outgo in fiscal year 1974, one-fifth for fiscal year 1975, one-fourth in fiscal year 1976, and one-third in each fiscal year after 1976. The general revenue contribution for medicare in fiscal year 1974 would amount to approximately $3 billion.

CASH BENEFITS

Mr. President, my proposal makes similar arrangements for financing cash benefits under the social security program. If one looks only at social security's current benefit and financing provisions and does not take into account that there will be future changes made in the program, one could conclude that young workers would get social security protection that is worth less than the combined employee-employer contributions that will be paid on their earnings. Under this sort of static analysis of the present program, that is, an analysis that assumes that wage and benefit levels remain unchanged in the future, the combined contributions of future generations of workers and their employers will be about 50 percent higher than the benefits payable to these future generations.

Moreover, a case could be made that payroll contributions are not the most desirable means by which to pay for the cost of getting the program started—that is, the cost of financing benefits for the first generation of workers. The employee-employer contribution, when viewed solely as a tax, is regressive since it falls more heavily on low-income workers than on higher-paid workers. Proponents of general revenue financing have argued for many years that a regressive tax should not be used to finance a social cost that is the responsibility of the whole Nation.

If the cost of getting the program started were to be met by a Government contribution, all of the contributions paid with respect to the earnings

of future generations of workers—by employers as well as employees—would be available to furnish protection for those future generations. As a result, the value of the insurance protection provided under the program for them could be made equivalent to the value of the ultimate combined employee-employer rate to be paid in the future. At the same time, the adoption of such a financing policy could make possible a substantial liberalization of benefits now without increases in social security contribution rates.

An arrangement under which the cost of getting the social security program started would be spread over the broader base of general taxation has often been proposed over the years. In 1935, the Committee on Economic Security, in explaining its plan for contributory annuities, made the following statement in its report to the President:

The allowance of larger annuities than are warranted by their contributions and the matching contributions of their employers to the workers who are brought into the system at the outset would involve a cost to the federal government which, if payments were begun immediately, would total approximately $500 million per year. Under the plan suggested, however, no payments will actually be made by the Federal government until 1965 and will, of course, be greater than they would if paid as incurred by the amount of the compound interest on the above sum.

In recommending a Government contribution, a 1938 Advisory Council said:

Since the Nation, as a whole, will materially and socially benefit by such a program it is highly appropriate that the Federal government should participate in the financing of the system. With a broadening of the scope of the protection afforded, government participation in meeting the cost of the program is all the more justified since the existing cost of relief and old age assistance will be materially affected.

The Advisory Council of 1948 wrote the following statement in its report:

The Council believes that old age and survivors insurance should be planned on the assumption that general taxation will eventually share more or less equally with employer and employee contributions in financing future benefit outlays and administrative costs . . . in a social insurance system it would be inequitable to ask either employers or employees to finance the entire cost of liabilities arising primarily because the act had not been passed earlier than it was. Hence it is desirable for the Federal government, as a sponsor of the program, to assume at least part of these accrued liabilities based on the prior service of early retirements. A government contribution would be a recognition of the interest to the Nation as a whole in the welfare of the aged, and of widows and children.

Such contribution is particularly appropriate in view of the relief to the general taxpayer which should result from the substitution of social insurance for part of public assistance.

The use of general revenues would be one means of making the social security system cost less for all contributors except insofar as they would pay higher income taxes, of improving benefit levels, and of meeting costs on a considerably more progressive basis.

Under the Hartke proposal for general revenue financing of cash benefits, the general revenue contribution would be equal to two-tenths of one-fifth of cash benefits outgo in fiscal 1973. The two-tenths figure would increase by one-tenth each fiscal year after 1973 eventually reaching one-fifth of benefit outgo for each fiscal year beginning with 1981. In other words, the general revenue contribution for the cash benefit program would be equal to one-twenty-fifth of benefit outgo in fiscal 1973; three-fiftieths of benefit outgo in fiscal 1974; two-twenty-fifths in fiscal 1975; one-tenth in fiscal 1976; three-twenty-fifths in fiscal 1977; seven-fiftieths in fiscal 1978; four-twenty-fifths in fiscal 1970; nine-fiftieths in fiscal 1980; and one-fifth in each fiscal year after 1980.

Mr. President, the payroll tax has become one of the largest components in the Federal taxation system. While the size and impact of this tax has grown rapidly, its substance has remained unchanged since the original adoption of social security. The result is that the single worker who earns $30,000 a year pays a tax equal to that which is paid by a $10,000 wage earner. What is even more important, the effective rate of taxation declines as the rate of earnings increases. The worker with a $25,000 income has a payroll tax rate of about 1.6 percent; the executive with a $100,000 income has a payroll tax rate of about four-tenths of 1 percent; but the worker with only a $7,000 income has a payroll tax rate of 5.2 percent under the current law.

A reduction in social security tax liability for low-income individuals is necessary to offset some of the regressive nature of the current flat-rate social security tax. The amount of social security tax liability for employees and the self-employed should be based on their earnings, the low-income allowance, and the number of exemptions they claim on their income tax return.

Under the proposal which I introduce today, if a worker has earnings that do not exceed the point of first income tax liability as prescribed by the amendment, he would pay 10 percent of the total social security tax due. For each $50 of earnings in excess of the point of first tax liability the proportion of social security tax paid by the individual would be increased by 5 percent so that earnings within the first $50 range above the point of first tax liability would result in a tax on his total earnings of 15 percent of the social security tax. Total earnings within the next $50 range would mean a tax rate of 20 percent of the total tax. No individual would pay more than 100 percent of the total social security tax rate.

For example, the provisions of my amendment provide that a worker claiming two exemptions would pay 10 percent of the total social security tax on earnings below $2,750. If his earnings were more than $2,749 but less than $2,800, he would pay 15 percent of the total social security tax. A worker claiming four exemptions would pay at the 10 percent rate on earnings up to $4,250 and on earnings more than $4,249 but less than $4,300 he would pay 15 percent of the total social security tax. In determining income to arrive at the point of first tax liability, only wages and self-employment income covered under the social security program would be used.

Employers would withhold the adjusted social security tax from their employees. In some situations, an employee with more than one employer during the year would not have a sufficient amount of social security taxes withheld during the year, because his total social security tax liability would be based on his total covered earnings. In this case, the employee would pay the difference between the tax due and the tax withheld when he filed his Federal income tax return. In addition, some employees might have an overwithholding of their social security taxes. These individuals would receive a refund of their excess social security tax when they file their return. Similarly, for purposes of withholding the social security tax and computing the social security tax due at the end of the year, a working married couple would both be considered single individuals with one exemption each. This might require adjustments in the amount of tax due or refunded at the time the income tax return was filed.

Mr. President, I ask unanimous consent that a table which describes the impact of this Hartke social security tax proposal be inserted in the RECORD at this point.

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

PERCENTAGE OF SOCIAL SECURITY TAX PAID BY A SINGLE INDIVIDUAL AT VARIOUS INCOME LEVELS

Covered social security earnings	Percent of total social security tax paid by employee	Effective social security tax rate [1]
0 to $2,049	10	0.52
$2,050 to $2,099	15	.78
$2,100 to $2,149	20	1.04
$2,150 to $2,199	25	1.30
$2,200 to $2,249	30	1.56
$2,250 to $2,299	35	1.82
$2,300 to $2,349	40	2.08
$2,350 to $2,399	45	2.34
$2,400 to $2,449	50	2.60
$2,450 to $2,499	55	2.86
$2,500 to $2,549	60	3.12
$2,550 to $2,599	65	3.38
$2,600 to $2,649	70	3.64
$2,650 to $2,699	75	3.90
$2,700 to $2,749	80	4.16
$2,750 to $2,799	85	4.42
$2,800 to $2,849	90	4.68
$2,850 to $2,899	95	4.94
$2,900 and over	100	5.20

[1] Based on employee and employer social security contribution rate of 5.2 percent each for 1972.

CONCLUSION

Mr. HARTKE. Mr. President, this Hartke legislation is designed to make the social security system more equitable for the current working generation while providing for expanded benefits for those who are retired. H.R. 1, passed by the Congress late last year, accomplishes neither of these goals.

I ask unanimous consent that the text of my 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. 1838

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 "Social Security Amendments of 1973".

HOSPITAL INSURANCE BENEFITS UNDER PART A OF MEDICARE FOR UNINSURED INDIVIDUALS WHO HAVE ATTAINED AGE 65

SEC. 2. (a) Section 1811 of the Social Security Act is amended by striking out "and are entitled to retirement benefits under title II of this Act or under the railroad retirement system".

(b)(1) Section 226(a) of such Act is amended to read as follows:

"(a) Every individual who—

"(1) has attained age 65, and

"(2) is—

"(A)(i) entitled to monthly insurance benefits under section 202, or (ii) a qualified railroad retirement beneficiary, or

"(B) a resident of the United States (as defined in section 210(i)) and—

"(i) a citizen of the United States (as so defined), or

"(ii) an alien lawfully admitted for permanent residence who, after being so admitted, has resided in the United States (as so defined) continuously for a period of not less than 5 years,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the conditions specified in paragraph (1), beginning with the first month after December 1973 for which he meets the conditions specified in paragraphs (1) and (2)."

(3) Section 226(i) of such Act is hereby repealed.

(3) Section 103 of the Social Security Amendments of 1965 is hereby repealed.

(c) Section 1818 of such Act is hereby repealed.

(d) The amendments and repeals made by the preceding provisions of this section shall take effect on January 1, 1974.

AUTOMATIC COVERAGE (WITHOUT PAYMENT OF PREMIUM) FOR BENEFITS, UNDER PART B OF MEDICARE, OF INDIVIDUALS ENTITLED TO BENEFITS UNDER PART A OF MEDICARE

SEC. 3. (a) Section 1831 of the Social Security Act is amended to read as follows:

"SEC. 1831. There is hereby established an insurance program to provide medical insurance benefits in accordance with the provisions of this part for all individuals who are entitled to the hospital insurance benefits provided by part A."

(b)(1) Section 1836 of such Act is amended to read as follows:

"SEC. 1836. Every individual who, for any period of time, is entitled to hospital insurance benefits under part A shall, for such period of time, be entitled to the benefits provided by the insurance program established by this part."

(2) The heading to such section 1836 is amended to read as follows: "INDIVIDUALS ENTITLED TO BENEFITS".

(d) Sections 1837, 1838, 1839, 1840, 1843, and 1844 of such Act are hereby repealed.

(e) Section 1902(a)(10) of such Act is amended by striking out "the making available of supplementary medical insurance benefits under part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or".

(f) Section 1902(a)(15) of such Act is amended by striking out "either or both of".

(g) Section 1903(a)(1) of such Act is amended by striking out "(including expenditures for premiums under part B of title XVIII, for individuals who are recipients of money payments under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, and, except in the case of individuals sixty-five years of age or older who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof)" and inserting in lieu thereof "(including insurance premiums for medical or any other type of remedial care or the cost thereof)".

(h) Section 1903(b) of such Act is amended by striking out paragraph (1) thereof and by striking out "(2)" at the beginning of paragraph (2) thereof.

(i)(1) Section 21(c) of the Railroad Retirement Act of 1937 is amended by striking out "part A" and inserting in lieu thereof "parts A and B".

(2) Section 21(d) of such Act of 1937 is amended by striking out "and sections 1840, 1843, and 1870" and inserting in lieu thereof "and section 1870".

(3) Section 22 of the Railroad Retirement Act of 1937 is amended by striking out "and their eligibility to enroll under part B of such title XVIII".

(j) The amendments and repeals made by the preceding provisions of this section shall take effect January 1, 1974.

PAYMENTS OF ALL MEDICARE BENEFITS FROM SINGLE TRUST FUND

SEC. 4. (a)(1) Section 1841 of the Social Security Act is repealed, effective January 1, 1974.

(2) On January 1, 1974, there shall be transferred to the Trust Fund established by section 1817 of the Social Security Act all the assets and liabilities of the Federal Supplementary Medical Insurance Trust Fund.

(b)(1) The heading to section 1817 of the Social Security Act is amended by striking out "HOSPITAL" and inserting in lieu thereof "HEALTH".

(2) The first sentence of section 1817(a) of such Act is amended by striking out "Federal Hospital Insurance Trust Fund" and inserting in lieu thereof "Federal Health Insurance Trust Fund".

(3) Section 1817(h) of such Act is amended by inserting "and part B" immediately after "this part".

(c) Section 1861(v)(1)(B) of such Act is amended by striking out "Federal Hospital Insurance Trust Fund" and inserting in lieu thereof "Federal Health Insurance Trust Fund".

(d) Section 1864(b) of such Act is amended by striking out "Federal Hospital Insurance Trust Fund" and inserting in lieu thereof "Federal Health Insurance Trust Fund".

(e)(1) Section 201(g)(1)(A) of such Act is amended by striking out "Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund" and inserting in lieu thereof "Federal Health Insurance Trust Fund".

(2) Section 201(i)(1)of such Act is amended by striking out "the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund" and inserting in lieu thereof "and the Federal Health Insurance Trust Fund".

(f) Section 21(e) of the Railroad Retirement Act of 1937 is amended by striking out "Federal Hospital Insurance Trust Fund" and inserting in lieu thereof "Federal Health Insurance Trust Fund".

(g) (1) Section 1401(b) of the Internal Revenue Code of 1954 is amended by striking out "HOSPITAL INSURANCE" and inserting in lieu thereof "HEALTH INSURANCE".

(2) (A) Section 3101(b) of such Act is amended by striking out "HOSPITAL INSURANCE" and inserting in lieu thereof "HEALTH INSURANCE".

(B) Section 3111(b) of such Act is amended by striking out "HOSPITAL INSURANCE" and inserting in lieu thereof "HEALTH INSURANCE".

(h) The amendments and repeals made by the preceding provisions of this section shall take effect January 1, 1974.

CHANGES IN TAX SCHEDULES; ALTERNATIVE TAX FOR LOW-INCOME INDIVIDUALS

SEC. 5. (a)(1) Section 1401(a) of the Internal Revenue Code of 1954 /relating to rate of tax on self-employment income for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) through (4) and inserting in lieu of such paragraphs the following:

"(1) in the case of any taxable year beginning after December 31, 1973, and before January 1, 2020, the tax shall be equal to 6.3 percent of the amount of the self-employment income for such taxable year; and

"(2) in the case of any taxable year beginning after December 31, 2019, the tax shall be equal to 8.3 percent of the amount of the self-employment income for such taxable year."

(2) Section 3101(a) of such Code (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) through (6) and inserting in lieu of such paragraphs the following:

"(1) with respect to wages received after December 31, 1973, and before January 1, 2020, the rate shall be 4.85 percent; and

"(2) with respect to wages received after December 31, 2019, the rate shall be 5.5 percent."

(b)(1) Section 3101 of the Internal Revenue Code of 1954 (relating to tax on employees) is amended by adding at the end thereof the following new subsection:

"(c) Alternate Tax on Low-Income Individuals.—

"(1) In general.—In the case of an individual whose adjusted social security income for the calendar year is less than $850, there is hereby imposed on the income of such individual (in lieu of the taxes imposed by subsections (a) and (b)) a tax determined under the following table:

"If the adjusted social income is:	The tax is the following percentage of the taxes imposed by subsections (a) and (b):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED SOCIAL SECURITY INCOME.—For purposes of this subsection, the adjusted social security income of an individual for any calendar year is his adjusted gross income for his taxable year beginning in such calendar year (determined under section 62) minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self employment income during such year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(2) Section 3102 of such Code (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) WITHHOLDING ON WAGES OF LOW INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted wages are less than $850 (computed at an annual rate), the employer of such individual shall deduct from the wages paid (in lieu of the amount required to be deducted under subsection (a)) an amount of the tax imposed by section 3101 determined under the following table:

"If the adjusted wages (computed at an annual rate) are:	The amount to be deducted is the following percentage of the amount required to be deducted under subsection (a):
Less than 0	10 percent.
0 to $49	15 percent.
$50 to $99	20 percent.
$100 to $149	25 percent.
$150 to $199	30 percent.
$200 to $249	35 percent.
$250 to $299	40 percent.
$300 to $349	45 percent.
$350 to $399	50 percent.
$400 to $449	55 percent.
$450 to $499	60 percent.
$500 to $549	65 percent.
$550 to $599	70 percent.
$600 to $649	75 percent.
$650 to $699	80 percent.
$700 to $749	85 percent.
$750 to $799	90 percent.
$800 to $849	95 percent.

"(2) ADJUSTED WAGES.—For purposes of this subsection, the adjusted wages of an individual for any period is the amount of wages (adjusted to an annual rate), minus the sum of—

"(A) $1,300, and

"(B) the amount of personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages during such period, the number of exemptions to which he is entitled shall be determined as if he were not married.

"(3) CREDIT AGAINST TAX.—Amounts deducted from the wages of an employee under this subsection shall be allowed as a credit against the tax imposed on the employee under section 3101.

"(4) WITHHOLDING CERTIFICATES.—Each employee shall furnish his employer with a signed certificate setting forth such information as is necessary to enable the employer to determine whether this subsection is applicable to him, and the amount of tax to be deducted under this subsection. Such certificate shall be in such form, shall be furnished at such time or times, and shall remain in effect for such period as the Secretary or his delegate prescribes by regulations.

"(5) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 3101(c)."

(c) Section 1401 of the Internal Revenue Code of 1954 (relating to rate of tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE TAX ON LOW-INCOME INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual whose adjusted social security income for the taxable year is less than $850, there is hereby imposed on the self-employment income of such individual (in lieu of the taxes imposed by subsections (a) and (b)) a tax determined under the following table:

The tax is the following percentage of the taxes imposed by subsections (a) and (b):

"If the adjusted social security income is:	(Percent)
Less than 0	10
0 to $49	15
$50 to $99	20
$100 to $149	25
$150 to $199	30
$200 to $249	35
$250 to $299	40
$300 to $349	45
$350 to $399	50
$400 to $449	55
$450 to $499	60
$500 to $549	65
$550 to $599	70
$600 to $649	75
$650 to $699	80
$700 to $749	85
$750 to $799	90
$800 to $849	95

"(2) ADJUSTED SOCIAL SECURITY INCOME.—For purposes of this subsection, the adjusted social security income of an individual for any taxable year is his adjusted gross income for such year (determined under section 62), minus the sum of—

"(A) $1,300, and

"(B) the amount of the personal exemptions to which he is entitled under section 151.

In the case of a married individual whose spouse receives wages or self-employment income during each year, his adjusted gross income and the number of exemptions to which he is entitled shall, for purposes of this paragraph, be determined as if he were not married."

(d) Section 31 (b) of the Internal Revenue Code of 1954 (relating to credit for special refunds of social security tax) is amended by striking out the heading and paragraph (1) and inserting in lieu thereof the following:

"(b) CREDIT FOR EXCESS WITHHOLDING OF SOCIAL SECURITY TAX.—

"(1) IN GENERAL.—The Secretary or his delegate may prescribe regulations providing for the crediting against the tax imposed by this subtitle of amounts deducted under section 3102 from the wages paid to the taxpayer in excess of the tax imposed on such wages by section 3101, including the amount determined by the taxpayer or the Secretary or his delegate to be allowable under section 6413 (c) as a special refund of such tax. The amount allowable as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402."

(e) There is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Health Insurance Trust Fund amounts (as determined by the Secretary of the Treasury) equal to losses of revenues of such trust funds resulting from the application of sections 3101 (c) and 1401 (c) of the Internal Revenue Code of 1954. The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the respective trust funds on the basis of estimates by the Secretary of the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts which should have been transferred.

(f) Section 3111 (a) of the Internal Revenue Code of 1954 (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) through (6) and inserting in lieu of such paragraphs the following:

"(1) with respect to wages paid during the calendar years 1974 through 2019, the rate shall be 4.85 percent; and

"(2) with respect to wages paid after December 31, 2019, the rate shall be 5.5 percent."

(g)(1) Section 1401 (b) of such Code (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended—

(A) by striking out "and before January 1, 1978" in paragraph (2) and inserting in lieu thereof "and before January 1, 1974"; and

(B) by striking out paragraphs (3) through (5) and inserting in lieu thereof the following:

"(2) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1975, the tax shall be equal to 1.3 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1974, and before January 1, 1976, the tax shall be equal to 1.4 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1975, and before January 1, 1978, the tax shall be equal to 1.55 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1980, the tax shall be equal to 1.6 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1979, and before January 1, 1984, the tax shall be equal to 1.65 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1983, and before January 1, 1989, the tax shall be equal to 1.8 percent of the amount of the self-employment income for such taxable year; and

"(8) in the case of any taxable year beginning after December 31, 1988, the tax shall be equal to 1.9 percent of the amount of the self-employment income for such taxable year.".

(2) Section 3101(b) of the Code (relating to rate of tax on employees for purposes of hospital insurance) is amended—

(A) by striking out "calendar years 1973, 1974, 1975, 1976, and 1977" in paragraph (2) and inserting in lieu thereof "calendar year 1973"; and

(B) by striking out paragraphs (3) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1974, the rate shall be 1.3 percent;

"(3) with respect to wages received during the calendar year 1975, the rate shall be 1.4 percent;

"(4) with respect to wages received during the calendar years 1976 and 1977, the rate shall be 1.55 percent;

"(5) with respect to wages received during the calendar years 1978 and 1979, the rate shall be 1.6 percent;

"(6) with respect to wages received during the calendar years 1980, 1981, 1982, and 1983, the rate shall be 1.65 percent;

"(7) with respect to wages received during the calendar years 1984, 1985, 1986, 1987, and 1988, the rate shall be 1.8 percent; and

"(8) with respect to wages received after December 31, 1988, the rate shall be 1.9 percent.".

(3) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended—

(A) by striking out "calendar years 1973, 1974, 1975, 1976, and 1977" in paragraph (2) and inserting in lieu thereof "calendar year 1973"; and

(B) by striking out paragraphs (3) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages paid during the calendar year 1974, the rate shall be 1.3 percent;

"(3) with respect to wages paid during the calendar year 1975, the rate shall be 1.4 percent;

"(4) with respect to wages paid during the calendar years 1976 and 1977, the rate shall be 1.55 percent;

"(5) with respect to wages paid during the calendar years 1978 and 1979, the rate shall be 1.6 percent;

"(6) with respect to wages paid during the calendar years 1980, 1981, 1982, and 1983, the rate shall be 1.65 percent;

"(7) with respect to wages paid during the calendar years 1984, 1985, 1986, 1987, and 1988, the rate shall be 1.8 percent; and

"(8) with respect to wages paid after December 31, 1988, the rate shall be 1.9 percent.".

(h) The amendments made by subsections (a)(1) and (g)(1) shall be applicable only with respect to taxable years beginning after December 31, 1973. The amendments made by subsections (a)(2), (f), (g)(2), and (g)(3) shall be applicable only with respect to remuneration paid after December 31, 1973. The amendments made by subsections (b) and (c) shall apply only with respect to taxable years ending after December 31, 1973.

PARTIAL FINANCING OF TITLE II TRUST FUNDS FROM GENERAL REVENUES

SEC. 6. (a) In addition to any other funds appropriated or authorized to be appropriated pursuant to other provisions of law for any fiscal year to the Federal Old-Age and Survivors Insurance Trust Fund, and in addition to any other funds authorized by other provisions of law to be appropriated to or deposited in the Federal Disability Insurance Trust Fund for any fiscal year, there are authorized to be appropriated to each of such funds the following amounts:

(1) For the fiscal year ending June 30, 1974, an amount equal to one twenty-fifth of the expenditures from such fund for such year:

(2) For the fiscal year ending June 30 1975, an amount equal to three-fiftieths of the expenditures from such fund for such year;

(3) For the fiscal year ending June 30, 1976, an amount equal to two twenty-fifths of the expenditures from such fund for such year;

(4) For the fiscal year ending June 30, 1977, an amount equal to one-tenth of the expenditures from such fund for such year;

(5) For the fiscal year ending June 30, 1978, an amount equal to three twenty-fifths of the expenditures from such fund for such year;

(6) For the fiscal year ending June 30, 1979, an amount equal to 7/50 of the expenditures from such fund for such year;

(7) For the fiscal year ending June 30, 1980, an amount equal to 4/25 of the expenditures from such fund for such year;

(8) For the fiscal year ending June 30, 1981, an amount equal to 9/50 of the expenditures from such fund for such year; and

(9) For any fiscal year ending after June 30, 1981, an amount equal to 1/5 of the expenditures from such fund for such year.

(b)(1) Funds authorized to be appropriated under subsection (a) shall be appropriated for any fiscal year on the basis of estimates by the Congress of the amounts which will be expended for such year from the trust fund to which funds are being appropriated, reduced, or increased to the extent of any overappropriation or underappropriation under this section to such fund for any preceeding year with respect to which adjustment has not already been made.

(2) The Secretary of Health, Education, and Welfare shall furnish to the Congress such information, data, and actuarial studies as may be appropriate to enable the Congress to make the estimates referred to in paragraph (1).

PARTIAL FINANCING FROM GENERAL REVENUES OF COMBINED HOSPITAL AND MEDICAL INSURANCE PROGRAM UNDER TITLE XVIII

SEC. 7. (a) In addition to any other funds appropriated or authorized to be appropriated pursuant to other provisions of law for any fiscal year to the Federal Health Insurance Trust Fund (as redesignated by section 5 (b) of this Act), there are authorized to be appropriated to such Fund the following amounts:

(1) for the fiscal year ending June 30, 1974, an amount equal to 1/5 of the expenditures from such fund for such year;

(2) for the fiscal year ending June 30, 1975, an amount equal to 1/5 of the expenditures from such for such year;

(3) for the fiscal year ending June 30, 1976, an amount equal to 1/4 of the expenditures from such fund for such year; and

(4) for any fiscal year ending after June 30, 1977, an amount equal to 1/3 of the expenditures from such fund for such year.

(b)(1) Funds authorized to be appropriated under subsection (a) shall be appropriated for any fiscal year on the basis of estimates by the Congress of the amount which will be expended for such year from the Federal Health Insurance Trust Fund, reduced or increased to the extent of any over-appropriation or under-appropriation under this section to such Fund with respect to which adjustment has not already been made.

(2) The Secretary of Health, Education, and Welfare shall furnish to the Congress such information, data, and actuarial studies as may be appropriate to enble the Congress to mke the estimates referred to in paragraph (1).

By Mr. MANSFIELD (for himself and Mr. AIKEN):

S.J. Res. 109. Joint resolution proposing an amendment to the Constitution of the United States relating to the term of office of President and Vice President of the United States. Referred to the Committee on the Judiciary.

SINGLE 6-YEAR TERM FOR THE OFFICE OF PRESIDENT OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Vermont (Mr. AIKEN) and myself, I introduce a proposal to amend the Constitution so as to provide a single 6-year term for the office of President of the United States.

In recent years there have been a number of significant amendments to the Constitution of the United States. Correcting the matter of Presidential succession and particularly extending the franchise of the ballot to young adults 18, 19, and 20 years of age represent enormous steps forward; steps that, in my judgment, protect and enhance immensely the Democratic processes of the Nation. As these processes are being tested today as they have rarely been tested before, it is clear that another step remains to be taken in the area of constitutional evolution. It is only by providing a single Presidential term of 6 years, I believe, that the Nation will preserve for future generations the complete integrity of its highest office. Only with a single term will there be assured a sufficient degree of freedom and independence for the President to function properly and adequately today and in the years ahead; years that will produce still more enormous trials and tensions on the national and global scale, some of which have emerged, others of which have yet to emerge.

By no means do I imply that with such an amendment new ground is being broken or that a topic of first impression is being raised. Indeed, the suggestion of a single 6-year term has been with us ever since the delegates to the Constitutional Convention of 1787 thrashed over the question of a President's term and his eligibility for reelection.

Since the Constitution was ratified, hundreds of amendments have been introduced in the Senate and House of Representatives proposing a change in presidential tenure. More than 130 of them recommended a single term of 6 years. Twice, the House of Representatives reported legislation providing for the 6-year term. And in 1913, the Senate passed Senate Joint Resolution 78, calling for a term of 6 years, but no action was taken by the House. Presidents themselves have been most active in their support for the concept. Nearly 150 years ago Andrew Jackson recommended that the electoral college be abolished—also a good suggestion, in my opinion—that the President be elected by direct vote, and that he be limited to a single term of either 4 or 6 years. Presidents Hayes, Cleveland, and William Howard Taft also offered the proposal. More recently, President Lyndon Johnson endorsed the concept as an essential reform for democratic institutions in a rapidly changing world.

I may say also that it is my understanding that President Eisenhower was in favor of such an idea. I know that President Nixon does not look upon it with disapproval.

That brings us up to today, and I must say that the merits of the proposal dictate its need now as never before.

As has been made so amply clear, it is just intolerable that a President of the United States—any President, whatever his party—is compelled to devote his time, energy, and talents to what can be termed only as purely political tasks. I do not refer solely to a President's own reelection campaign. To be sure, a reelection effort and all it entails are burdens enough. But a President facing reelection faces as well a host of demands that range from attending the needs of political office holders, office seekers, financial backers and all the rest, to riding herd on the day-to-day developments within the pedestrian partisan arena. Surely this amendment does not represent a panacea for these ills which have grown up with our system of democracy. But along with an effective public financing of elections, it would go far, I think, in unsaddling the Presidency from many of these unnecessary political burdens that an incumbent must bear.

To a very great extent such a change would free the President to devote a far greater measure of his time to the enormous task of serving all of the people of the Nation as Chief Executive. Accordingly, more time would be provided for policymaking and policy implementing, for program initiating and for shaping and directing the kind of administration a President chooses. More time would be provided as well for the kind of experimentation that a successful Presidency requires; such experimentation has come too infrequently in recent years and as a Nation we suffer from that inadequacy.

In short, 6 full years could be devoted to the job of the Presidency. It is by itself a complicated and gigantic responsibility. Six years could be devoted, free of the burdens of seeking—however unavoidably—partisan political objectives and free of any potential conflicts inherent in such endeavors.

There is another aspect to this problem of reelection and it concerns not an incumbent President but rather those of the opposition; those who seek to gain the White House for their own. Certainly there is a great deal of room for constructive criticism, be it partisan or of whatever nature. Criticism is fundamental to our success as a Nation. It is what distinguishes us most as a free and open society. But there is another sort of crit-

icism that a first-term President must face at times and no President can give his fullest attention to the country so long as he is barraged and fired upon by those who do not offer constructive advice and alternatives but who would instead hope only to weaken an incumbent's chances for reelection.

The effect of such vituperation when resorted to is just as invidious to the present 2-term system as when an incumbent for similar partisan advantage puts political expediency before the Nation's interest. What I am suggesting is that the President should be free to concentrate completely on his responsibilities. Electing him to a single term of 6 years, I think, would increase the probability.

And what of the arguments against this proposition? One raises the lame-duck issue. The argument goes that when a President is elected for a single term of 6 years, he immediately becomes a lame duck. But the same is true today as soon as a President has been reelected to a second term. The 22d amendment saw to that. But it is really no argument at all. Lameness by no means is inherent in a single term. It relates, in my judgment, to the strength and quality of the man holding the office; should he be a lame-duck President, it is not because of any inhibitions imposed by a single term. An unlimited number of terms would not sustain such a man. On the other hand, a President who rises to his responsibilities will have sufficient opportunity to organize an effective and successful administration given a 6-year term to do so. Six years in office is sufficient time to effectuate all such policy aims a newly elected President entertains.

Conversely, 6 years is long enough for one man to endure in a position filled with the pressures and tensions, the worries and responsibilities of the Presidency of the United States.

Adding to them, the stresses and strains of a reelection campaign simply makes no sense today. With a single 6-year term, gone would be the charge, however invalid, that a President uses his power to appoint to achieve political ends and to pave the way for his reelection. For that matter, gone, too, would be the argument that discussions of foreign policy, of economics, and whatever would be politically motivated.

Finally, with this issue arises squarely the matter of election costs. The money involved in a Presidential campaign today has skyrocketed beyond all reason. The situation cannot be tolerated. The facts of what happens when political slush funds are made available are just beginning to emerge. Spreading the financial strain over 6-year intervals should certainly ease some of the financial burden; but the only answer is in a comprehensive public election financing law. And such a proposal must be considered right along with what I am today suggesting with the single Presidential term.

To sum it up, what this proposal seeks is to place the office of the Presidency in a position that transcends as much as possible partisan political considerations of whatever nature and source. That it cannot do the reform job completely, I have already said. Still, its adoption would do much, I think, to streamline the Presidency in a manner that ultimately will make the office more fully responsive to the concerns of all Americans.

Mr. President, may I say that this is the fifth or sixth time that the distinguished Senator from Vermont (Mr. AIKEN) and I have introduced this resolution. We hope it will be given the most serious consideration.

Mr. SCOTT of Pennsylvania. Mr. President, there is another reform which I think should clearly attract our attention, and that is the need for a constitutional amendment to provide a 4-year term for Members of the House of Representatives, one-half of whom should be elected every 2 years.

The Members of the House have often given as their reason for not voting for such an amendment the fear that opposition to it would exist in the Senate, due to, I suppose, threat of competition. I have not found that feeling to be widespread in the Senate. There may be a very few who feel that way. But many of us who discussed it the other day, in both parties, expressed the common opinion that the majority of the Senate would have no objection to a 4-year term for the House of Representatives.

Therefore, I should like to suggest that during the consideration of the 6-year term amendment for the Presidency, the 4-year term for the House of Representatives be added to it, because I do not believe the amendment providing a 4-year term has sufficient national interest to give it as good prospects of action in the States as it would if it were included as a part of the 6-year term proposal. Normally, necessary reforms which do not attract public attention are not achieved unless they are attached to necessary reforms which do attract public attention.

I have long had a personal belief that a 7-year term for the Presidency would be the best solution. This is not to say that I would not support a 6-year term. I have an open mind about that; and certainly if this other provision were added, I would support it.

My reasons for a 7-year term may strike some as rather odd-ball reasoning, and I am aware of the objections to it; but they are the same objections that pertain to the 6-year term, in part—the necessity for conforming State laws, for example, and other legislative changes. But in a 7-year term, the election of a President would come under such conditions as to bring it coincidental with the election of one-half of a Congress at times, at other times coincidental with the election of the other half of Congress, and at still other times coincidental with the election of local officers within the States and the election of Governors in certain years and Governors from other States in certain years.

It seems to me that this would so distribute the processes of democracy that each new election for the President would confront the candidates with a changed condition in the country—sometimes conditions that are locally important, sometimes conditions that are nationally important—but I think it would be a truly democratic process to consider at least a 7-year single term for the Presidency.

In any event, I commend the distinguished majority leader and the Senator from Vermont for now offering this proposal. I would hope to accept it, and I would hope that they would be able to accept my suggestion.

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

Mr. SCOTT of Pennsylvania. I yield.

Mr. MANSFIELD. May I say that I have not given much consideration to a proposal for one 7-year term; but the Senator does have an argument, because if the 4-year term for the House is approved and if the House is elected every 2 years, it does get away from one-half of the House always running with the President. I think it is entitled to the most serious consideration.

Mr. SCOTT of Pennsylvania. That is very much part of what I had in mind—that the processes would be such that the President would not be running with the same kind of candidates over a successive period of 7-year terms.

Mr. AIKEN. Mr. President, I will take only a minute. The Senator from Montana, the majority leader, has introduced for himself and for me an amendment to the Constitution of the United States relating to the term of office of the President and Vice President of the United States. This amendment would provide a single 6-year term for the President and Vice President.

I know there is opposition to it, because it is said that, under our proposal, he would be a lameduck President for 6 years. That is not true. This single term limitation has been tried out in other countries and works much better than our current system which, because of a reelection campaign, can adversely affect the reputation of the White House and a President.

I am very happy to join with the majority leader in submitting this amendment, and hope that we may get favorable action on it during this session of Congress.

I thank the Senator from Oklahoma for yielding.

By Mr. SCOTT of Pennsylvania (for himself, Mr. MANSFIELD, Mr. GRIFFIN, Mr. DOLE, and Mr. COOK):

S.J. Res. 110. Joint resolution to establish a nonpartisan commission on Federal election reform. Referred to the Committee on Rules and Administration.

Mr. SCOTT of Pennsylvania. Mr. President, on behalf of the distinguished majority leader; the distinguished assistant minority leader, the Senator from Michigan (Mr. GRIFFIN), the distinguished Senator from Kansas (Mr. DOLE), and myself, I offer a joint resolution to establish a nonpartisan commission on Federal election reform, and I ask that it be appropriately referred.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

Mr. SCOTT of Pennsylvania subsequently said: Mr. President, I ask unanimous consent to have printed in the RECORD the text of the President's radio

address today on Federal election reform.

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

THE FEDERAL ELECTION REFORM

In my televised address to the Nation two weeks ago, I called on the leaders of both political parties, and on citizens everywhere, to join in working toward new ways of ensuring that future elections would be as nearly free of abuse as possible.

To achieve this goal, I have today proposed to the Congress the establishment of a nonpartisan, top-level, independent commission charged with making concrete proposals for reform—not only to examine our laws and see what new ones are needed, but also to examine the observance and enforcement of our laws, and those campaign standards and practices not governed by law but rooted in common usage.

This Commission would be composed of seventeen members. Eight would be chosen by and from the Congress—two Democrats and two Republicans from the House, and two Democrats and two Republicans from the Senate. Seven public members would be chosen by the President for their experience, knowledge and perspective in this field—of whom no more than four could be from the same political party. The chairman of the Democratic and Republican National Committees would also serve on the panel. To further ensure the Commission's complete independence, its chairman and vice chairman would be selected from among the members of the Commission by the Commission itself.

I trust the Congress will act swiftly to establish the Commission. Yesterday I met with the bipartisan leadership of the Congress to discuss this matter. The proposal I am making today incorporates suggestions made by them; and my discussions with them have given me reason to believe that swift action is possible. If the Congress does give this proposal its quick approval, then the Commission's report and recommendations can provide the basis for reforms that could be in place in time for the 1974 Congressional elections.

The mandate of the Commission I have proposed will be as broad as the Federal election process itself. Nothing will be excluded.

It will be authorized to examine the costs and financing of campaigns, and look into the various ways in which the costs can be kept down and improper influence or influence-seeking through large campaign contributions can be ended. It can consider limitations on the total amounts candidates can spend, recognizing both the potential for abuse and the heavy burden that high campaign costs impose on both parties. It can look into the laws governing disclosure of campaign funds and how they are spent, and how those laws and their enforcement might be improved. It can review the tax laws as they relate to the financing of political campaigns and can look into the question of possible public funding of campaigns.

Other areas for inquiry would include the elimination from our election campaigns of violence and the threat of violence; of intimidation; of frauds in the casting and counting of ballots; of the throwing about of misleading or malicious charges; of sabotage and espionage and other infringements on the rights of privacy; and of the whole range of improper campaign practices.

Beyond measures to curb these clearly evident abuses, the Commission will be authorized to examine such matters as the length and structure of our political campaigns, the purposes for which campaign funds are spent, the use and abuse of techniques such as television commercials, polling and computerized direct mail—and whatever else it may consider appropriate to a thorough-going campaign reform.

There is another matter of crucial importance to our election process, which I am also asking that the Commission consider. That is whether the Constitution should be amended to change the length of the terms of office of members of the House, of the Senate or of the President.

Many political scientists have suggested, for example, that the President should be elected for a single, non-renewable six-year term, instead of being eligible for two four-year terms. The Commission could well consider the merits of this proposal.

Another change it might consider is whether members of the House of Representatives should be elected for terms of four years instead of two.

Personally, I have long favored the four-year term for members of the House, with half of the members elected every two years. Members serving for two-year terms have to spend one of every two years running for reelection, with the result that they serve one year and run one year. This not only places an enormous burden on the member himself; it also can work to the disadvantage of his constituents and of the country. By reducing the extraordinary campaign burden on its members, I believe the House of Representatives could be made a more effective instrument of government.

The Commission will be directed to come up with a comprehensive set of legislative recommendations. It will also be directed to examine whether additional measures, such as voluntary agreements between candidates or party organizations, may be desirable to extend into those areas where legislation cannot appropriately reach.

Because time is of the essence, the Resolution I have proposed would direct the Commission to file a public report no later than December 1 of this year. I believe that with hard work, the members of the Commission can complete their study even before then.

The Commission will have complete, independent authority to choose its own priorities among the matters to be considered—and, as it proceeds, it will be encouraged to make interim recommendations for action by the Congress without waiting for its final report.

One option I considered was for the Administration itself to prepare a set of proposed reforms and present them at this time. I rejected that course for two reasons:

First, a really comprehensive campaign reform, which I believe we need, must thread its way through enormous complexities, high sensitivities, entrenched interests, and a careful assessment of the possibilities of enactment by the Congress. This will take time. It can be done, but it cannot be done overnight.

Second, I feel it is essential that proposals for reform come not from one political party, not from one Administration, not from one Congress, but from a bipartisan group of recognized experts, working in a non-partisan atmosphere and broadly enough based to give their recommendations the full authority of manifest impartiality.

Let me stress that this new Commission is in no way competitive with the Senate's Ervin Committee. The new Commission will draw on information being developed by the Ervin Committee, and also on other studies of past campaign abuses. But its own central focus will be on the future—on how not only Presidential elections, but also Congressional elections, can most effectively be reformed.

Campaigns have changed drastically in the past century, and even in the past generation. Television, the rise of professional campaign management firms, jet air travel, sophisticated polling techniques, skyrocketing costs, all have had a powerful impact on the way campaigns are conducted. As in so many other areas of our life, the sheer size of modern compaigns has contributed to the size of the problem and to the magnitude of the abuses.

There will be a temptation to attempt reforms piecemeal; this, I believe, would be a mistake. The reforms needed are sweeping rather than scattered, and each should be considered in relation to the others. We should think in terms of nothing less than a complete re-examination of our system of elections and campaign practices.

Scores, perhaps hundreds, of ideas for various election reforms have already been seriously and responsibly put forward. Many are now pending before the Congress. The principal need is to sort through these ideas, to develop such additional ones as may be appropriate, and to design a comprehensive reform of the campaign system so that in its totality it will work, and work fairly and honestly.

It would be premature to predict what a Commission such as the one I propose might recommend. But these are a few examples of the kinds of reform it would certainly consider:

Strict limits on the size of individual campaign contributions;

Strict limits on the size of campaign contributions or the amount of campaign assistance that can be given by business, labor or professional organizations;

Strict limits on cash contributions;

Tightened control over the activities of multiple organizations working for the same candidate;

Shorter election campaigns;

New disclosure rules that would simplify not only the filing of reports, but also the public discovery of what was important in those reports;

Reducing the cost of reaching the public, as, for example, by making free radio and television time available to candidates, or by revision of the equal time requirements that now restrict broadcasters in their campaign coverage;

New Federal laws that would make illegal, practices that are now only unethical; and

The establishment of an independent Federal Elections Commission, with its own enforcement powers.

It is important that these reforms stay within the spirit as well as the letter of the Constitution; that they not unduly infringe either the rights of the States or the First Amendment rights of individuals to freedom of expression and freedom of assembly. It is important that they be fair, effective, realistic and enforceable. Devising such a system of campaign reform will be difficult, but not impossible.

I am convinced a route can be charted that will avoid the obstacles; that wide-ranging reforms are possible and desirable; and that persons of the caliber of those who would be named to this Commission, given a reasonable period of time and also a firm deadline, can come up with a set of proposals that will work, and that will help to restore the faith of the American people in the integrity of their political processes.

ADDITIONAL COSPONSORS OF BILLS

S. 80

At the request of Mr. HOLLINGS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 80, the Offshore Marine Environment Protection Act of 1973.

S. 811

At the request of Mr. FANNIN, the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 811, to amend the Taylor Grazing Act to increase the amount of certain revenue returned to the State.

S. 1063

At the request of Mr. HUMPHREY, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1063, a bill to establish a program of nutrition education for children as a part of the national school lunch and child nutrition programs and to amend the National School Lunch and Child Nutrition Acts for purposes related to strengthening the existing child nutrition programs.

S. 1402

At the request of Mr. HARTKE, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 1402, the National Blood Bank Act.

AMENDMENT OF SOCIAL SECURITY ACT—AMENDMENTS

AMENDMENT NO. 136

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

Mr. CURTIS (for himself and Mr. MCGOVERN) submitted amendments, intended to be proposed by them, jointly, to the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

AMENDMENT OF THE SMALL BUSINESS ACT—AMENDMENT

AMENDMENT NO. 137

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

Mr. WILLIAMS (for himself and Mr. BAYH) submitted an amendment intended to be proposed by them jointly to the bill (S. 1672) to amend the Small Business Act.

AMENDMENT NO. 138

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

Mr. TAFT. Mr. President, I send to the desk a modified version of my amendment No. 97 to S. 1672, a bill to amend the Small Business Act. The modification involves only technical changes.

I ask unanimous consent that the modified amendment, along with a fact sheet concerning it, be printed in the RECORD at this point.

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

AMENDMENT NO. 138

At the end of the bill add the following new section:

SEC. 4. (a) The second paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended by striking out the following: "and prior to July 1, 1973,".

(b) Clause (D) of the second paragraph following the numbered paragraphs of section 7(b) of the Small Business Act is amended—

(1) by striking the "and" at the end of subclause (i);

(2) by striking out "July 1, 1973" in subclause (ii) and inserting in lieu thereof "April 20, 1973";

(3) by striking the period at the end of subclause (ii) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new subclause:

"(iii) with respect to a loan made in connection with a disaster occurring on or after April 20, 1973, notwithstanding the provisions of Public Law 93-24, the total amount so canceled shall in no case exceed $2,500, and the per centum of the principal of the loan to be canceled shall be reduced by 4 for each $1,000 by which the borrower's income exceeds $10,000, but such per centum to be canceled shall not be less than 20 unless the total amount so canceled would otherwise exceed $2,500. For the purpose of this subclause (iii), 'income' means—

"(I) except in the case of a borrower who retires or becomes disabled in either the taxable year in which the loss or damage is sustained or the preceding taxable year, or in the case of a borrower which is a corporation, adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954, reduced by $300 for each deduction for personal exemptions allowable to the borrower under section 151 of such Code, for the taxable year preceding the taxable year in which the loss or damage is sustained,

"(II) in the case of a borrower who retires or becomes disabled in the taxable year in which the loss or damage is sustained or in the previous taxable year, adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, reduced by $300 for each deduction for personal exemptions allowable to the borrower under section 151 of such Code, as estimated by the Administrator for the taxable year after the taxable year in which the loss or damage is sustained, and

"(III) in the case of a corporation, taxable income, as defined in section 63 of the Internal Revenue Code of 1954, for the taxable year preceding the taxable year in which the loss or damage is sustained."

FACT SHEET—TAFT DISASTER RELIEF AMENDMENT TO S. 1672

Present disaster relief law—victims of natural disasters occurring on on after April 20, 1973, can receive only 5% loans and no grants.

Prior disaster relief law—victims of natural disasters occurring since the beginning of 1972 but prior to April 20, 1973 could receive 1% loans with the first $5000 "forgiven" (given as a grant).

Taft disaster relief amendment—victims of Presidentially declared of SBA declared natural disasters occurring on or after April 20, 1973, could get 5% loans (same as present disaster relief law) with up to the first $2500 "forgiven", depending on income. Those with $10,000 or less last year's incomes could get 100% of their damage repair or replacement loan "forgiven" up to a maximum forgiveness grant of $2500; this percentage would drop by four for each $1000 by which a person's last year's income exceeded $10,000, but in no case would it drop below 20%.

Last year's income	Total repair assistance amount	Percent forgiveness (grant)	Grant amount	Loan principal amount
$10,000 and under	$2,500	100	$2,500	0
	7,500		2,500	$5,000
$14,000	2,500	84	2,100	400
	7,500		2,500	5,000
$18,000	2,500	68	1,700	800
	7,500		2,500	5,000
$22,000	2,500	52	1,300	1,200
	7,500		2,500	5,000
$26,000	2,500	36	900	1,600
	7,500		2,500	5,000
$30,000 and over	2,500	20	500	2,000
	7,500		1,500	6,000

OTHER PROVISIONS OF TAFT AMENDMENT

1. For those who have retired or become disabled in the year the disaster occurred or the previous year, their estimated next year's income, rather than their previous year's income, would be the basis for determining the grant amount.

2. The July 30 expiration date for the Small Business Administration's discretionary authority to refinance mortgages of substantially damaged homes for a loan amount greater than the amount of the physical loss sustained (provided that monthly mortgage payments are not lowered as a result of the refinancing), and to avoid hardship situations by suspending disaster loan payments for the lifetime of individuals and spouses who rely for support on survivor, disability or retirement benefits, would be repealed.

Relationship of Taft amendment to Administion's disaster relief proposal—The Administration is more comprehensive than the Taft amendment. It is controversial and has a long way to go in the legislative process. In the meantime, disaster victims will not be given sufficient relief. In addition, Congress will be tempted to pass either special relief for individual new disasters, or more generous comprehensive legislation at a later date which is retroactive over a long period of time.

ADVANTAGES OF THE TAFT AMENDMENT

1. Provides desperately needed and substantial relief to those who are least able to afford damage repairs and replacement expenses.

2. Apportions loans and benefits more equitably and responsibly than previous laws.

3. Much less expensive than the law in effect for natural disasters occurring before April 20, 1973.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 97 TO S. 1672

At the request of Mr. TAFT, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of his amendment, No. 97, to S. 1672, a bill to amend the Small Business Act, which would restore to a limited extent the grant through loan forgiveness program for victims of floods, hurricanes, tornadoes, and other natural disasters.

ADDITIONAL STATEMENTS

UTAH'S RED ROCK COUNTRY

Mr. MOSS. Mr. President, the southeastern quarter of my State of Utah offers some of the most beautiful landscape in America. Here there are more natural stone arches, windows, spires and pinnacles than in any other known section of the country. And there are canyons and rock formations that have never been explored or mapped. This is Utah's famed "red rock country." And much of this country is protected in three national parks—Arches, Capitol Reef, and Canyonlands. As the sponsor of the bills which created all three national parks I have spoken many times of the wonder and beauty of this area.

Miss Lynn Ferrin, an assistant editor for Motorland magazine, visited this scenic area of Utah recently, and relates her experience in an article appearing in the May/June issue of the magazine. She says the best way to appreciate fully the impact of this colorful canyon country is to hike, and Miss Ferrin describes the numerous arches, sculptured sandstone cliffs, and Indian ruins she viewed by foot. This is an especially beautiful time in southern Utah—because of heavy

snows and rain this winter, a fabulous array of wildflowers is in bloom.

Miss Ferrin's article is an eloquent description of the wonders of southeastern Utah, and I ask unanimous consent that her article be printed in the RECORD.

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

WANDERING AROUND UTAH'S RED ROCK COUNTRY

(By Lynn Ferrin)

Canyonlands National Park—The trail to Druid Arch. Thirteen miles round trip, thirteen wildly beautiful miles in the red rock desert of southeastern Utah.

In the early morning cool, I left Squaw Flat Campground and started walking fast, the stone beneath my boots ringing with a hollow sound like ceramic wind bells. I followed the cairns up over the slick-rock shelves and through dark fissures and across the verdant flat spaces they call "parks" out here.

The sweet fragrance of Fremont Mahonia filled these parks, and the juniper trees were all trimmed with blue berries like Christmas trees and the canyon wrens were singing prettily. Asters were blooming, too, and big red velvety paintbrush, even though there hadn't been any real rain in months.

Pink and red and tan striped stone towers called the Needles marched across the ridges like petrified Indian armies. The snowy La Sals rose in the purpose distance.

After a couple of hours I turned up Elephant Canyon and started shuffling through the deep, hot dust. I saw a pale-skinned girl resting under a cottonwood tree; she said she was spending a week backpacking in the Needles country. Had she seen any other people out here? "Well," she said, "three or four days ago I saw a couple of hikers, but that was all until you came by." Her biggest problem was getting water to fill her canteen—she'd found a little spring a quarter of a mile away, and didn't want to venture more than a half-day hike from it in the heat.

As I left, she said, "When you come back, there's a high place near here where you can see down the length of Elephant Canyon. There's this long row of huge rounded rocks, and it looks just like a parade of big old elephants."

When I approached the head of the canyon, a great monolith of pink stone stood against the sky. As I walked around the bends in the narrowing canyon, the perspective changed and streaks of sky gradually began to show through the rock—Druid Arch!

It was far bigger than it seemed in photographs—some 360 feet high and altogether marvelous. I climbed along a circular shelf until I found a shady alcove in the cliff, it had a view of the arch, and I took my pack and sat down to eat lunch.

What is it, I pondered, about these great arches of the canyon country that so intimidates us? The way they contain a piece of the sky, of blue infinity within the stone . . . How a preposterous feat of engineering undreamt of by mere men, was accomplished without intent over the ages, by the accidental workings of weather and time upon the rock. . . .

Years before, I'd stood on the plains of England and seen Stonehenge, for which Druid Arch was, in a way, named—and that was filled with the ghosts and mysteries of unknown men. But in Druid Arch I saw a simple, perfect statement by nature, without purpose, without hangups. Then I slept for a while in the fly-buzzing noontime heat.

On the way back, I passed a marker pointing to a side trail: "Chester Park, 30 minutes." I wanted to see Chester Park, the main attraction of this region, and I figured I could make it in fifteen minutes if I hurried. Not so. It was all uphill, up, up the dusty trail, beneath overhangs, through the junipers and across hot slickrock and along the base of a row of stone pinnacles then through a deep passage.

Suddenly the countryside opened up wide and bright, and I stood at the edge of Chester Park, looking out at the green expanses bordered by the Needles, like gigantic stone picket fences. I rested there a few moments, then hurried back down.

It was late afternoon when I saw the sign: "Water." By the time I had: Gotten lost twice. Been out of water for three hours. Found myself trembling along a three-inch-wide ledge a hundred feet over the canyon floor, scared and whining. My mouth felt as if I had been eating crackers for a week.

I scrambled down through the cottonwoods to a shadowy glen. Springs dripped through maidenhair ferns and monkey flowers into a little pool. Flies and water bugs and gnats and other little things played around happily. I held my tin cup under one of the faster drips. Ping. Ping. Ping. Splat. Splat. That yielded half a teaspoon of water. Splat. Splat. I never waited so patiently for anything in my life.

When the cup was full, it was the sweetest, coolest, most welcome drink I ever tasted. I stood there maybe a half hour longer, filling my cup two or three times, listening to the springs dripping and the insects humming around in this little oasis of green life. Up above, the heat hung in the canyons, still and deadly. I thought of Loren Eiseley's words in *The Immense Journey:* "If there is magic on this planet, it is contained in water."

That evening I trudged down the lonesome dirt road, dehydrated, exhausted and happy. After a while a Salt Lake family in a jeep came along and picked me up. The father told me about an Indian pictograph he'd seen way out Salt Creek, called "All American Man." He said it was a red, white and blue painted figure, sort of like an Anasazi Uncle Sam.

We headed toward the lights of Canyonlands Resort, twinkling beneath the mesa, and the delights of cold, cold beer.

The southeastern quarter of Utah is a fantastic landscape of buttes, spires, arches, plateaus, perpendicular walls and twisting canyons, all carved out of the many strata of rock laid down by ancient seas and sandstorms. It is drained by the muddy Colorado and its tributaries. Most of it is naked and raw and wild, a land of eroded rock and torturous desert, although on its fringes are a few high snow-capped mountains cloaked in forests of cool pine and breezy aspen and clear streams. There are even a few towns, founded by the Mormon pioneers scattered far apart.

Some of the very best of this high desert Colorado Plateau country is protected in three national parks: Arches, Capital Reef and Canyonlands. Arches and Capitol Reef became national parks in late 1971— upgraded from national monument status. At the same time, the size of Canyonlands National Park was increased by 72,000 acres, including the Maze, the Land of Standing Rocks and Lavender Canyon.

These parks are for lovers of desert wilderness. They each contain only one or two paved roads, which can deliver you to a campground, trailhead or ranger station. But to see the most wonderful areas, and see them right, you have to get out of your steel-and-chrome module and contemplate the gorgeous blossom on the spiney old prickly pear. You have to leave car and asphalt behind and explore the parks by jeep, airplane, horse, canoe, raft, or best of all, by foot.

In the towns of Moab, Torrey, Blanding, Hanksville and Monticello, you can find professional guides who will take you into the rugged backcountry for anything from an afternoon to two weeks. They're men like Kent Frost and Mitch Williams, jeep and backpack guides; Tex McClatchy, who runs canoe, raft and powerboat trips; and Dick Smith, a pilot. Sometimes they get together for trips combining jeeping and river-running or flying and hiking.

You can go alone, too, if you do some careful planning and know something about desert survival. If you hike, or take a jeep or horse away from the most popular short trails, be sure to tell a ranger where you're going and ask his advice. You'll need plenty of water—a gallon a day per person during hot weather—so you can't travel far from known sources.

Best time to visit the Colorado Plateau is during spring and fall—winters are cold and bleak, summers are beastly hot. A bonus: This is one of the most fabulous springtimes ever seen in the canyon country. A phenomenal amount of snow and rain fell on it all winter, and the wildflower performance should be dazzling. There should be an unusual amount of water in the springs and potholes, too. River-runners in Cataract Canyon, the wildest stretch of the Colorado River, will find a record amount of terrifyingly fast water this spring.

Capitol Reef National Park is a geologist's wonderland. Most of the official park brochure is devoted to the geologic history of the area, telling about the different strata of multi-colored rock, and whether they were formed in the Jurassic or Permian ages, or whatever. You can go out and see these formations, you can look at Capitol Dome and say, wow, that's Navajo Sandstone, or at Hickman Natural Bridge, that's Kayenta Formation, or at the bottom of the Goosenecks, that's Kaibab Limestone, and you will know how old it is and how it was created.

The north part of the park contains Cathedral Valley, where huge gothic cones rise from the stony desert. It can be reached only by a four-wheel-drive road. The central section, where Utah Highway 24 runs along the riffling Fremont River, is the most peopled—it contains the visitor center, campgrounds, scenic drives and several nature trails.

To the south stretches a dramatic formation called Waterpocket Fold, a hundred-mile-long fold in the earth's crust that exposes green, red, white and brown strata of sedimentary rock in high, eroded cliffs. (It's been called "the sleeping rainbow.") Along its base can be found hidden natural tanks which collect rain and melted snow—waterpockets, lovely places to cool off on hot afternoons.

Capitol Reef has its human history, too. In pre-Columbian times, the stone-age Fremont Culture Indians lived in this region, raising corn and pecking petroglyphs in the canyon walls. In the late 1800's, a few Mormon pioneers settled along the Fremont River and planted fine orchards of apples, peaches and pears. You can visit their old schoolhouse at Fruita, built in 1890 and used through 1941, and restored and refurnished by the park service.

Families and day-hikers will love this park. Many of the trails leading to the main attractions are only one to three miles long. You could walk a few of them in one day and still have energy left over. They lead you to places like Hickman Natural Bridge, Whiskey Spring, the Goosenecks, Cohab Canyon and the Narrows of Grand Wash. A map describing these short trails is available at the visitor center, as well as other publications about the natural features of the Capitol Reef country. You can also chat with the ranger on duty about other things to see and do in the park, and get information about commercial jeep trips to remote areas off the main roads.

The Waterpocket Fold stretches south from Thousand Lake Mountain all the way to Lake Powell on the Colorado River. Between Utah Highway 24 and the Colorado, only one road crosses it. It's the Burr Trail, once a cattle trail and now a graded dirt road that runs from the isolated Mormon settlement of Boulder to the rim of the fold,

then down nerve-shattering switchbacks to another dirt road that runs along the entire base of the fold.

Along the way you'll eat a lot of dust and maybe not see another car. But you will see: An interesting Indian village "dig" at Anasazi State Historic Monument near Boulder. Yesterday tableaus of cowpokes herding complaining cattle along the washes. A heavenly vista of pinewoods and snow way up on Boulder Mountain. Silhouettes of deer leaping across flawless blue skies. The sheer ramparts of the Waterpocket Fold, running north and south as far as you can see.

Holes in the big red rocks. Places to play peek-a-boo with God. Arches National Park contains almost a hundred "openings in stone"—that is, a hundred *discovered* arches. There are surely lots more out there in the labyrinths of sandstone where modern man has never set foot.

Arches National Park is like a huge advertisement for Kodachrome: sandstone that changes from flaming coral to rush to purple during the passage of the sun, sapphire skies, the snow-domed La Sal Mountains far across the Colorado. The park's main features are the arches eroded out of the "fins" of Entrada Sandstone, those enormous vertical red slabs that sit in the desert like dishes in a rack. The landscape is full of weird shapes cut in the rock, shapes that inspired names like Three Gossips, Tower of Babel, Eye of the Whale, and Sergeant, Corporal and Drummer Boy.

Motorists "doing" the western parks—Lord help 'em—find Arches an easy place to visit. It's only five miles north of Moab with all its motels and cafes and air-conditioned comfort, and paved roads lead to a lot of the best scenes in the park.

But it's very sad if they don't get out and hike a few of the park's lovely—and short—trails. They should go in a contemplative mood, and in the company of a full canteen and, say, Edward Abbey's eloquent book *Desert Solitaire*, written about his time as a young ranger in Arches when it was still a lonely place.

For example, it's only a three-mile walk, round trip, to see Delicate Arch, that incredible ring of stone that stands up all alone and defiant on the rim of a 500-foot-cliff.

Out in the Devil's Garden—a name as contradictory as the desert itself—it's a one-mile walk to fragile, 291-foot Landscape Arch (probably the longest natural stone span on earth), and a mile further to Double O Arch, and you pass four more major arches along the way.

There's a maze of fins and deep passageways so confusing and dangerous that its entrance is sealed behind a locked gate. It's called the Fiery Furnace, although in summer it's cooler than the rest of the neighborhood in there. Each morning, in tourist season, a ranger leads a nature walk into the Fiery Furnace. And hopefully back out again.

Devil's Garden in Arches National Park has one of the best-designed desert campgrounds I've seen—each campsite seems to be tucked away in the rocks, with a little shade and privacy.

Other than that, and a larger visitor center, there are no tourist facilities in the park at all. Which is just fine.

Dick Smith, the big shy pilot who runs Canyonlands Resort, banked the plane. "Look down over the right wing," he said "Halfway down that cliff you'll see an Indian ruin." And below, in a long alcove, were several stone houses where, centuries ago, the Anasazi lived.

"Wow! That's a big town. Have you been down there?"

"Nope. Nobody has, far as I know. It would be about a 90-mile walk from the end of the nearest jeep road. If you could even find it."

Later, flying toward Moab, I looked down on a jumbled region of red fins, dark canyons and green trees. What's that?

"Oh, that's what they call Back of the Rocks, or Behind the Rocks."

"What's it like?"

"Dunno. Roads only go to the edge of it. Don't imagine anybody's been in there very far." Then he added. "You know, the San Rafael Swell county to the northwest would make a great national park. Trouble is, hardly anyone knows about it."

That's the provocative thing about these southeastern Utah parks—they all contain country that remains largely unexplored and unmapped, and likely to stay that way a while. The only way to see much of it is by plane, and that will give only a frustrating glimpse of its beauties.

The least trammeled park is Canyonlands. Almost a third of a million acres of the wildest canyons you ever saw, the deep canyons where the Green and Colorado rivers flow, and then flow together, and all the other canyons big and small that drain into them. It's a couple of hundred miles, by road, between different sections of the park.

Only two roads can take a passenger car into Canyonlands National Park. About eight miles north of Moab, a road leaves U.S. 163 and heads across Island in the Sky, a 6,000-foot-high plateau east of the Green and west of the Colorado. The road passes a ranger station, a campground at Green River Overlook, and stops at Grand View Point where you can see down a few thousand feet to the confluence of the two great rivers.

Utah Highway 211 takes you into the southern portion of the park, to the country where you'll find the Needles, Angel Arch, Druid Arch, a ranger station and campground. The popular jeep and hiking trails are here, including one trail that goes down to Spanish Bottom on the banks of the Colorado.

On Utah 211, halfway to the park, be sure to stop at Newspaper Rock State Historic Monument. Here, the ancient Indians inscribed a whole wall of rock with petroglyphs of hunters, ghostly horned men, antelopes, deer, snakes and scorpions and many things we can't define. There's a big chain link fence around Newspaper Rock, lest all the little piggies attack it with spray paint and chisels.

The Maze, west of the Green River, can be approached from Hanksville, and only in a four-wheel-drive vehicle. Even the jeep trail stops at its borders. Beyond is a tortured land of serpentine canyons and more canyons twisting this way and that, pink and white canyons with sandy floors, green oases, Indian ruins and wall paintings. Only backpackers and horsemen can venture into the Maze, and only if they know what they're doing. (Pilot Dick Smith at Canyonlands Resort will fly backpackers to an airstrip at the edge of the Maze, and return for them at a prearranged time.)

The morning at Canyonlands Resort I hopped into a rental four-wheel-drive vehicle and after some instructions in its tricky operation, headed up Salt Creek Canyon. I wanted to see the pictograph they call Thirteen Faces East, and cajoled the ranger into telling me where it was. ("We don't have a steel fence around it yet, so we're keeping it a secret.")

I went rumble-tumbling along the road, bouncing past Paul Bunyan's Potty and Tower Ruin, roaring down embankments, splashing through the creek, swishing through the marshes, and churning through hubdeep sand.

Way up Horse Creek Canyon, I parked the jeep in a thicket of trees, clambered up a sandy rise and plowed through the brush. I stopped at the canyon wall, face-to-face with the painted figures. They were low on the wall, at eye level, protected by an overhang from centuries of rain and wind. It was a red-and-white parade of thirteen Indians, in be-ribboned braids and beads and white skirts, most of their faces painted white, but one face was dark and glowering.

I stood in the heat and stared at the ancient painted men for a long time, and they never said a word.

So I climbed back into the jeep and drove back down the canyon toward the airstrip.

FERROUS SCRAP EXPORT INFORMATION POLICY SET

Mr. SCOTT of Pennsylvania. Mr. President, I am pleased to note Commerce Secretary Frederick B. Dent has recently established a new procedure under which information on large export shipments of ferrous scrap and relevant data on large export orders will be made promptly available to the Department.

I share the concern which many industry officials have expressed over large increases in the price of this important material. Although the new reporting policy will have no direct impact on prices, it will, hopefully, enable the Department to better analyze market fluctuations and to improve forecasts of future shipments resulting from long term contracts.

Mr. President, in order to bring this development to the attention of my colleagues, I ask unanimous consent that the official Department of Commerce announcement of this new reporting system be printed in its entirety in the RECORD.

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

SECRETARY DENT, "EXTREMELY CONCERNED" ABOUT RISING FERROUS SCRAP PRICES, SEEKS BETTER EXPORT INFORMATION

Secretary of Commerce Frederick B. Dent today announced a reporting procedure is being established under which information on export shipments of ferrous scrap and pertinent data on export orders will be made promptly available to the Department. Export orders for less than 500 short tons and shipments against such orders, will be exempt from these reporting requirements. He indicated that assurances have been received from major scrap exporters that the exporting community can comply with this approach to reporting without undue burden.

The Secretary said he is "extremely concerned about recent price increases in this material and the potential inflationary effects which such increases may have on the steel and ferrous foundry industries and the economy as a whole."

He reaffirmed his concern and the need for obtaining better and more up-to-date information on ferrous scrap in letters to several prominent leaders in the steel and ferrous foundry industries.

In these letters he stated:

"I am writing you about the problem which the United States iron and steel industry faces in rising prices for one of the industry's basic inputs—ferrous scrap. I am extremely concerned about the recent price increases in this material and the potential inflationary effects which such increases may have on your industry, and on the economy as a whole.

"Our analysis indicates that, although export shipments (which now account for approximately 20 percent of total sales of scrap) are an important factor in determining domestic prices, we do not have up-to-date information which allows us to quickly analyze fluctuations in export shipments as they occur, nor are we able to forecast future shipments resulting from long-term contracts. Accordingly, a reporting procedure is being established under which the ferrous scrap industry will begin reporting pending and subsequent export orders by tonnage, destination, and date of shipment, as well as information on export shipments as they

occur, except for orders of less than 500 tons, and shipments against such orders.

"While this step will not decrease the price of ferrous scrap, it will provide us with the data we need to better understand and deal with this situation, which is of great concern to all of us."

UNION COUNTY, N.J., OFFICE OF AGING RECEIVES AWARD

Mr. WILLIAMS. Mr. President, I was pleased to note that recently the National Association of Counties selected Union County, N.J., to receive the 1973 "New County, U.S.A. Achievement Award" for the activities of its Office of Aging. This coveted national award was established by NACo to give recognition to the efforts of forward-looking county governments in vital areas of public service.

The provision of a life of dignity and security for our Nation's senior citizens has long been a major concern of mine. I am especially gratified, therefore, that the admirable activities of the Union County Office of Aging have been noted and commended by NACo.

In order that this important event be appropriately commemorated, I ask unanimous consent that the attached related materials be printed in the RECORD.

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

UNION COUNTY OFFICE ON AGING,
Elizabeth, N.J., May 8, 1973.

Senator HARRISON A. WILLIAMS, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: When I was appointed to this position a year ago I felt a special responsibility as Union County Director on Aging because of your national example and leadership in this area and you being a Union County resident.

I'm very pleased to enclose a copy of a recent letter from the National Association of Counties indicating the Union County Office on Aging has been selected for national recognition through an Achievement Award.

Best personal regards,

PETER M. SHIELDS,
Executive Director.

Enclosure.

NATIONAL ASSOCIATION OF COUNTIES RESEARCH FOUNDATION,
April 17, 1973.

EDWARD H. TILLER,
Director, Board of Chosen Freeholders,
Elizabeth, N.J.

DEAR DIRECTOR TILLER: The National Association of Counties New County, U.S.A. Center is very pleased to advise you that Union County has been selected to receive a NACo New County U.S.A. Achievement Award for its Office of Aging.

As you know, the Award program was developed to give national recognition to progressive county developments that demonstrate an improvement in county governments services to its citizens.

A special feature of this year's annual conference in Dallas, Texas, July 22–25, 1973, will be a County Achievement Fair on Monday afternoon, July 23. County Achievement Award counties will be able to prepare an exhibit and explain their program to the more than 3,000 county officials who will attend the walk through "show and tell."

Fred Hufnagle, NACo Exhibit Manager will contact you concerning your exhibit space. There will be a charge of $35 for each exhibit space.

We also hope you and representatives of your county will be present to accept the award at our annual conference in July. Please advise Charlene Calle if your county will be participating at the Dallas Convention. I will send additional details at that time.

All local governments can learn from the Union County program. We at the National Association of Counties congratulate you for your fine efforts.

Sincerely,

RODNEY L. KENDIG, *Director.*

THE MINED AREA PROTECTION ACT

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the RECORD the text of a letter from Under Secretary of the Interior John C. Whitaker to Senator JACKSON, chairman of the Committee on Interior and Insular Affairs, together with suggested amendments to S. 923.

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 9, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We have recently conducted a careful review of the Administration's proposed Mined Area Protection Act, introduced as S. 923, in an effort to identify those provisions which might be changed to further strengthen the bill.

Mindful that adequate time must be allowed for the Federal Government and the State Governments to develop the stringent program provided by this bill, we have reduced a number of our time requirements to achieve the earliest realistic implementation of this program. We again urge the enactment of S. 923 with these amendments.

Our amendments are attached to this letter.

Sincerely yours,

JOHN C. WHITAKER,
Under Secretary of the Interior.

Enclosure.

AMENDMENTS TO S. 923

1. Page 6, line 20, delete the words "two years" and insert the words "one year".

2. Page 6, line 25, after the word "Indians." insert the following language: "If State compliance with this section requires an act of the State legislature the Secretary may extend the period for submission of such State regulation up to one additional year."

3. Page 7, line 25, and page 8, line 1, delete the words "one year" and insert "180 days".

4. Page 8, line 1, delete all the language to the end of the subsection after the word "date," and insert the words "except, upon good cause shown, (i) permits issued for such operations may allow up to one year from the effective date of the permit for an operator to come into full compliance with those regulations, (ii) permits issued for such operations producing less than 10,000 tons per year of mine run material and for open pit mining operations may allow up to two years from the effective date of the permit to come into full compliance with these regulations; provided that operator is diligently proceeding to bring such mining operation into compliance."

5. Page 12, line 17, delete the word "sixty" and insert the word "thirty".

6. Page 13, line 17 and page 14, line 20, delete the words "one hundred and eighty days" and insert the words "one hundred and twenty days".

7. Page 15, line 16, delete the words "one year" and insert the words "one hundred and twenty days".

8. Page 16, line 22, delete the words "one hundred and eighty" and insert the word "ninety".

9. Page 18, line 2, delete the words "two years after" and insert after the word "date" the words "prescribed in section 201(a)".

10. Page 18, line 3, delete the words "of enactment".

ADDITIONAL LETTERS FROM U.S. AIRMEN INVOLVED IN CAMBODIAN OPERATIONS

Mr. FULBRIGHT. Mr. President, on May 1 I inserted in the RECORD six letters I had received from U.S. airmen involved in air operations over Cambodia. Since then I have received four more, one of whom specifically stated that his name could be used. I have deleted the names of the other writers for their protection.

I ask unanimous consent that these letters be printed in the RECORD at this point.

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

MAY 5, 1973.

SENATOR J. WILLIAM FULBRIGHT: In the paper today I read an article which quotes Kenneth Rush, deputy secretary of states, as saying "the United States is striving to give the Cambodians the right to select their own form of government." Seems to me we were sold this bill of goods about ten or twelve years ago and the only things that have changed are the speaker and the name of the country. I am not questioning the motives behind our actions but can you answer these two question for me? Why? For what?

We have heard war for the last ten or twelve years must we hear it for another ten or twelve years? I have been in the service for the last 8½ years in various capacities from basic to electronics instructor and spent two years in Vietnam. In choosing the Military as a career I swore to defend my country but must I defend every other country in the world?

The prisoners are home from North Vietnam but you have all but forgotten another type of prisoner that you yourselves have brought into existance. I am one of these other type of prisoners, the P.O.G.'s, Prisoners On Guam and other places. We joke about ourselves just as man has a tendency to laugh about things that hurt him the most but they still hurt none the less. I speak for myself but I know there are many who feel as I do. What is happening to Congress have they lost their sense of what is right and wrong? You have taken thousands of men from their homes and families, ruined hundreds of marriages and for what, so we can continue to kill people who don't agree with us politically?

You don't know what you are doing, you don't know what is happening to us, but still worse you simply don't care. You don't know what it is like to see a man cry out of loneliness and to see that same man turn into an alcoholic trying to drown the sorrows that you of congress have imposed on us all. I am sure it would gladden your hearts to watch men cheer and clap when an airplane starts its takeoff roll and *aborts*. I am sure you would think it funny that the men are so apathetic that an aircraft was allowed to take off with a maintenance man still sitting in the wheel well working or so bitter that people are finding wire bundles cut while the aircraft is sitting on the ground. When all is said and done we have to listen to a man tell us that we don't have any morale problems. Be of good cheer gentlemen, but I am glad that I don't have to live like you. I hope you enjoy hurting, killing and destroying your fellow man.

In answer to Mr. Rush, Senator Fulbright read some letters from B–52 Crews with their names withdrawn. Well if this letter gets

past the nose of some secretary you can use my name, I am not afraid of you Mr. Congressman, you have done to me all that you can do to make my life miserable and the lives of many more.

JAMES PFLUEGER, *SSgt.*

MAY 8, 1973.

Hon. J. WILLIAM FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SIR: Enclosed is a copy of a news clipping from the May 6, 1973 Pacific Stars and Stripes, and a copy of the letter I sent to President Nixon. It pretty much speaks for itself as to how I feel about the bombing of Cambodia. This letter to you is just to let you know, I support you 100 per cent in your efforts to put an end to our South East Asian involvement.

If you see fit to use either of these letters in your efforts to end the bombing, you have my permission. Thanks for all your help.

Sincerely,

———— ————,
SSgt USAF.

RICHARD M. NIXON,
President of the United States.

DEAR SIR: In regards to the news paper clipping I am enclosing, I find it hard to believe the Pentagon would resort to such low tactics as to threaten a shortage of funds to meet the servicemans hard earned pay. If the Pentagon is so concerned over the shortage of funds to pay the serviceman, Why don't they submit a request to transfer the needed funds to the Military Personnel account, without the clause of also transferring to the Operations and Maintenance Account?

I for one Mister President hope that Congress challenges the Department of Defense, by not approving any transfer of funds to pay or feed the military personnel, and at the same time, feed the bombing of Cambodia.

If it means slowing down, or stopping the bombing of Cambodia, I would be willing to do without my pay. I would appreciate knowing why our Department of Defense, with all the supreme leaders have to resort to these low tactics to continue to bomb Cambodia.

Sincerely,
ONE OF YOUR FELLOW AMERICANS,
Ssgt., U.S.A.F.

GI PAY CAUGHT IN CONGRESS-DOD HASSLE

WASHINGTON.—A growing debate in Congress over the war in Cambodia has the armed forces wondering if they will have the money to make their June 30 payrolls.

The Pentagon wants to transfer $430 million from its "weapons" account into two other accounts—"operations and maintenance," from which the bombing of Cambodia is underwritten, and "military personnel," from which personnel are paid and fed.

But there is a growing move in Congress to deny the Pentagon authority to switch the funds.

If the Pentagon is turned down by Congress, it could still keep the bombers going, officials said. But they said ships by the dozens would probably be ordered into port and other aircraft grounded to save fuel costs. Spare parts purchases might grind to a halt and "anything that could wait would wait."

On July 1, the new fiscal year begins, and new funds will then be available for costs incurred after that date.

But 2.3 million servicemen are due their semi-monthly paychecks June 30, and officials wonder what will happen if Congress doesn't approve the transfer authority. They were reluctant to talk about the possible shortfall, apparently for fear of upsetting the ranks.

The House Appropriations Committee Thursday defeated 31–14 an attempt to block the transfer authority. But Speaker Carl Albert later called the House Democratic Steering Committee together. It voted 18–3 to urge Democrats to block the request.

The crunch will come in a House floor vote expected next Wednesday.

Then the bill goes to the Senate where the Democratic caucus—with only two dissenting votes—Wednesday urged Senators to kill all funding for the war.

Opponents of the Pentagon's request say it is a new form of Tonkin Gulf resolution that would have the effect of legitimizing the present U.S. bombing in Cambodia plus any further bombing.

Officials originally had not anticipated any trouble getting the transfer authority—"but if we don't get it, it will be a disaster," one Pentagon money handler said.

Back in 1877, Congress never got around to appropriating any money for the Army payroll and the troops worked without paychecks for a year.

MAY 4, 1973.

DEAR SENATOR FULBRIGHT: I write to you today with much despair in my heart. I have mulled over these words in my mind many a time in the past few months but now I must sit down and bare my conscience. I am an AC–130 gunship navigator fighting the war in Cambodia on a day to day basis. I come as close as one can get to observe the conflict at hand. What I see is an absurd effort by the President of the United States, my Commander-in-Chief, to preserve an unpopular, corrupt, dictatorial government at any expense. We have become once again involved in a civil conflict, and as a result of our involvement, have escalated the death and destruction on a massive scale. If we accomplish anything at all, it will be another endless stalemate, perpetuating perhaps another endless war.

I respect and obey the law that, as a member of the military, requires me to follow the orders of my superiors and the Commander-in-Chief of the Armed Forces. It has been this principle, my sworn oath, that has kept me engaged in this conflict for so long. I love my country and have served it faithfully for five years, but I fear my conscience can no longer endure this senseless, indiscriminate bombing by B–52s and F–111s that kill and injure thousands of civilians and creates hundreds of thousands of refugees. As a crewmember on an AC–130 gunship I feel a terrible sense of guilt. We do not use bombs, only artillery shells over a battlefield, but we contribute to the prolongation of this meaningless, unconstitutional war.

Sir, I am not a disgruntled serviceman expecting quick release. In fact, I hold a regular commission and have been very pleased with Air Force life, seriously considering making the Air Force a career. But this war in Cambodia has made me feel that I am no more than a high paid mercenary fighting on the whims of one man, the President of the United States. I do not know whether my conscience will allow me to go on. I am beginning to feel that I have compromised myself for too long already. My only hope is Congressional legislation by you and your colleagues to bring this war to an end. I urge you to take these steps as quickly as possible.

Sincerely yours,

———— ————,
Captain, USAF.

MAY 8, 1973.

Senator WILLIAM FULBRIGHT,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR FULBRIGHT: It is encouraging to see that someone in the Congress has taken an interest in the attitude of the B–52 crewmembers towards their role in the Cambodian involvement. You have no doubt discovered from your mail that there is a growing resentment in the ranks of those of us who have been left behind in a war that the American public believes is over. It most certainly is not over. I fly bombing missions as often now as I did before the so-called Peace Agreement.

I do not understand how the President can criticize the North Vietnamese for sending arms and supplies into Cambodia and then expect people to accept his continued bombing in that country as being within the provisions of Article 20 of the Vietnam Cease fire. It seems that we are equally at fault with our enemy. The President's argument that we are preventing the North Vietnamese from forcing a form of government that is unacceptable to the Cambodian people is also rather weak. Perhaps if he would examine the bodies of the communist soldiers killed by American air strikes he would discover that their ranks too are composed by Cambodian nationals. It is obvious to me that the United States is choosing sides in a civil war and that despite what the President says we are indeed trying to force a particular outcome.

Officers of the United States Air Force are sworn to defend the country against all enemies. We are also sworn to obey the orders of the President of the United States who is our Commander-in-Chief. I think now that perhaps the latter is being accomplished at the sacrifice of the former. The Cambodian situation has little or no bearing on the national security of our homeland. If the taxpayer were to be told the numbers of B–52 bombers, KC–135 tankers, F–111's, F–4 Phantom jets, and men and material that are being expended in support of the Cambodian operation he would be shocked. The taxpayer has paid for these with his hard-earned dollar and yet he is deriving absolutely no benefit from these resources. At a time when there is an approaching critical fuel shortage in our country the President feels he can afford to squander hundreds of thousands of gallons of fuel flying combat missions in a war nobody wants. I hope you and your colleagues in the Senate will continue the battle to cut-off funds for Nixon's private war. I don't feel he should be allowed to maintain an army-for-hire at the expense of the American public any longer.

Many like myself believe we have done all the good we can do for this part of the world. Our POW's are home and we want to go home too. Our families have had to endure years and months of separation while we carry out our duty. It is time to stop trying to win the battle for men's minds with bombs.

Very sincerely yours,

————— ————.

A MORE RESPONSIBLE APPROACH NEEDED

Mr. DOLE. Mr. President, yesterday the Senate considered legislation which would subsidize health care delivered through health maintenance organizations. S. 14, as it was presented for final passage, differed greatly from the form in which it passed the Senate during the 92d Congress. I voted for the HMO bill in its amended form last fall to register support for the health maintenance organization concept as one of many ideas which was worthy of further consideration in Congress as part of the effort to improve health care delivery in America.

However, I opposed many of the specific provisions contained in the bill considered last fall and voted for all the amendments to relax its definition of an eligible HMO and reduce the dollar authorization.

S. 14, the health maintenance organization and resource development bill, came before the Senate this year with a very real chance that some form of the HMO bill will become law before the end of the session. Although I still support the development of the HMO concept, I could not vote for a measure which failed to embody logical and responsible provisions to insure the rational development of HMO's as part of the overall effort toward improved health care.

S. 14, though it was greatly altered, still contained many provisions not in the best interests of the taxpayer, the health provider, and the patient.

My opposition to S. 14 stems from a basic disagreement with several of the major concepts included in the bill. First, the bill placed major emphasis on one narrow form of health care delivery—closed panel group practice. The bill would authorize $430 million for the development of HMO's, and of that amount, 82.5 percent would be reserved for closed panel group practices meeting, a very rigid definition. To qualify as an HMO under this title, comprehensive health services must be provided on a prepaid basis to all enrolled members. The list of required services includes physician services, inpatient health services, home health services, diagnostic services, preventive health services, emergency services, medical society services, mental health services, and physical rehabilitation services, among others. Physicians serving in the HMO medical group must have little or no fee-for-services income to supplement the income derived from the HMO.

S. 14 presumed that closed panel group practice is superior to the individual practice type HMO, and assumed the strict HMO structure outlined in the bill is a formula that will meet the health care delivery needs in every setting. Unfortunately, the emphasis placed on one form of an HMO over another restricts the free development of HMO's in all forms, and in spite of the provisions for supplemental HMO's, the major impact of S. 14 would be limited to the larger metropolitan areas. The HMO concept is a broad concept which encompasses a wide range of possible methods of delivering medical care. The closed panel group practice form is but one model and its effectiveness is yet unproven. I believe, therefore, that Federal funds should be used to stimulate innovation in developing the HMO concept rather than for full-scale promotion of one specific type of HMO.

Other provisions in S. 14 go beyond the concept of HMO development and are matters of real concern to me. For example, I feel the provisions which would allow Federal preemption of State laws have implications far beyond the area of health care.

In many States, local and State statutes have placed barriers in the way of the development of group practice. S. 14 permits the establishment of maintenance organizations as well as the operation of health care providers who receive so-called quality health care initiative awards regardless of State laws to the contrary. Thus, State laws which require such organizations to receive approval of a medical society or which require physicians to constitute the majority or all of an organization's governing body would be rendered null and void by this portion of S. 14. I feel these preemption provisions are unwise as matters of basic Federal-State policy and favor instead the administration's approach to this matter which would provide Federal technical assistance to aid the States in changing their laws, should they so desire.

In addition, a large portion of the bill is concerned with the development and enforcement of medical quality standards. The bill would establish a Commission on Quality Health Care Assurance which would set standards for health care providers falling under its purview and define norms for health care practices. Of course, every physician and health care provider is concerned with developing better methods of practice and assuring that the treatment delivered in every instance is the best that could possibly be given. However, the prescription of Federal, nationwide criteria and norms of practice, unless carefully controlled, could stifle innovative and creative practice. The dangers of such an approach would appear to be at least as great as the potential benefits. Although the HMO concept does create the potential for under- rather than over-treatment, the quality care provisions appear to me to be a highly questionable means of dealing with a possible, theoretical problem.

I opposed passage of S. 14, and, although I voted for the amendment to provide $100 million for the development of rural HMO's, I still believe the S. 14 prototype is not suited to the needs of rural areas.

In the last 3 years the Department of Health, Education, and Welfare has provided more than $20 million in planning and development assistance to 110 HMO applicants from all types of communities. Fourteen of the applicants have become operational HMO's with no Federal assistance beyond the planning and development stage. Provisions in last year's social security amendments made it possible for medicare and medicaid patients to receive services through HMO's. Thus, HMO's are able to serve the elderly and disadvantaged and be reimbursed for these services through medicare and medicaid.

Given this momentum and the current interest in developing HMO's, I feel the Federal Government should not become deeply involved in HMO development at this time, especially in a way which would structure and limit the flexibility of the concept to meet the varied health delivery needs of communities across the country.

ROBERT F. FROEHLKE

Mr. NUNN. Mr. President, the Honorable Robert F. Froehlke served with distinction as the Secretary of the Army from July 1, 1971, until May 15, 1973. During the 2-year period, his personal style and sincere enjoyment of people enabled him to substantially restore the waning pride and confidence of members of the Army. Under his exceptional leadership, the effectiveness of the Department of the Army was materially enhanced and its management improved. He personally recruited outstanding personnel for the Department and molded them into an efficient and sound management team. Bob Froehlke contributed immeasurably to the Army's credibility with many Members of Congress and with the American public because of his honest and candid approach to the Army's problems.

His candor and frankness in testifying before the Armed Services Committee was refreshing and helpful.

Robert F. Froehlke is returning to private life having served his country with honor and dedication for the past 4½ years. He leaves behind a stronger, more vigorous Army ready to defend the United States of America.

NEEDED RESHAPING OF NATO DEFENSES IN EUROPE

Mr. FANNIN. Mr. President, last Sunday's Washington Star-News carried a very interesting and informative article concerning the needed reshaping of NATO defenses in Europe.

This article was written by Mr. Earl H. Voss, who is on the staff of the American Enterprise Institute in Washington. I am certain that everyone in Congress appreciates the outstanding work done by AEI in making studies and compiling material that is extremely useful in our legislative work.

Mr. Voss was a correspondent for the Star from 1951 to 1964, and he is a man who is very knowledgeable in foreign affairs. He is a consultant to the Department of Defense and the Los Alamos Scientific Laboratories.

In recent times there has been much pressure to withdraw U.S. forces from Europe. Some of this pressure has been caused by our critical balance-of-payments problems. Some of the pressure has grown out of the disenchantment and frustration in Southeast Asia. Some of the pressure comes from shortsighted advocates of neo-isolationism.

There has been very little public discussion of just how U.S. forces can be reduced in Europe and at the same time maintain a credible NATO deterrent to Communist aggression.

Mr. Voss explores this facet of the problem and offers some proposals. This certainly is a matter that should be fully discussed and a new course charted before any action is taken which will force a unilateral withdrawal of American troops.

Mr. President, I commend Mr. Voss for bringing this issue to public attention and I ask unanimous consent that his article be printed in the RECORD for the benefit of my colleagues who may have missed it.

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

DEFENDING EUROPE WITH BLUNDERBUSSES

(By Earl H. Voss)

Phase One of the Nixon Doctrine, the Asia phase, is now passing into history and Phase Two is begging, as Henry Kissinger's "New Atlantic Charter" speech of April 23 portends.

Once again—in Europe as in Asia—the President seeks a less obtrusive American

presence, without diminution of commitment. In all probability, there will be a reduction of American troop forces, but with no abandonment of the United States' basic commitment to its NATO allies, a commitment now entering its second quarter-century.

That is the promise of the Nixon Doctrine. But the shape and composition of the evolving American presence in Europe, and the underlying policy and strategy, have been shown neither to the American people nor to the even more concerned peoples of Europe.

That there will be dramatic changes in the American role in NATO in the next five years seems beyond serious dispute. Illogical fatalism apparently has settled on Western Europe; its failure to muster sufficient force to offset Warsaw Pact conventional forces persists. Now, war-weary and involvement-wary Americans are pulling back.

The leadership in Washington so far has shown some pique with a prosperous Europe for its failure to assume its full load of conventional defense, but not enough to stir Europeans into any serious action. The American citizenry, on the other hand, tends to go along with congressional spokesmen who want American troops withdrawn from Europe.

More compelling than mere talk, however, is the economic pressure, both real and exaggerated for American withdrawal. The Nixon Administration so far has fought valiantly to forestall congressional moves to force premature troop withdrawal from Europe. But the administration also has developed a reputation for accepting inevitables—and a significant reduction of U.S. forces in Europe is certainly in the cards for the next five years. Secretary of State William Rogers rules out withdrawals for only 18 months, until October 1974.

There will be at least one more try at the poker table to persuade the Warsaw Pact powers to match Western demobilization moves in Central Europe. But Moscow's reading of the European and Washington hands shows no reason to pay much for U.S. withdrawal. That is painfully clear from the public attitude of the Soviet Union toward the talks on Mutual and Balanced Force Reduction, a hypnotic phrase which hides impossible problems.

Even assuming good faith all around, it would be miraculous for 13 nations on one side and seven on the other to agree on "parallel" relations, much less "balanced" ones.

Indeed, the entire history of arms control agreements with the Soviet Union shows that only the most simplistic accords are possible. Once again, Kremlin leaders are giving every appearance of having decided they need only wait—this time until a tax-weary and disillusioned American public insists on unilateral withdrawal.

Europe thus is headed for trouble—from an increasingly dominant conventional Warsaw Pact military threat—unless NATO can be aroused. All of which raises a question: If NATO has not the will or desire to match the Warsaw Pact in conventional war-making power, is there another course?

The quick answer is yes.

In Northern and Central Europe, the Warsaw Pact powers have 1 million men compared to 580,000 for NATO (excluding France); 16,000 tanks compared to 6,000 for NATO; and roughly 4,000 tactical aircraft compared to 2,000 for NATO.

These relative forces levels lead to the conclusion that the Warsaw Pact conventional capability substantially exceeds that of NATO. This imbalance is accepted as a fact of life by NATO, which banks on tactical nuclear firepower and the United States' strategic nuclear guarantees.

In the case of non-conventional or nuclear capabilities, it is surprising, in fact even astonishing, how little public attention has been paid—especially in the United States—to the Soviet buildup of tactical nuclear weapons in Eastern Europe. In terms of the most effective nuclear weaponry, namely surface-to-surface missiles, the Soviet Union already has deployed more than twice as many launchers as NATO. Moreover, the Soviet Union, expecting conflict with NATO to force the use of nuclear weapons, has evolved doctrine and tactics around this expectation while NATO continues to rely mainly on its conventional posture.

Thus it is not clear that NATO has held onto its once undisputed tactical nuclear lead over the Warsaw Pact.

Whereas we have no dependable knowledge about the kinds of warheads in Soviet tactical nuclear weapons, the NATO nuclear stockpile has been revealed to be made up to a substantial degree of Model-T blockbusters and blunderbusses which neither our European allies nor the Americans wish to inflict on Europe—or even the Warsaw Pact countries.

That stockpile of blunderbusses would produce too much fallout, cause too much blast damage, endanger many friendly troops and kill far too many civilian noncombatants. No political or military prize worth that ghastly cost would be obtainable.

Whatever the Soviet Union might do with its nuclear weapons, the United States alone could transform the European theater into the cinder field the whole world dreads.

It has been argued, and perhaps it is true, that this same stockpile of blunderbusses has been a vital part of the deterrent—so far—to Warsaw Pact aggression against NATO. But now that we acknowledge strategic parity an indefinite reliance on NATO's outmoded tactical stockpile could backfire disastrously. In the face of a Warsaw Pact conventional thrust into Western Europe—on the pattern of the invasion of Czechoslovakia, for instance—NATO (and an American President) might prefer to accept the conventional thrust rather than risk the nuclear punishment, a major part of it likely to be inflicted by NATO's own nuclear weapons.

Thus the temptation for Warsaw Pact adventure in Western Europe, political or military, will grow in the years ahead, unless—

Unless NATO can compensate for its conventional warfare inferiority with a plausible, usable defense which can stop any Warsaw Pact thrust without inflicting unacceptable damage on friendly territory or people.

There are planners in the military and scientific communities of the United States who now believe such a plausible defense can be built, even while absorbing the withdrawals of American troops which Congress is on the verge of dictating.

New, more cost-effective weapons have by now not only been conceived but the principles have been tested and the realization is slowly dawning that they can revolutionize NATO strategy.

These weapons can be used in discriminating ways. Unlike the blunderbusses in the current stockpile their effects can be controlled and confined to a degree where only the specific target area of concern is covered with casualty-producing or physically-damaging effects. Collateral damage to civilians and their economy can be reduced drastically below what the current stockpile would cause.

In a word, science and technology in the United States have now made available the tools to support a truly revolutionary military doctrine.

In constructing a revised strategy for NATO compatible with the precepts of the Nixon Doctrine, we are concerned with *tasks* to be done, *personnel* required and *weapons* available, without regard to service roles.

We shall assume that NATO's task is to stop all *conceivable* Warsaw Pact attacks with a minimum of losses for friendly and enemy forces and peoples. More fundamental, the NATO goal is to deter those attacks with an obvious, well-advertised capability to stop them. We shall dismiss from our calculations at the outset palpably irrational moves by the Warsaw Pact powers.

It is inconceivable, for instance, that the Warsaw Pact powers would release in barrage their large force of medium and intermediate range ballistic missiles along the western Soviet border to destroy all NATO military capability in Europe. All Western Europe would be incinerated—the prize the Warsaw Pact sought would be wiped out—and the radio-active fallout might endanger not only the peoples of Western Europe but of the Warsaw Pact as well.

Conventional attacks on the pattern of Czechoslovakia 1968, or limited nuclear thrusts by the Warsaw Pact into NATO territory, on the other hand, are conceivable, particularly as the American presence in Europe diminishes. How can NATO seal its borders from such plausible Warsaw Pact attacks, or have confidence that such attacks are deterred?

NATO's defenses should be strong enough to stop any conceivable overland incursion from the Warsaw Pact powers into NATO territory—before it reaches vital population centers or military strongpoints. This is possible. And this should be made obvious to the Pact and to our allies—thereby giving our allies the backbone to resist coercion or "Finlandization."

One military plan for NATO is to:

1. Fight the war defensively, using the advantages nuclear weapons give the defense.

2. Replace manpower with nuclear firepower.

3. Employ low-yield precision-delivered weapons which are both militarily effective and politically acceptable, providing a more effective defense of European NATO nations than now exists.

4. Rely on indigenous forces to (a) call nuclear fire onto an attacking enemy and (b) destroy enemy forces dispersed by the nuclear fire.

5. Permit drastic reductions in United States forces, aiming eventually at a single role as supervisor of nuclear materials.

6. Place primary emphasis on the attack of the forward elements of the Warsaw Pact forces—namely, those elements which constitute the most dangerous and immediate threat

This concept would establish a zone for detecting incursions and bringing nuclear fire on the invaders. This zone might extend no more than a few tens of miles inside NATO territory from the border with the Warsaw Pact powers. Inside this zone, NATO would hide electronic detectors and pre-positioned terminal-guidance packages to direct missile fire and other types of NATO fire onto enemy attacking units so soon as they entered the zone.

Highly mobile reserve units would be available, stationed far to the rear in peacetime, for quick availability along the historic and natural invasion routes.

Fire directed by the detection and target location system would come from widely-dispersed, mobile missiles or short-range aircraft with short-field takeoff and landing capability. All weapons would be equipped with warheads having yields approximately one one-hundredth as large as NATO's current blunderbusses and would be delivered with high accuracy.

The Warsaw-Pact powers would be assured in advance that these weapons, stationed on European NATO territory, would have no other mission than the defense of Europe. Even today, NATO forces have certain weapons which could be redesigned and given new discriminating warheads which could be redeployed safely and under full control, to initiate this plan.

One of the prime aims of this new NATO defense would be to paralyze any incursion as quickly as possible. No pause would be contemplated or allowed. Discriminating firepower would be concentrated on the incursion

as quickly as possible. No widespread devastation need occur and the effects of such attacks could be highly localized.

This response would be intended to stop the battlefield engagement where it began. Nuclear fire would destroy whatever invading force ventured across the border. No large friendly force would be in the area.

Beyond the detection and nuclear fire zone, each European member of NATO would provide its own defense forces, highly-trained militia or regulars. They would be issued modern anti-tank and anti-personnel weapons for this purpose. Other indigenous forces would be trained in air defense and, once a war started, would have access to weapons sufficiently powerful to deal with all threats from the air.

Requirements for American ground forces in this NATO defense configuration would be greatly reduced. Given the restrictions of the Nuclear Non-Proliferation Treaty and other international agreements, these requirements obviously could not be reduced to zero. A few, tens of thousands of American forces would be needed as custodians of the nuclear warheads.

Actual requirements for American personnel in Europe must be left to the experts, of course, but obviously the American contingent of NATO's European defense force eventually could be held well below 100,000 men, allowing more than two-thirds of the American force now in Europe to be returned—along with their families.

Eventually European forces could take over both the detection-nuclear zone mission and whatever conventional defense seemed necessary.

We are left with at least one major problem to consider. As the present American commitment to NATO is now constituted, the United States' strategic deterrent—its ICBM's, its B52s and its Polaris-Poseidon submarines—is presumed available for use against the Soviet Union in defense of NATO.

It is unlikely that either the United States or the Soviet Union would risk provoking thermonuclear retaliation on its own soil by hitting the other nuclear superpower. This proposition has become so obvious that many authorities advocate an announced "decoupling" of American strategic forces from the defense of Europe. They believe that all United States nuclear weapons which constitute a threat to the Soviet Union should be removed from Europe.

With the type of force suggested here, however, there need be no declared decoupling. It would be sufficient to indicate by the deployment of nuclear weapons that in most cases a United States strategic nuclear response would not be invoked by a Warsaw Pact attack on Western Europe.

If NATO is to remain an effective alliance, of course, Europe might wish to provide a substitute for the United States strategic guarantees, perhaps the British and French nuclear forces.

This new strategy for implementation of the Nixon Doctrine in Europe cannot be rushed, of course. Certainly President Nixon has been wary enough of the political and military pitfalls of changing NATO strategy. So wary, in fact, that he has paid little public heed to the potential of modern nuclear weaponry and delivery systems for a more realistic NATO defense in the decade of the '70s and beyond. Obstacles to change are many.

First, there is the innate conservatism of the entire free world, including the military establishments of Europe and the United States. But President Nixon has shown himself to be a master at effecting needed change, even when it is radical change.

Second, there is the knee-jerk revulsion to all things nuclear, sometimes justified, sometimes emphatically not.

Third, there is the unwillingness of the American military services to subscribe to military concepts which will result in drastic manpower and force reductions. Still, the American military services are the world's most compliant in accepting firm civilian direction and leadership.

Fourth, there are the apprehensions in Europe that leap to the fore at the softest hint of American troop withdrawals. The softening process in European public opinion has already begun, however. An assurance of continued American commitment in a manner such as is outlined here would stand a good change to be accepted over time—especially since it is a more useful and credible commitment.

Fifth, there will be the reactions of Moscow and the Warsaw Pact and European sensitivities to this problem. Pains would have to be taken to assure the Pact and our NATO allies, through fully candid discussions, that this new military configuration would be for the specific purpose of emphasizing defense; that there would be nothing for the Pact to fear from NATO in the way of aggression.

We have it from Henry Kissinger that 1973 is the year of Europe. The travels of Shultz and Volcker have already established a certain mood to give and take in trans-Atlantic economic relations. Senator Mansfield signaled in mid-March his intention to press once more for United States troop withdrawals from Europe, a notion remarkably compatible with the Nixon Doctrine if not fully appreciated by our European allies. President Nixon tours Europe later this year, seeking a new Atlantic Charter.

The historic moment is at hand for a master stroke which not only brings home most of our men under arms in Europe but also provides NATO enough new clout to keep Western Europe safe and confident indefinitely.

EQUAL CREDIT OPPORTUNITIES FOR WOMEN

Mr. WILLIAMS. Mr. President, in February of this year I introduced an amendment to the Consumer Credit Protection Act to prohibit discrimination by creditors on the basis of sex or marital status in connection with any extension of credit. Although I continue to believe that the passage of this legislation is vital to the complete elimination of credit discrimination against women, I was most gratified and encouraged by recent events in New Jersey pertaining to the mitigation of the gross injustices suffered by women in this important area of commercial relations. Specifically, two of New Jersey's largest retailers, Sterns' and Bamberger's responded to the growing public clamor against the unfair treatment of women, in regard to the extension of credit, by voluntarily revising their respective credit systems. I am most hopeful that these timely actions by two mammoth members of New Jersey's retailing community are indications of an overall trend toward fair and equal treatment for women, in regard to credit policy.

Mr. President, I ask unanimous consent to print in the RECORD this news article from the Passaic, N.J., Herald-News pertaining to these important recent developments.

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

STORES ISSUE 'MS.' CREDIT

(By Michael Cleveland)

Sterns and Bamberger's, two of the largest department stores in New Jersey, will issue credit cards to married women under their own names, spokesmen said yesterday.

The information was garnered in the wake of a complaint filed by the Essex County chapter of the National Organization for Women against Sears Roebuck and Co. NOW, which filed the complaint with the state's Division on Civil Rights, charged that Sears refused to issue a credit card to a married NOW member in her own name and instead issued it in her husband's name.

According to Raymond Klein, credit manager for Sterns' Paramus outlet the store will issue credit to married women in either their own or their husband's name.

"It's funny you asked at this time," Klein said. "Two weeks ago we issued a charge plate to a married woman. She wanted it as 'Ms.' and we gave it to her."

"Ms." is the designation that women's liberation groups prefer to use when referring to either single or married women.

"She was a professional woman, earning her own income," Klein said. "We sent her a card listing her as 'Mrs. John Jones' and she sent it back because she wanted 'Ms.' We gave it to her."

According to Klein, if a married woman has a credit card issued in her own name, she is responsible for payment on the account, not her husband.

A spokesman for Bamberger's in Newark said a married woman can be listed in one of three ways: Under her husband's name, under her married name or under her maiden name.

"We react to the customer," the spokesman said. "We react to what the customer wants to do."

He added, however, that if the card is listed under the wife's name, he thought the husband would still be responsible for the bills.

"It's still a marital thing," the spokesman said, "But it's a legal question, so I really don't know."

NOW's complaint claimed that because Sears issued a credit card under a husband's name, the NOW member in question "does not have an account at Sears. It means her husband has an account at Sears."

SPECIAL COMMITTEE ON AGING MINORITY REPORT

Mr. FONG. Mr. President, the Senate Special Committee on Aging tomorrow is releasing its annual report with minority views by Senators HANSEN, GURNEY, SAXBE, BROOKE, PERCY, STAFFORD, BEALL, DOMENICI, and myself.

I recommend that every Member of the Senate give careful consideration to both majority and minority recommendations in the report and the valuable factual information it contains.

Recognition is given to the substantial progress during the past 15 months, particularly with regard to bipartisan improvements in the income status of older Americans and strengthening of activities within the Administration on Aging and Action programs.

Noteworthy have been increases in social security and railroad retirement benefits, which went into effect last year, and the new supplemental income security program which begins operation in January with new national minimum income provisions for all persons past 65, the blind and the disabled. Together they represent major steps in removal of older

persons from poverty and improvements in their economic status as a whole.

Adoption of automatic social security increases based on the cost of living, which we have long advocated, is also most gratifying.

Both the majority and minority members emphasize, however, that there remain many problems and unmet needs among older Americans which deserve careful and prompt consideration by the Congress. Among pressing matters which need action are the following:

First, control of inflation, the most serious and universal economic problem facing older Americans.

Despite the superiority of America's responses to the challenge of inflation when compared with other countries, the seriousness of this problem is obvious.

We are hopeful because of the recognition now being given to this problem by the Congress and the administration. Because so much of the rising price spiral has its roots in government policies, however, it is important that congressional concern be forthright, consistent and enduring. It must begin with careful scrutiny of appropriations of funds and avoidance of unnecessary expenditures.

Second, adequate protection of individual rights under private pensions.

It is reasonable to expect that legislation in this field will be enacted during the current Congress, hopefully in such a form that it will permit continued growth in private pensions while giving assurances to covered employees of their plan's financial integrity and protection of their individual share when they retire. We strongly endorse such efforts.

Third, property tax relief.

Revenue sharing proposals already adopted and now under consideration by the Congress, as well as other appropriate steps in the tax field, can be, and in some cases already have been, helpful in reducing property tax burdens. High priority should be given to such relief for older persons. It should consider the needs of those who rent as well as the high percentage of persons past 65 who own their own homes.

President Nixon's proposal for tax credits against property taxes, submitted to the House Ways and Means Committee April 30, for consideration by Congress goes beyond revenue sharing by providing direct tax relief to individual taxpayers. Tax credit for persons past 65 with incomes under $15,000 would be allowed for the amount of real property taxes they pay in excess of 5 percent of household income up to a maximum $500 total tax credit. For this purpose, 15 percent of rent paid would be considered as real property taxes. The plan would thus give tax relief to both older home owners and those who rent.

Fourth, updating the retirement income tax credit.

The retirement income credit provision of the Internal Revenue Code, designed to give tax treatment to retirees whose income comes from sources other than social security payments comparable to that afforded by the tax-free status of the latter, has not been updated since 1954. During the period intervening since that year, substantial increases in social security have destroyed the tax equity of 19 years ago. Correcting this oversight by updating the retirement income tax credit is fair and proper. It will be of benefit to many older persons including large numbers of retired teachers, firemen, policemen, and other public servants. This could be added to the tax reform bill Congress will be working on shortly.

Fifth, updating veterans pensions in line with recent social security increases.

Failure of 1972 legislative action to improve eligibility standards and benefit levels in the veterans pension program has denied the full effect of recent social security increases to many of the 2,366,000 persons served by the program in 1972, including thousands who became completely ineligible, many of whom actually suffered aggregate income losses. We believe prompt action should be taken on eligibility determination rules and other changes in veterans legislation to be sure that pensioners in fact receive full benefit of the 1972, 20-percent social security increase.

Sixth, expansion of employment opportunities, including further liberalization of the social security "earnings test."

The Social Security Amendments of 1972 did provide a most welcome increase in the amount of money a social security beneficiary may earn without loss of benefits, but the action fell short of the $3,000 level of unpenalized earnings which has twice been approved by the Senate. At a minimum we believe the Senate should persist in its efforts to increase permissible earnings to that point. We favor expansion of job opportunities for older persons who want to supplement income through employment, but such efforts often become meaningless in view of social security income losses resulting from current penalties.

One additional comment appears appropriate at this point. The decision of President Nixon to name Dr. Arthur S. Flemming as Commissioner on Aging should be a source of gratification to all Members of the Senate.

Dr. Flemming's distinguished career, which includes service as Secretary of Health, Education, and Welfare during the Eisenhower administration and more recently as chairman of the 1971 White House Conference on Aging, eminently qualifies him for this position of leadership. His extensive background and unquestioned commitment to older Americans should produce a new, heightened emphasis on aging within the executive branch of the Federal Government. We urge prompt approval by the Senate of Dr. Flemming's nomination.

CONCURRENT RESOLUTION BY THE SOUTH CAROLINA GENERAL ASSEMBLY EXPRESSING CONCERN FOR UNACCOUNTED FOR MIA'S

Mr. HOLLINGS. Mr. President, on behalf of Senator THURMOND and myself, I would like to bring to the attention of my colleagues in the Senate a concurrent resolution passed by the General Assembly of South Carolina on May 2, 1973, and I ask unanimous consent that it be printed in the RECORD.

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

H. 1893

A concurrent resolution to express the deep concern of the South Carolina General Assembly at the failure of the North Vietnamese Government and their allies, the Viet Cong and Pathet Lao, to account for over one thousand Americans missing in action in Indochina and to memorialize the Congress and the President to take appropriate action to insure a proper accounting in accordance with the Paris Peace Agreement.

Whereas, substantially more than one thousand Americans are still listed as missing in action in Indochina and are unaccounted for despite the cease-fire resulting from the Paris Peace Agreement; and

Whereas, this situation obviously is a cause of great concern to the families and loved ones of those whose fate in the war is as yet undetermined and, indeed, our nation has an absolute responsibility to obtain an accounting of those brave men who served their country so well; and

Whereas, Article 8 of the Paris Peace Agreement provides for an accounting of all prisoners of war and personnel missing in action, including those who died in prison or elsewhere in enemy-held territory, and all parties concerned are obliged to cooperate in the accomplishment of this vital accounting; and

Whereas, it now appears that the North Vietnamese, the Viet Cong and the Pathet Lao are refusing to fulfill their obligations under the Paris agreement and more than one thousand American military and civilian personnel are still unaccounted for. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring: That the General Assembly of South Carolina by this resolution expresses its deepest concern at the failure of the North Vietnamese, the Viet Cong and the Pathet Lao to account for more than one thousand Americans still listed as missing in action in Indochina, and hereby memorializes the Congress and the President of the United States to take appropriate action in every possible manner to obtain a full and complete accounting for all Americans missing in action in accordance with the Paris Peace Agreement.

Be it further resolved that the President and the Congress are urgently requested to not even consider possible economic aid to North Vietnam until a satisfactory accounting as requested in this resolution has been accomplished.

Be it further resolved that copies of this resolution be forwarded to each member of the South Carolina Congressional Delegation and the President of the United States.

ON THE TRAIL TO HIGH-PRICED BEEF

Mr. DOMINICK. Mr. President, over over the past several weeks, we have heard much talk about rising beef prices and some of the reasons for those increases. Among the problems facing us in Colorado was the weather—extreme cold temperatures and heavy snowfalls which seriousy affected cattle production. Now there is a real possibility of fuel shortages with resulting increases in food costs because of lack of supplies, both for the consumer and the cattleman. A recent article in the New York Times does much to put the beef price

story in perspective. It follows the process, from raising cattle to delivering beef to the consumer, and I believe the article merits the attention of each of my colleagues and the general public. Mr. President, I ask unanimous consent that the article, "The Trail to High Priced Beef," by Seth S. King be printed in the RECORD.

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

ON THE TRAIL TO HIGH-PRICED BEEF

(By Seth S. King)

FRASER, COLO.—Jim Murphy slammed a hook into the bale of crisp hay and heaved it onto the huge sled, shoving it up on top of a dozen other bales.

He urged the two broad-beamed draft horses through a pasture gate, shouting "Ronald" to the team leader. With the ease of long practice, Mr. Murphy began kicking the bales apart and pushing the hay off onto the snow.

It was a crackling, clear day in the dry air at 8,700 feet altitude as the cows, most of them heavy with calf, lumbered through the powdery drifts to reach the hay.

As he has for the last 38 years, Mr. Murphy was winter-feeding his herd of cows and yearling steers. It is from ranches like Mr. Murphy's in the West and Southwest and from the new grass farms in the South that most of the nation's beef cattle start their two-year trip from range to supermarket.

Here is the beginning of the long "pipeline" that carries beef, the prized American food, to dining tables. Mr. Murphy plays a part in the great numbers game in which the country's craving for beef and the supply available are pushing prices to their highest levels in history.

Mr. Murphy, a large, jovial man with a shock of white hair, now hidden under the earflaps of a wool cap, was not even breathing hard.

"When you're 63 years old, bucking 70 or so bales every day keeps that old arthritis farther away," he said.

"I suppose I'm not dressed exactly the way you'd expect a rancher to look," he added. "But it was 32 degrees below early this morning, and a Stetson just don't hold off that kind of cold."

With his brother, John, Mr. Murphy runs about 550 head of beef cattle on 6,100 acres in a wide valley between two towering ranges of the Rocky Mountains.

In summers, when the grass is deep, the Murphys rent national forest grazing land. Each week Jim Murphy's wife, Kerry, 58, a lean, wind-burned woman who says nobody around here ever calls her anything except "Punk," rides out to keep check on these cattle.

"She's about the only real cowboy we have left around here," Mr. Murphy said.

The Murphy operation is small compared with the enormous ranches of eastern Colorado or west Texas, but all of them handle cattle in much the same way.

The climate requires Mr. Murphy to follow the traditional Western breeding pattern. His cows are bred in July. Their calves are born the next April. Mr. Murphy grazes them about 18 months, until they have grown to about 790 pounds. He then sells them at auction to the highest bidder, and they are moved on to a feedlot or grain farm for fattening.

There is little flexibility in the business of raising calves. Mr. Murphy's profits (quite healthy last year) are dictated by what a feedlot operator will pay, bidding in competition with others, to get the Murphy yearlings.

These animals have to be sold in October, good market or bad. Mr. Murphy can't hold them for a better price.

"They don't reach the best weight before October," he explained. "After October the grass gets bad and they begin to lose weight. If you start putting hay into them, even if you grow it yourself, pretty soon you're pushing more into them than any price rise would get you back."

After keeping some of the best heifer calves as brood cow replacements, the Murphys sell about 250 head each year.

Last October, in a rapidly rising market, the Murphys got a whopping 45 cents a pound, or about $355.50 a yearling. In 1971 the animals were selling for 36 cents a pound and five years ago for 27 cents.

Including supplemental feed, taxes, summer labor, interest on loans and inoculations, Mr. Murphy estimates that each "cow unit" costs about $222 a year to produce.

"We got 10 times more for yearlings last October than we did in 1932, when I started in here," Mr. Murphy said. "But everything cost less then. Why, you could hire help for $35 a month and keep. Today the same thing costs $500."

And there are other differences today, Mr. Murphy said. "For one thing, without them old cowboys, we use machinery. We've got $33,000 tied up in tractors, hay balers and the like. But it's a hell of a lot easier to get them two old horses hitched up on a winter morning than to try and start a tractor."

After a pause, he continued: "These mountain cattle can stand nearly anything. We take a beating sometimes on hay if a summer's too dry. But we don't suffer the way those Texas ranchers did in December. I fear to think what losses they had."

The vicious early winter storms that caused thousands of cattle in west Texas and eastern Colorado to freeze and starve were very much on the mind of Jim Miller, the president and chief stockholder of Miller Feedlots, Inc., of LaSalle, Colo. This is one of the many huge feeder operations strung out across the high plains north of Denver and east of the mountains.

"If you had come here any other year, you'd never have seen this," Mr. Miller declared, sweeping his arm at a sea of very muddy steers.

When you stand in the middle of the feedlot, all you can see in any direction are beef cattle. Mr. Miller pointed to snow standing six inches deep on the field beyond the pens. In the pens the snow had been churned and rechurned in the sticky, knee-deep mud.

"I'm spending $2,000 a week just to get that mud hauled out of those pens," said Mr. Miller. "It's true that we're getting more for a fat steer now than anybody ever paid before. But there's never been a year when the weather and ranch cattle and what I have to feed them have been so costly."

Since the nineteen-sixties feedlots like Mr. Miller's have grown larger and larger, supplying an increasing percentage of fattened cattle directly to the big packing companies. In turn, these companies have been abandoning their outmoded packing plants in Midwestern cities and moving to new sites in Texas, western Iowa, Nebraska and eastern Colorado, where they are building modern, mechanized plants close to feeder operations like Mr. Miller's.

Mr. Miller, at 35, is a man with a $7-million investment to manage. He is a brawny former football player who grew up on his father's ranch near Dillon, Mont.

Back in his small, simple office at the edge of the teeming pens, Mr. Miller sat down, pushed his big Stetson to the back of his head and sighed softly.

"We figure that in normal years we have to expand 2 or 3 per cent a year in the feedlots, just to keep up with the rising demand for beef," he said. "Well, I figure there's already been such a loss in the country's total beef cattle supply, from those winter storms, that we'll be in a real scramble just to keep up with the demand. You can readily imagine what that's going to mean to prices—they're going to stay mighty high."

A feedlot is akin to a slow-moving production line. Mr. Miller buys new feeder cattle every month. His representatives watch the sales barns in the Rockies and in those milder parts of Kansas, Oklahoma and Texas where ranchers can carry steers on winter wheat and have them ready for market during most of the year.

These animals come to LaSalle weighing a little more than 700 pounds. For the next five months, Mr. Miller pushes feed into them twice a day until they grow to about 1,150 pounds, the choice grade weight.

Recently, Mr. Miller was paying a record 51 cents a pound—about $360 an animal. With today's high prices for corn and soybeans, his taxes, the labor cost of his 20-man work force and interest on what he borrows, he calculates that the "gain" on each animal costs $132, making a total cost of $492 for each fattened steer.

Even with choice grade cattle now bringing a record price of about 43 cents a pound from packers, Mr. Miller expects to make only about $2 a head on most of the 40,000 animals he feeds during a year.

"Five years ago that margin was $12 to $15 a head," he said. "Even last year it was running $10 a head. But suddenly the cost of feed is skyrocketing, and so is the price for range cattle. So the feeder isn't making all that much now."

Mr. Miller lives in a neat new house a hundred yards from one corner of the sprawling feedlot. He had been in his office since 4:30 that morning, getting ready for the packers' representatives coming to bid for his animals.

Like Mr. Murphy, the rancher, a cattle feeder faces an inexorable time factor. He cannot hold animals, either, beyond a certain time in hopes of a market rise.

"I've got about a week's leeway," Mr. Miller said. "If we feed for too short a time, an animal isn't heavy enough to make the top price. If we feed a week too long, we're putting more into him than we'll get out. We can't afford to hold him here just for the pleasure of his company."

Mr. Miller said he didn't want to give the impression of complaining about his rising costs.

"I'm not all that blue," he said. "People still enjoy sitting down to a nice beef steak. As long as the demand for beef stays high, we'll manage. In this business you ride out the poor years with the good ones."

Mr. Miller expressed concern about steak prices at the retail level.

"We don't want to lose Mrs. Consumer," he said. "We can't afford to drive her away to buying other things for her table."

The packers and the wholesale processors, the next two stops along the way before beef reaches the supermarket shelves, share Mr. Miller's concern about prices.

"We really hate a rising market," said Robert Carlson, head of Dixon's Wholesale Meats in Des Moines.

"We can't get our prices up fast enough to keep pace with it," he explained. "And, like the supermarkets, we're so close and visible to the customer that we're the first to get blamed for higher prices."

A cheerful, incisive Nebraska native, Mr. Carlson started his career as an insurance man. He got into the beef business by chance when he married Barbara Dixon, daughter of the company's owner.

Dixon's Wholesale Meats operates from a simple, highly functional new building in northwest Des Moines. Most of it is taken up by cavernous refrigerated rooms where beef is hung and processed.

In his office Mr. Carlson was holding a small, four-page folder of yellow paper, covered with lists of prices. He said he receives a copy of this "yellow sheet" each weekday

from its publisher, the National Provisioner's Daily Market and News Service, Chicago.

"This is the bible," he explained. "This shows yesterday's wholesale prices on beef carcasses around the Midwest and then for each of the primal cuts, like rounds or loins. We can tell what it cost yesterday to buy those and at what price we might try to buy at today. Nobody, from the packer through the wholesaler or the distributor, can get very far above or below the prices quoted here, plus, of course, processing costs and a little profit."

From feedlots like Mr. Miller's in Colorado, cattle move to the packer, who bids for fattened beef animals in competition with other packers.

A packer kills the animal and prepares the carcass. Most of them sell the whole carcass to wholesalers like Mr. Carlson or directly to the large chains of supermarkets that have their own processors.

At the Dixon firm, Mr. Carlson's white-coated boners and butchers carve up the carcasses he has bought from a packer, preparing such items as filet mignons, rib roasts, top sirloins or hamburger, depending on what his customers are ordering.

These days Mr. Carlson's customers are restaurants, schools and hospitals. The Dixon firm also used to process meat for the small grocers before they virtually disappeared, driven out of business by the supermarkets.

The arithmetic that began ascending when Mr. Murphy's calves put on weight begins to descend when a packer slaughters a steer. A 1,000-pound animal becomes a 590-pound carcass. After the fat and bone are trimmed out of it, the processor has 465 pounds of retail cuts. Of this, there will be 40 pounds of sirloin, 45 of rib roast, 105 of chuck roast and 110 of hamburger.

"When you divide down to that level, you can see that we're moving into the penny and fraction-of-a-penny range on costs and prices," said Mr. Carlson. "We offer a price to a packer. If he agrees, we get it. If there's a better bid, we'll have to match it or go without. We pass the increase on to a retail customer, just as the supermarket does. The packer has done the same beforehand.

"Whichever way it goes, from the packer on down, the base price will be close to the yellow sheet, because that's what most of the industry has to pay that day."

Mr. Carlson sells his processed beef parts with a 10 per cent markup if they go out as primal cuts or a 20 per cent markup if they are cut further into steaks, roasts or hamburger. Out of this markup comes his operating costs and his profit.

"Thirteen per cent of those costs are for labor," he said. "Just as with the big packers, that's our biggest cost."

For the packers, too, the timetable is relentless. Their union contracts guarantee a 36-hour work week. If a packer slowed down production to push up the retail market, he would still have to pay for a 36-hour week.

Mr. Miller's concern over this winter's cattle losses is not fully shared by the American Meat Institute, which has a good record in forecasting beef supply and demand.

The trade organization expects this year's consumption to rise to 118 pounds of beef per person, an increase of 2.5 pounds from 1972's 115.5 pounds. In 1960 consumption averaged 85.1 pounds. In 1950 it was only 63.4 pounds.

The Institute also expects total beef cattle production to expand about 2 per cent this year, barely equaling the rise in demand.

"But like it always has, the beef industry, in the end, comes down to the housewife," said a meat trade publisher. "If she still walks up to a meat counter, looks over a good cut of beef and says 'My, that's a terrible price,' and then buys it anyway, this year is going to be pretty much like last year. If she backs away, you'll see prices turn down, all the way back to the rancher."

S. 1752

Mr. TAFT. Mr. President, I am extremely pleased that the Senate passed unanimously, S. 1752, a bill prescribing the objectives and functions of the National Commission on Productivity and Work Quality, on Thursday, May 10.

I helped to author this legislation because the related tasks of increasing both productivity and the job satisfaction of our workers are absolutely vital to the success of American economic and social policy. Increases in the efficiency of the U.S. economy strengthen America's competitive position and enable wage increases to occur without causing inflation. Alleviating the blue collar blues and the white collar woes may be even more important, because Americans spend so much of their time on the job. More satisfied workers might also, in many cases, be more productive ones.

Because the balance-of-trade deficit and inflation are quite properly major concerns at the present time, the activities of the Commission take on added importance. During the period from 1965 through 1970, the average annual U.S. rate of productivity increase was the lowest of any major free world nation. Our output per man-hour increased on an average of 2.1 percent annually, while that of Japan increased on an average of 14.2 percent annually. Even though our productivity performance has been improving lately, last year Japan's manufacturing productivity was still increasing at a rate almost three times as great as ours. This development has lessened our ability to compete in domestic and international markets and thereby has contributed to the present trade imbalance. In addition, our poor productivity showing has augmented the inflation problem, because many of the wage increases during the late 1960's were not offset by increased output per man-hour.

I have, indeed, been convinced for some time that the Commission's objectives are of the utmost importance. I was not convinced, however, that the Commission was likely to make much progress toward achieving those objectives in the manner it was proceeding. That is why we need this legislation.

As the committee report clearly states, the crux of S. 1752 is to set priorities for the Commission to follow. The Commission is to concentrate its efforts where they can make the most difference with respect to America's international competitive position, the efficiency of Government, the cost of the most basic goods and services and the job satisfaction of American workers. I believe it is quite appropriate that undertaking efforts to increase Government efficiency should be one of the Commission's basic objectives. We have an obligation to the taxpayers to make Government as efficient as possible, and well-reasoned efforts along these lines should certainly be given every encouragement.

I am convinced that the Commission will become more effective if it adheres strictly to the priorities set forth in S. 1752. A fine-tuned sense of priorities is essential for a Commission which has so little manpower and such broad, important goals.

I have examined the Commission's budget for fiscal 1974, and although I still have some questions about it, it certainly corresponds more closely to these priorities than the budget for fiscal 1974 originally submitted by the Commission.

The explicit assignment to the Commission of an advisory function with respect to Government policies affecting productivity and job satisfaction, as well as the duty to encourage and promote Government policies consistent with its objectives, is also a major step forward. The Government has been without an in-house advocate for such policies for too long. I hope that the Commission will do everything in its power to fulfill this vital role and to become a more active advocate for such policies in private industry as well.

The legislation's increased emphasis on worker morale is also definitely called for. Senator JAVITS and Senator PERCY, who helped Senator JOHNSTON and I write the bill, have long been interested in this crucial problem and I commend them for that interest. The Commission is uniquely equipped to deal with this problem because of its labor-business-public structure.

Mr. President, I realize that a Commission spending $5 million per year can hardly be expected to bring about many fundamental changes directly. It is my hope and belief, however, that as redirected by S. 1752 the Commission will prove to be a valuable catalyst. If successful, it will stimulate labor, management, and government to create the partnership which will be necessary if we are to make the maximum possible progress in terms of both productivity increases and improvement in the morale of American workers.

TRINITY COLLEGE'S 150TH ANNIVERSARY

Mr. RIBICOFF. Mr. President, on May 16, 1823, the Legislature of the State of Connecticut approved the charter for Washington College to be established in Hartford as the second institution of higher learning in Connecticut. Yale had received its charter in 1701.

In 1845, the name of Washington College, Connecticut's second oldest institution of higher learning, was changed to Trinity College. Today I have the honor of noting the 150th year of its founding.

From its beginning, this college, dedicated to the liberal arts, established a reputation for excellence. Its standards of scholarship have been reflected in the deeds of graduates who, today, number more than 10,000. They have earned places of leadership throughout the world in business and industry, in law and medicine, as members of the clergy, in government, in the arts, and as active and respected members of their communities.

The successes of Trinity College graduates bear witness to the skills and competence of the countless faculty members who have taught there. They have not only imparted wisdom and knowledge but also an understanding of the human

experience to equip Trinity graduates with the qualities essential to live and work and contribute in a free society.

Trinity College was founded as an all-male institution. Women became a part of the campus scene in 1969 and comprise two-fifths of the present undergraduate student body of 1,600.

In addition, Trinity College has been increasing the enrollment of minorities, especially blacks and Spanish-speaking students, and has begun an experimental program to assist students who transfer there after completing work at nearby junior and community colleges.

The curriculum at Trinity has undergone significant changes in recent years. Recognized as one of the most innovative among the Nation's colleges, it has been a model for other institutions to follow.

In 1955, when I was Governor of Connecticut, Trinity College conferred upon me the degree of honorary doctor of laws. I take special pride in noting the 150th anniversary of the founding of this distinguished institution of higher learning in Hartford.

SUDDEN INFANT DEATH

Mr. MONDALE. Mr. President, for nearly a year and a half my Subcommittee on Children and Youth has been studying the problem of crib death and seeking solutions to the serious problems it poses for thousands of American families.

In January of last year the subcommittee held a hearing in which we received testimony from parents and other experts familiar with the tragedy of SIDS. Since then we have received hundreds of letters, many of them from parents who have lost children, and are eagerly awaiting a sign that a cause and cure for this disease are near.

Last year I introduced and the Senate approved a resolution calling on the Department of Health, Education, and Welfare to make research into crib death a top priority; and to institute sorely needed education, information, and statistical activities related to SIDS.

Early this month I introduced new legislation providing for the creation of a research program designed to focus the attention and the resources of existing medical facilities and personnel on SIDS.

I am gratified to see that the press is continuing to bring the tragedy of crib death to the attention of the public.

At this time, I request unanimous consent that two recent articles on the subject be printed in the RECORD. The first is an editorial which appeared in the Washington Post; and the second, "Battling Mysterious 'Crib Death'", appears in the May issue of the Reader's Digest.

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

THE SUDDEN INFANT DEATH SYNDROME

Among the mysteries of American health care, few are as persistently complex as the disease known as sudden infant death syndrome (SIDS). Like cancer, its causes are unknown. Yet, an estimated 10,000 infants die annually from SIDS. Serious research began only a few years ago but even this research was limited; there has been a lack of trained scientific investigators interested in the problem.

As a means of increasing concern in SIDS, Sen. Walter Mondale (D-Minn.) has introduced legislation to promote research activities in this area. In Congress' last session, a similar bill passed the Senate 72–0, but it went nowhere in the House. The importance of research into SIDS is not only that a cure for the disease might be found, but that even if children continue to die from it at least the parents and community will know the reason. At the moment, serious and tragic injustices often occur because parents of SIDS victims are falsely accused of child abuse. Dr. Abraham B. Bergman, M.D., president of the National Foundation for Sudden Infant Death, points to a recent California case in which a young couple was taken to jail while their baby's body still lay in the house. The parents were charged with involuntary manslaughter but the charges were eventually dismissed by a municipal court judge. Dr. Bergman, in discussing the event, said "it was clearly a case of ignorance and prejudice against a couple who were young and poor and couldn't defend themselves."

Even those parents well established in middle-class life are often subjected to harassment and insult following a crib death misfortune. The point is not that possible child abuse should be ignored but rather that unwarranted criminal investigations should not occur. The parents are already undergoing severe emotional pain. As one witness said in hearings last year, the parents "have enough to do just attempting to maintain their sanity and marriage while trying to explain to their not-too-understanding relatives how their happy, healthy infant could possibly have died."

Obviously, we are only at a beginning in our understanding of SIDS. What is crucial is that serious research begin at once, not only to save lives among infants but to protect parents in the event that tragedy does occur.

BATTLING MYSTERIOUS "CRIB DEATH"— NO. 1 CAUSE OF DEATH IN INFANTS AFTER THE FIRST WEEK OF LIFE—PREVENTIVE MEASURES MUST BE FOUND

(By Dr. Frank N. Medici, instructor in pediatrics at New York Hospital-Cornell Medical Center. He is a Fellow of the American Academy of Pediatrics, and is in private practice in Nanuet, N.Y.)

Fear of losing a life entrusted to his care is a nightmare that haunts every young pediatrician when he first hangs out his shingle. For me, the crisis came in 1966 and centered on Susan, one of my first patients.

I examined her the day she was born, and thereafter at regular intervals. I well remember her six-month checkup.

Her weight and height were proper; the contour of her chest was good; the soft spot on the top of her head was closing nicely; her heartbeat was strong and regular. "Her development is right on schedule," I told her mother. "She's in excellent health."

That night, Susan was put to bed about seven o'clock. At 11, her parents looked in and found her on her back in untroubled sleep. The mother placed an additional blanket over her, kissed her and tiptoed out of the room.

At two minutes past six the following morning, my bedside telephone rang. As I came groggily awake, I hear Susan's father saying, his voice high and strained, "We can't wake Susan up. *We can't wake her up!*"

Fortunately, they lived only a block away, and I ran the distance. Susan lay limp in her mother's arms. There was no heartbeat. Instructing the father to call for an ambulance, I injected adrenalin directly into the baby's heart and then began to give her mouth-to-mouth respiration. All my efforts were fruitless. The tiny body had been cold when I took it from the mother, and at the hospital Susan was pronounced "dead on arrival."

The young parents, overwhelmed by feelings of guilt, consented to an autopsy. The 24 hours of waiting for the medical examiner's report were gloomy for me as well, for I wondered what it would reveal about my own incompetence. At last the report arrived, and I read it through quickly. Then, unbelieving, I read it a second time. The medical examiner could find *nothing* to indicate the cause of death! There was no evidence of lethal disease or injury. It was, I realized, a case of "crib death," or "sudden infant death syndrome"—something I had heard of in medical school, but never seen firsthand, for its victims are not sick children to be found in the hospital but presumably well children who die suddenly at home.

When I showed the report to the baby's mother, she stared at it, then said in a flat voice, "I killed my baby. I put too many blankets on her, and she smothered to death."

I assured her this was not the case, for the coroner's report ruled out suffocation. But she wasn't listening. A few weeks later, the young couple moved out of town, probably hoping to leave their feelings of guilt behind. As for myself, I began to study all the medical literature available on crib deaths.

Sudden infant death syndrome (SIDS) is the No. 1 cause of death in infants after the first week of life. Each year in the United States, approximately 10,000 babies die of this mysterious malady. This means that each day some 27 families find a child dead.

Although SIDS has been with us since recorded history, only recently has it been recognized and catalogued as a specific disease. These deaths seldom occur before four weeks of age, rarely after seven months, and there is an immutable pattern to them. The baby, apparently healthy and normal, is put routinely to bed and drops into an untroubled sleep. Sometime during the night, the infant dies. There is no record of a baby crying out in pain—nothing but sudden, swift death.

Over the past two decades, a variety of theories about the problem have been developed and discarded. Suffocation was ruled out; research proved that a normal amount of covering cannot deprive the infant of sufficient oxygen. Cow's-milk allergy was considered when antibodies were found in the blood, but a child highly sensitized to milk would have shown other evidence of such intolerance. In several cases, enlarged thymus glands proved to be the *result* of quick death, not the cause. Similarly, occasional hemorrhage into the cervical cord was shown to be a side effect of death, not the cause.

In short, we now know many things that SIDS is *not*, but we still don't know exactly what it *is*. And in this darkness the afflicted families are beset by fears and suspicions and unwarranted feelings of guilt. Some parents, convinced that they passed along faulty genes, refuse to have more children. Others turn to divorce, or spent a lifetime of recrimination, each blaming the other.

Sometimes the people that the frantic parents reach out to for help, such as police and fire-department rescue squads, become accusers. When these men arrive and find the baby dead, the parents driven by remorse and guilt, and even the family physician bewildered, it is not surprising that suspicions are aroused. "How many times did you hit the baby?" may be a policeman's opening question.

There are today three major volunteer health organizations in the United States dedicated to the eradication of SIDS. The International Guild for Infant Survival has headquarters in Baltimore, where it helps finance research, distributes educational material and aids stricken families. The Andrew Menchell Infant Survival Foundation, based in New York City, has established a research laboratory in the department of

forensic medicine of New York University's School of Medicine. There, forensic pathologists probe for the secrets of SIDS under the direction of Dr. Milton Helpern, Chief Medical Examiner, City of New York.

The largest of these health organizations is the National Foundation for Sudden Infant Death. With headquarters in New York City and 40 chapters from coast to coast, NFSID is oriented toward public education and parent counseling. Under a successful pilot program in Seattle, every SIDS baby is autopsied at a teaching hospital, the parents are immediately given a full report by the attending pathologist, and a visit is made to the home by a public-health nurse. If necessary, the parents also receive supportive therapy from a mental-health professional.

While proud of its Seattle plan, the NFSID is convinced that only the federal government can supply sufficient funds and momentum to force a medical breakthrough. And there is some indication that NFSID's hopes may soon materialize.

In January 1972, a public forum for both medical and lay leaders in the fight against SIDS was provided in a hearing held by the Senate Subcommittee on Children and Youth, chaired by Sen. Walter Mondale (D., Minn.) Appearing before the subcommittee, Dr. Abraham Bergman, president of NFSID and professor of pediatrics at the University of Washington, said, "It may well be that the common-cold virus acts in a strange way on the nervous system of the sleeping baby. We feel that the viral infection somehow causes the vocal cords to be more sensitive and susceptible to spasm, and that SIDS occurs when the vocal cords suddenly close during sleep, shutting off the airway."

Dr. Bergman and his colleagues, Drs. J. Bruce Beckwith and C. George Ray, have studied every SIDS case occurring in the Seattle area since January 1965 (more than 500 cases). Autopsies revealed that the common-cold virus was present in twice as many SIDS babies as in the other ones. And many mothers reported that their babies had a slight cold when they were put to bed on the fatal nights. Though future research may or may not confirm the Seattle group's theory, it is a welcome navigational light in the swirling fog of ignorance and and fear.

At the end of the public hearing, Senator Mondale's subcommittee presented a resolution to Congress directing HEW's National Institute of Child Health and Human Development "to designate the search for a cause and prevention of sudden infant death syndrome as one of the top priorities in research efforts." The Senate passed the resolution, and Senator Mondale requested $10 million for research and education relating to crib deaths. Although President Nixon vetoed this HEW increase and others as excessive, there is hope that substantial research funds will be appropriated when the 1974 budget comes up for consideration this year.

In the meantime, parents should be aware of what we already know:

1. SIDS cannot be predicted, and it is not now preventable.

2. It always occurs during sleep, with no sound or cry of distress. Death probably occurs in seconds.

3. The cause is *not* suffocation from clothing or blankets, nor is it aspiration or regurgitation.

4. SIDS is neither contagious nor hereditary. The likelihood of two crib deaths in a single family is minute.

5. SIDS is not traceable to such modern environment agents as birth-control pills, fluoride in drinking water, smoking.

6. There is hope. The medical profession is at last coming to grips with SIDS, and I believe that it will eventually go the way of smallpox, measles and polio.

TIME TO REAFFIRM AMERICA'S SUPPORT OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, the bicentennial anniversary of America's independence will be celebrated during the next few years, with a continuing emphasis on our country's tradition of freedom and human rights. We will soon mark the passage of 200 years since the signing of the document which most clearly embodies this tradition: the Declaration of Independence. This is an event and an anniversary of which every American can be proud.

But another document of human rights has remained unacted upon by the Senate for 24 years. How can the Senate both look forward to the observance of America's commitment to human rights, and simultaneously fail to ratify the Genocide Convention, which is another necessary expression and reaffirmation of those rights? How can the Senate justify inaction on the convention?

We have been assured by the administration that there are no constitutional drawbacks to ratification. The President, the Secretary of State, and the former Attorney General have voiced their support. The Committees of the American Bar Association which most closely studied the Convention have called for ratification. Seventy-six other nations have subscribed to the convention and the principles embodied therein.

During this period of renewal and reaffirmation of the principles which first animated this country and which should continue to do so, we cannot continue to fail to recognize, for ourselves and for the world, a clear expression of these principles in the area of international law. We must remember our founding principles, and reaffirm them by ratifying the Genocide Convention, as well as the conventions on the Abolition of Forced Labor and the Political Rights for Women. These ratifications must take place soon.

DO POLITICS AND SCIENCE MIX?

Mr. FULBRIGHT. Mr. President, Ms. Judith Randal wrote a very timely and perceptive piece about Dr. Robert Q. Marston, entitled "Do Politics and Science Mix?" which appeared in the Washington Evening Star of May 3. In view of recent developments in our Government, I think this article is especially significant, and I ask unanimous consent that it be printed in the RECORD as part of my remarks.

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

DO POLITICS AND SCIENCE MIX?

(By Judith Randal)

People dismissed from office after a stint with the Nixon administration have varied ways of taking their leave. Some go in disgrace with their tails between their legs. Others go proudly, but quietly—apparently in the belief that to disclose what led up to the rupture would not make any difference either to the public or to the colleagues left behind. The nation should take note that Robert Q. Marston is one of the few in recent memory to have chosen another style.

Marston is the physician and former Rhodes scholar who was appointed by the late President Johnson to head the National Institutes of Health. He succeeded a man, Dr. James V. Shannon, who made the NIH the very symbol of a government agency dedicated to excellence and as free of political constraints as such an agency can be.

Knowing Marston, the scientific community confidently assumed he would carry on in the same tradition, and heaven knows he tried in the face of growing odds. But in December, following President Nixon's landslide victory, he was asked to resign, and on Jan. 20—Inauguration Day—he was ignominiously demoted to serve as acting director of one of the smaller institutes that constitute NIH.

Last week, after deciding to spend a year as a scholar-in-residence at the University of Virginia and to accept a position as a distinguished fellow of the National Academy of Sciences' new Institute of Medicine, he spoke for the last time to those with whom he had spent almost eight years at NIH. No successor to the directorship has been named.

Marston is not a bombastic man, and bitterness and recrimination are not his way. There was no name-calling on this occasion, and in a sense what he was saying was meant only for the consumption of his colleagues. Yet so much of it spoke directly to what has made American science the achievement it has become in the years since World War II that it is worth repeating here.

Dealing with the pursuit of intellectual excellence. Marston recalled that it has been NIH custom to have scientific policy decisions made by groups of scientists rather than bureaucratic managers and that this system of "peer review" has brought rich rewards, both in true medical progress and in prestige as measured by such benchmarks as the Nobel prize.

He did not have to tell these men and women that this widely copied system—which has made American science the envy of the world—is now being subverted by the Nixon administration, whose present secretary of Health, Education and Welfare, Caspar W. Weinberger, construes it as self-serving and a fount of potential disloyalty to the administration. As "management for management's sake" replaces the freedom to pursue knowledge in an environment untrammeled by politics, they have seen for themselves that it is being destroyed.

Nor did they need to have recalled for them the mischief being done by beating the drum for cancer (and, to a lesser degree, heart disease) while more fundamental aspects of biomedical research which seek answers to these and, indeed, all disease processes wither for lack of funds. Just as they understand the current folly of ending training support for young scientists who are the source of new ideas, they understand—as the public, for the most part, does not—that to elevate any aspect of medical research disproportionately at the expense of others makes no sense scientifically and is transparently political in its intent.

Accordingly, when Marston told this audience that "creative people are to be valued more than organizational arrangements or complex plans," and that "criticism is a necessary part of science to be encouraged and not stifled," one could only have wished that the "people managers" at the White House could have been listening.

And even more worthy of their attention, in light of current revelations about the Watergate, might have been the following credo with which Marston took his leave.

"Perhaps I speak too much from the idealism of one who chose to go into the medical profession, but I believe in the dignity of man—that to treat one another with respect is an expression of strength, not weakness; and that charity is good, not bad; that the power of public office should not be allowed to lead to arrogance, and that we must always remember as public officials that the money we spend is not our own."

NEW HAMPSHIRE SPEAKER OF THE HOUSE ENDORSES THE FEDERAL-STATE LEGISLATIVE COUNCIL

Mr. HUMPHREY. Mr. President, on March 6, I introduced S. 1099, a bill to establish a Federal-State Legislative Council.

This council, composed of 12 Members of Congress and 12 State legislators representing different geographical areas, will explore and research problems common to the legislative process. It will try to improve communication and cooperation between Congress and the 50 State legislatures, to undertake substantive program evaluations, and to make recommendations for programs and reforms at both the State and National levels.

Because of its unique composition and role with the governing process, it is expected that the recommendations of the council will receive great weight in Congress and in the individual legislatures.

Recently, I received a strong endorsement for my bill from a distinguished State legislator. Mr. James E. O'Neill, speaker of the New Hampshire House of Representatives wrote to express his support for the council idea. He added:

In spite of current precedents and gubernatorial folk-wisdom, it really is necessary for Congress and State Legislatures to enact laws for the development of public policy. If, on a national level, these lawmakers could meet jointly to thrash out problems, we will actually achieve our common goal of a revitalized federal system.

Mr. President, I ask unanimous consent that the full text of this letter be printed.

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

STATE OF NEW HAMPSHIRE,
HOUSE OF REPRESENTATIVES,
Concord, May 3, 1973.

Hon. HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HUMPHREY: This letter is in reference to your introduction of S. 1099, which will establish a Federal-State Legislative Council composed of twenty-four members from various geo-political subdivisions.

I wish to emphasize my strong support for your innovative concept and I would welcome the opportunity to assist you in supporting this bill in any way I can.

New Hampshire has the third largest legislative body in the English-speaking world. I have been a state legislator for the past sixteen years and have watched our state grow and change. These changes have primarily resulted by Congressional action and Presidential initiative.

New Hampshire is also a small state, in both geography and population. Please remember that proposals like S. 1099 should provide a forum for small states to discuss problems and issues of mutual concern with Congressmen and state legislators.

Our founding fathers created our democratic institutions with the intent that small states would have equal voice in the decision making process. It is my hope that your bill will incorporate safeguards to insure small states' participation—thus strengthening the new federalism.

I strongly endorse S. 1099 because this legislation would provide a permanent structure through which the discussion of issues and problems of common interest to State Legislatures and Congress can be initiated. There are many problems facing our citizens which require joint Congressional and State legislative action for their implementation and solutions.

In spite of current precedents and gubernatorial folk-wisdom, it really is necessary for Congress and the State Legislatures to enact laws for the development of public policy. If, on a national level, those lawmakers could meet jointly to thrash out problems, we will actually achieve our common goal of a revitalized federal system.

It seems to me that this Federal-State Legislative Council can contribute significantly to the objective of making intergovernmental problem-solving at the legislative level a reality.

Cordially,

JAMES E. O'NEIL, Sr.,
Speaker of the House.

THE ADMINISTRATION'S POSITION WITH RESPECT TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

Mr. HOLLINGS. Mr. President, on Monday, March 5, Chairman Russell E. Train of the Council on Environmental Quality appeared before the Commerce Subcommittee on Oceans and Atmosphere to testify about administration views on S. 80, a bill to regulate the construction and operation of superports.

Because such projects will have tremendous impacts on the coastal zone of any State selected to receive the pipeline from a superport, I raised a number of questions with Chairman Train regarding the administration's failure to seek funding for the National Coastal Zone Management Act which passed the Congress and was signed by President Nixon in October 1972.

It was Chairman Train's duty, of course, to state the then existing administration position that we need an overall national land-use program which would include the coastal zones. This position is contrary to the view of Congress, which adopted the Coastal Zone Management Act without a dissenting vote. In view of this conflict, I subsequently submitted a series of questions to Mr. Train and to the Secretary of Commerce. In a letter dated April 20, 1973, the Secretary of Commerce, on behalf of himself and the Council on Environmental Quality, after consulting with the Office of Management and Budget, has advised my subcommittee of the administration's present position with respect to the Coastal Zone Management Act of 1972. That position is stated as follows:

THE ADMINISTRATION'S POSITION WITH RESPECT TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

1. The Administration does not believe the absence of funding for the law, at any time, negates or suspends the Act.

2. The "Congressional Findings" in Section 302 have effect, regardless of the extent of funding which may be available at any particular time.

3. The "Declaration of Policy" of the Act has effect regardless of the funding of the Act which may be available at any particular time.

4. The absence of Federal funding, for States during any period in the development of their coastal zone management programs, means that States which feel they want to proceed to develop a coastal zone management program during such period, will receive no federal assistance for such development under the Act.

5. The June 30, 1977 expiration date for authority to make program—development grants to states under Section 305 means that no development funds will be available after that date regardless of the failure of funds being available during prior periods.

6. The Administration cannot state at this time whether it will request subsequent appropriations under the Act to be for past periods during which there were no funds available for grants to states.

7. The Administration does not regard the June 30, 1977 termination date for participating in the costs of the development of state programs as being deferred by a period of time equivalent to the period of time for which no funds are appropriated and/or made available.

8. After the effective date of the Act, states must develop their coastal zone management programs in substantial compliance with the procedural requirements of the Coastal Zone Management Act in order to be able to later receive approval of their management programs, notwithstanding the fact that no federal financial participation in the costs of development of their programs as contemplated by the Act is available at the time of such development. Examples of such instances are:

a. Section 306(c)(3) which requires public hearings in the development of the program. Even if the management program itself developed by the State is satisfactory, it cannot be approved if it was developed after the effective date of the Act and the State did not hold public hearings in its development, notwithstanding the lack of Federal funds at the time of such development.

b. Section 306(c)(1) requires that the State must have developed and adopted its program . . . with full participation by "relevant state agencies, regional organizations, port authorities and other interested parties public and private."

Even if the state management program is satisfactory, it cannot be approved if it was developed without such participation by others, notwithstanding the fact that no federal financial participation in the costs of development of the program as contemplated by the Act was available at the time of such development.

9. Notwithstanding the availability of funds, the National Oceanic and Atmospheric Administration (NOAA) is to consult with, cooperate with, and coordinate the activities of, other interested federal agencies in the Coastal Zone, including in the development of coastal zone management programs. All federal agencies must provide "positive participation," not passive cognizance, in the development of state coastal zone management programs and NOAA is to coordinate such federal activities. The foregoing includes the siting of offshore facilities.

10. Notwithstanding the availability of funds, Section 307(d) of the Act is operative. It provides that:

"Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary (of Commerce, utilizing NOAA) that the project is consistent (with the purposes of the Act) or is necessary in the interest of national security."

11. (a). Federal agencies conducting or supporting activities affecting the coastal waters and lands shall do so to the maximum extent practicable to be consistent with a state's approved coastal zone management program, as required by Section 307 (c) of the Act.

(b). Federal agencies undertaking developments in the coastal zone shall also do so consistent with the approved state program, as required by Section 307(c) of the Act.

(c). Section 307(c) also requires that, after approval of a state coastal zone management program by the Secretary of Commerce (NOAA), any applicant for a federal license or permit to conduct any activity affecting the state's coastal zone, must include in his application a certification that the activity complies with the state program. Subsequently, it is required that the state be notified and the license or permit cannot be granted unless the state concurs, or unless the Secretary finds it is consistent with the Act, or that the activity is necessary for national security.

Section 306, pertaining to giving approval to a state management program, is operative, notwithstanding the absence of funds and a state may develop a coastal zone management program and the Secretary of Commerce may approve it in order for the other benefits of the Act to be available.

12. Notwithstanding the availability of state grant funding, the Secretary of Commerce (NOAA) has authority and responsibility to review state coastal zone management programs.

13. Section 311 pertaining to an Advisory Committee is in effect regardless of the appropriation or availability of funds for the states.

14. The Annual Reports, required of the President to Congress on the administration of the Coastal Zone Management Act of 1972, will be made, notwithstanding the availability of funds for grants to the states.

15. The absence of funding at this time or any later date does not affect the ability and duty of the Secretary of Commerce to adopt necessary rules and regulations under Section 314 of the Act.

At this time, draft guidelines for Section 305 of the Act (development of state programs) have been circulated for comment to appropriate Federal agencies. After these comments have been received and incorporated, when appropriate, it is expected that the regulations will be published within the next month.

16. The failure to request funds and possible later unavailability thereof for the limited periods specified in the authorization Section of the Act does not affect the expiration dates for such authorizations as stated in the Act.

17. In the event the expiration dates of periods specified for fund authorizations in the Act go by, without the States having received that federal financial participation for the full periods contemplated, the Administration is unable to state whether or not it would request an extension of such authorizations.

18. The Administration is unable to state whether it is possible it would not request the further authorization mentioned above.

19. The Administration is also unable to state whether it would support such an extension of the authorization.

20. The Administration is further unable to state whether it might oppose the extension of such authorizations by vetoing legislation extending the same.

21. The Administration does not now plan to request, or oppose, legislation extending an extension of the authorization periods.

22. If no funds are made available to the states within the periods specified in the authorization section and the same is not extended, it is true that the situation insofar as federal financial support of state coastal zone programs is concerned, is the same as if the President had vetoed the Act instead of signing it on October 27, 1972.

This situation is hypothetical, however, and the Congress, first, would have to pass the necessary legislation.

The Department of Commerce has been guided by specific provisions of the bill and, when necessary, its legislative history.

The Department has also considered the general rules of statutory construction which seek to give meaning and purpose of all the provisions of legislative enactments and to reconcile them with other laws.

In particular, the Department has recognized the directives of the National Environment Policy Act which, in Section 102, declares:

"The Congress authorizes and directs that, to the fullest extent possible—the policies, regulations and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act. . . ."

Consistent with that declaration and general rules of interpretation, this Department will seek to give meaning and effect to every portion of the Act, notwithstanding the availability of funds for grants to states at any particular point in time for any reason.

The above does not, of course, take into account any changes in the Act which the Congress might determine to make in the future.

THE LESSONS OF VIETNAM

Mr. HARTKE. Mr. President, Vietnam is a conflict which divided our Nation and left wounds which will take many years to heal. But it has also left us with many lessons which are ours to learn.

This Nation is not a policeman for the world. We have enormous military might, but it must be used wisely and sparingly if it is to be effective.

The Congress cannot remain silent while this—or any other President—takes this country deeper and deeper into armed conflict. Yet, it is clear that the administration's current policies in Cambodia are leading us into unwanted and undesirable commitments to the preservation of the current leadership of that country. The lessons of Vietnam tell us of the dangers of escalating involvement in the affairs of other nations—no matter what the pretext.

Mr. President, I ask unanimous consent that an article on this subject by our distinguished colleague, Senator MONDALE, which appeared recently in the New York Times, be printed in the RECORD.

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

CAMBODIA: TUNNEL AT THE END OF THE LIGHT

(By WALTER F. MONDALE)

WASHINGTON.—As the last U.S. soldier left Vietnam, most Americans believed and hoped that the event signaled the end of our military involvement in the longest, costliest and most divisive war in our history.

But in only a matter of hours it was clear that despite these hopes for peace we were still at war. U.S. planes still were flying bombing missions over Cambodia in an effort to prop up the besieged and unpopular Lon Nol Government, and there were warning signs that our commitments to the Thieu regime in Saigon might result in renewed U.S. military action.

The irony is inescapable: twelve years after American forces first were committed to Vietnam in the name of protecting a friendly but vulnerable government, once again a President of the United States, entirely on his own, is using U.S. military force in a foreign country with absolutely no constitutional authority for doing so.

The sense of having been through all this before is overwhelming. Haven't we learned anything in the last decade from our initial mistake—from the human suffering, the incredible destruction, the cost to the American spirit? Have we failed entirely to learn the two fundamental lessons of those tragic years' (1) that it is beyond our national capacity to affect the ultimate outcome of a foreign struggle that is essentially indigenous in nature, and (2) that it is only at great cost to this nation that a President ignores the Constitution of the United States?

It is common practice in countries such as Cambodia, Thailand and Vietnam for chiefs of state to ignore or suspend provisions of their constitutions, as Lon Nol did in October, 1971. Now, tragically, ignoring our own Constitution is apparently becoming common practice in this country as well.

In March, 1970, one month before our forces invaded Cambodia, the Nixon Administration indicated that it no longer was depending on the Tonkin Gulf Resolution as legal authority for its Indochina activities. The sole basis claimed by the President was, instead, "the right of the President of the United States under the Constitution to protect the lives of American men."

But the last American soldier now has left Vietnam, and with him has gone whatever validity existed in the President's claim. Yet the bombing has continued every single day since then, increasing the possibility of new American prisoners of war.

The Administration has been trying desperately to justify its bombing policy. Its efforts have been imaginative but futile. The SEATO treaty commitment has been mentioned, but the Lon Nol Government has not altered Prince Sihanouk's 1955 decision to exempt Cambodia from the treaty's protection. A tenuous link has been offered between the President's mandate to make war and his re-election mandate, but surely this is not a serious point.

We have been told that the Cambodian Government has asked for our air support. State Department lawyers reportedly are working full-time to produce a rationalization, but so far they are reluctant to disclose it. Finally, the Administration has tried to rely on a tacit understanding of an ambiguous section (Article 20) of the Paris agreement—an agreement which was not even submitted to Congress for ratification—as justification for its actions.

Secretary Richardson says the bombing will continue until the Communists agree to a cease-fire. The number of competing insurgent groups fighting against Lon Nol—the Khmer Rouge, the Sihanouk government-in-exile, and other minor splinter groups—makes remote the prospect of a cease-fire, or even negotiations. Under this policy we could be bombing for years.

Mr. Richardson also said that "Our constitutional authority rests on the circumstances that we are coming out of a ten-year period of conflict. This is the wind-up. What we are doing in effect is to try to encourage the observance of the Paris agreements by engaging in air action at the request of the Government."

This rationale could be extended easily to involve us again in Laos and Vietnam as well as Cambodia. And it seems ominous that Mr. Richardson, in fact, refuses to rule out the reintroduction of American troops into Vietnam.

This legal legerdemain by the Administration is an open challenge to Congress to assert its constitutional responsibility and act to end our involvement in what constitutes—even according to the President's own reasoning—a new war. We no longer can permit the President's war-making powers to go unchecked and unchallenged.

The Senate now is considering a bill introduced by Senators Church and Case that would prohibit the re-engagement of U.S. forces anywhere in Indochina without Congressional approval. And, because of the urgent and immediate danger of our raids over Cambodia, I am introducing legislation to cut off funds for U.S. military activity in that country. Finally, the proposed war powers act will permit us to come to terms with the broader aspects of executive authority.

All these measures are necessary, in my

judgment, if we are to learn anything from the painful lessons of the past decade.

"If our bombing now continues in Cambodia," Senator Hatfield recently warned, "we will be on our way to making the Constitution of the United States the last casualty of this war." Avoiding such a constitutional tragedy—as well as further human tragedy—is now the urgent responsibility of Congress.

UNITED STATES NEEDS PERMANENT POLICY AND ORGANIZATION FOR LONG-TERM NATIONAL GROWTH AND DEVELOPMENT

Mr. HUMPHREY. Mr. President, I ask unanimous consent to print in the RECORD an article entitled "Toward a National Materials Policy," which appeared in World magazine on May 22, 1973.

The article announces the release of "Man, Materials, and Environment" by the NAS Study Committee on Environmental Aspects of a National Materials Policy. Its recommendations warrant the serious attention of every Member of Congress.

The article also notes that the report of the National Commission on Resources Policy to Congress and the White House, to which the NAS study contributes, is due next month. This is a report to which we all should give close attention.

While I support the important work of the Commission, I believe that it demonstrates a totally inadequate approach to the study and anticipation of major national growth and development issues. This country desperately needs permanent institutional arrangements for analyzing trends, rates of change, and interrelationships among important factors affecting America's future.

I will soon introduce the Balanced National Growth and Development Act of 1973. I believe it would go a long way toward meeting the need for a balanced growth and development policy for our Nation and providing the institutional arrangements necessary to make such a policy effective.

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

TOWARD A NATIONAL MATERIALS POLICY

At the end of next month, a group of seven men is due to submit to the White House and Congress a report of potentially great significance. The National Commission on Resources Policy, in an active lifetime of less than twenty months, has had the nearly impossible task of assessing the nation's and the world's resources (including energy), making long-range predictions as to their availabilities, and of providing recommendations in such broad areas as maximization of resource use; conservation and environmental protection; preferred technologies and research priorities; waste management and recycling; the use of incentives, penalties, and other control techniques; public education and the reshaping of values. An interim report last year focused on the nation's growing dependence on imports of raw materials.

A major contribution to the work of the commission is a 100,000-word report by a Study Committee on Environmental Aspects of a National Materials Policy assembled by the National Academy of Sciences. Its "Man, Materials, and Environment," released in advance of the commission report, is wide-ranging and unequivocating. It asks for no less than a constitutional amendment "declaring that the right of an individual citizen to a safe, healthful, productive, and esthetically and culturally pleasing environment shall not be abridged." It asserts that the use of materials will double and then double again over the next thirty to forty years; some materials will become exhausted and others decline in quality, with the result that more energy will be required for extraction and ever-increasing stress will be placed on the environment. It calls for open-minded reexamination of our belief that natural resources can be used in whatever amount is evoked by public demand for goods and services and by producers' efforts to expand their markets.

The NAS Study Committee comes out strongly for effluent and emission taxes as "the primary instrument" in the reduction of pollution from stationary sources. It recommends the imposition of fixed standards only where a critical health problem exists or—in the absence of a federal effluent tax—where states compete with one another as pollution havens.

Other recommendations of the study committee:

Mining and lumbering should be prohibited unless the land can be repaired by proper disposition of the spoil and revegetation. Exploitation on public lands should require a performance bond.

To reduct waste and litter, container manufacturers should be required to meet design standards for packaging, much as auto manufacturers are required to meet emission standards by a given date. Outright restrictions are the only alternative.

The costs of using recycled materials should be computed after adjusting for the net benefits to the environment and the reduced costs of handling solid wastes. Also, a system should be explored for imposing a tax on virgin materials at the point of extraction—a tax that would be rebated when recyclable materials are returned to an acceptable depository.

To avoid collision with other industrial powers bidding for environmentally attractive resources in short supply, such as low-sulphur petroleum and liquid natural gas, the United States should hasten to collaborate with other nations in finding "orderly and equitable marketing arrangements."

No materials policy will be effective without a policy on population.

The NAS Study Committee was not, of course, under the kinds of political pressures that the commission is subject to, and the latter is under no obligation to accept the NAS study. Nevertheless, the fact that the commission did not delay its publication is encouraging, and there is some evidence that the commission and its staff have achieved a broader perspective as their work has proceeded. As is so often the case with governmental commissions, the most important figure is the chief of staff, James Boyd, sixty-eight, who has been director of the U.S. Bureau of Mines, vice-president of Kennecott Copper, and president of the Copper Range Company. Environmentalists were less than happy with his appointment, but Boyd and his staff of twenty professionals have exposed themselves to all points of view (they conducted forums at eight universities), and they've now begun to sound like environmentalists.

Also on the commission, chaired by Jerome L. Klaff, a Baltimore businessman who buys and recycles scrap, are two knowledgeable scholars, the political scientist Lynton Keith Caldwell and the physicist Frederick Seitz, president of Rockefeller University. The other members are drawn from government, industry, and labor.

It has been more than twenty years since the United States assessed its materials policy. This was the famous Paley Commission report, produced during the cold war when the nation was preoccupied with military defense. As Boyd has said, "This is the first [commission] to be motivated by a desire to promote the quality of life on a long-range basis rather than reaction to immediate strategic defense needs."

The report due on June 30 will be an important document. At the moment the signs are mildly favorable that it will be a good one.

A VALUABLE CONTRIBUTION FROM THE SEA GRANT PROGRAM

Mr. HOLLINGS. Mr. President, I ask unanimous consent that an article that appeared in the March issue of Sea Grant, published by the National Oceanic and Atmospheric Administration—NOAA—be printed in the RECORD as part of my remarks.

The article points out another valuable contribution by scientists under the federally assisted Sea Grant program at universities throughout the country. Dr. W. C. Walter, College of Pharmacy at the Medical University of South Carolina, is participating in the drive to cure leukemia by examining the effect of the excretions of amaroucium—or seapork—against cancerous cells. Dr. Walter is beginning from scratch in his research of these sea animals, and his findings illustrate another valuable resource to be found in the seas and on offshore waters and underscore the need to continue studies of the marine environment.

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

SEA PORK HOLDS PROMISE

(By Anne Moise)

The Medical University of South Carolina is seeking the help of the sea and Sea Grant in its fight against leukemia.

Extracts of the marine organism Amaroucium have been found to act against tumors in lymph glands. W. G. Walter, College of Pharmacy, is directing his Sea Grant research toward finding which chemical elements of this organism are acting on the tumors. His investigation should provide information on the types of agents effective against cancer, and the related chemical treatments for this dread disease.

Amaroucium—or sea pork—is not the first natural substance Walter has examined. He has been submitting organisms to the National Cancer Institute (NCI) for screening for a number of years.

In this case, sea pork is a common (though little known) animal. Colonies of the animals may be seen as pinkish-orange or gray clumps on the beach. Often these fleshlike colonies wash up after a storm or a flood tide. It was Walter's curiosity when he found these strange organisms while he was walking on the beach that caused him to examine them more closely.

STARTING FROM SCRATCH

The only research conducted on Amaroucium is so old and incomplete that Walter and his assistant have had to virtually start over from scratch, even to the extent of updating and preparing a classification.

Each specimen of sea pork is first cleaned and foreign debris removed. It is then weighed, measured, numbered, and a sample section preserved for identification. The remaining portion of the colony is either processed immediately or frozen. The date and location of the specimen's origin are also logged.

Sea pork extracts then are sent to NCI for screening. So far, the substance has proven active against two common tumors.

The next step will be determining the specific material in the extract which has the anti-tumor activity. Testing will then proceed with the pure chemical.

"We will study the structure of the chemical. If the chemical is not easily found in nature, it will be synthesized," Walter explains.

He emphasizes that these steps are within the foreseeable future.

"Although preliminary screening shows anti-tumor activity, we cannot honestly say what will come with more intensive tests. We can't and shouldn't encourage—we do not now have a new cancer drug."

Walter has recruited Charleston shrimpers to supply him with sea pork. They have been most cooperative and, particularly in the winter months, have been catching large quantities in their trawls.

PROTEIN SOURCE

Sea pork could become more than a temporary crop for these and other shrimpers if an offshoot of Walter's original research proves worthwhile. He has found that sea pork has high protein content, which could help the nation's and the world's search for more protein sources. The organism also contains valuable hormones.

Currently, Walter is experimenting with freeze-dried Amaroucium. The dried animals are ground and formed into food pellets for laboratory mice. The growth rate of the mice, their longevity and litter sizes are recorded. So far the results of these tests are quite satisfying, and he hopes that someday the products of sea pork and this research may prove beneficial to man.

The fact that Amaroucium are free of fouling organisms such as barnacles and worms suggests to Walter that they may also possess some anti-fouling secretion. He is only partially involved in this additional aspect of sea pork, but feels it has interesting possibilities, especially to boat and dock owners.

The sea pork is a more exciting organism than it looks would ever indicate. If continued research is as rewarding as the preliminary survey shows, this ugly duckling someday will come into its share of scientific, and perhaps even public, appreciation.

NORTH SLOPE ALASKAN OIL

Mr. MONDALE. Mr. President, the question of transportation of North Slope Alaskan oil to the "lower 48" States is a matter of utmost urgency to the future energy policy of the United States.

Meeting in St. Louis, the National Oil Jobbers Council—NOJC—on April 27 passed a resolution which I believe to be of great importance in the debate over how the national interest will be served in the delivery of this North Slope oil. The NOJC is a federation of 38 State and regional associations of jobbers, covering 46 States. There are individual members in 49 of the 50 States, and total individual membership surpasses 13,000. But perhaps most importantly, the NOJC members handle 25 percent of the gasoline and 75 percent of the fuel oil sold in this country. Many members have in recent months suffered hardships as a result of the supply problems for fuel oil and gasoline which many sections of our Nation have experienced.

Perhaps better than any other group, the NOJC knows the meaning of these shortages and how they can affect individual businessmen. Therefore, the resolution passed by the NOJC by a nearly unanimous vote to strongly endorse the building of a trans-Canadian—rather than a trans-Alaskan—pipeline to transport North Slope Alaskan oil to American markets, gains special significance. As the Oil Jobbers point out in their resolution, it is the midwest—along with the East—which bears the brunt of fuel shortages, and to which the massive oil reserves of the Alaskan North Slope should go.

I urge my fellow Members to read this resolution in light of the need for energy products which the members of the NOJC experience. I believe this resolution helps to dispel the myth that routing of North Slope Alaskan oil through Canada is impractical and without substantial support among the American business community.

Mr. President, I ask unanimous consent that the resolution No. 3 of the National Oil Jobbers Council be printed at the conclusion of my remarks.

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

RESOLUTION NO. 3

Whereas the national energy shortage mandates the speedy transportation of Alaskan crude oil to the "lower 48", and

Whereas in District II the shortage of energy impinges most severely because its geographic location denies its access to alternative world sources to which coastal areas have access, and

Whereas the shortage in District II is more than can be supplied from Districts III and IV, and

Whereas the nation has traditionally found and still finds a strong ally in our Canadian neighbor, an alliance buttressed by treaties and other joint enterprises for our common defense, and

Whereas large quantities of crude oil and natural gas flowed and currently flow into the Midwest from Canada, and

Whereas there is widespread support for a McKenzie Valley pipeline to bring natural gas from Alaska to the Midwest, and

Whereas American oil companies have made and continue to make large investments in Canada, and

Whereas one of these investments is one of the world's largest networks capable of transporting substantial volumes of crude oil from Canada to the United States which the companies have recently enlarged, and

Whereas the Canadian Energy Minister has publicly stated his belief based on numerous studies that a crude oil line along the McKenzie Valley would be environmentally safer than the Alaska pipeline, and

Whereas in the light of the delays to which the Alaskan line has been subject and will continue to be subject, a McKenzie Valley pipeline will bring Alaskan oil to the area where it is most needed more quickly than it could be brought if an Alaskan line, a tanker fleet, and a line eastward from Seattle had to be constructed.

Now therefore be it resolved that the National Oil Jobbers Council and its officers carry to all appropriate executive and legislative agencies its strong support for a McKenzie Valley pipeline to bring Alaskan crude oil to the "lower 48."

ACTION AND THE AGED: 1973

Mr. HARTKE. Mr. President, as chairman of the Senate Special Committee on Aging, my distinguished colleague, (Mr. CHURCH), has been vigorous in his pursuit of justice for our Nation's elderly. His dedication and effectiveness have earned him the respect of millions of older Americans who look to him with hope.

Mr. President, recently, Senator CHURCH spoke before the annual meeting of the National Caucus of the Black Aged. I ask unanimous consent that the text of his remarks be printed in the RECORD.

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

ACTION AND THE AGED: 1973

I'd like to begin this address by reading you a message I sent a month or so ago when I heard that your Chairman, Hobart Jackson, was about to be honored in his home city.

I wrote this to Hobart:

"I am delighted to learn that you will be the recipient of the Philadelphia Tribune Charities Humanitarian Award for 1973. It's natural that Philadelphia should honor you for the contributions you have made to the people of your city, but—as one who knows of some of the work you do on behalf of the entire Nation—I believe that the Tribune Charities should also dedicate at least part of its citation to Hobart Jackson, good citizen of the United States and friend of all its people."

My message, Hobart, was heartfelt. I welcomed the opportunity to tell your fellow Philadelphians what I have felt for a long time. We owe you a great deal because of the pioneering work you are doing at the Stephen Smith Geriatric Center, because of the fine professional contribution you make to gerontology through your writing and through your fine example, because of the social awareness you provide as the leader of the National Caucus on the Black Aged, and because you care—you care a great deal—about what is happening to the people of this Nation.

That kind of caring has not gone out of fashion in the United States, even though the present Administration does not seem to place high value on it. No one truly concerned about people could ever believe that the ruthless way is the right way.

That cannot be the way in our Nation. Hobart Jackson knows that. The people in this room know that. And thank God, many members of Congress know that and will not tolerate a steamroller stampede over the rights of people and over those programs needed to serve people.

As Chairman of the Advisory Council on Aging and Aged Blacks to the Senate Committee on Aging, Hobart Jackson is helping to make certain that we on the Committee devote special attention to the intense problems of so many older Americans who suffer what has been called "multiple jeopardy."

They are old. They are black and have lived through decades of deprivation caused, in large part, by discrimination. And many—almost 40 percent—live in poverty.

Our Advisory Group meets from time to time—not as often as I would like, Hobart—to alert the Committee to problems of which they are intensely aware. On that Advisory Committee—in addition to Hobart—are others who serve as officers of your Caucus. Inabel Lindsay, who wrote the report for us on Multiple Jeopardy, is your consultant. Dr. Jacquelyne Jackson—your Secretary—and certainly one of the hardest working researchers in all of gerontology—is a member, along with Dr. Robert Butler and Dr. Benjamin Mays. I'd like to thank each one who serves on our Advisory Committee.

My major message today can be very simply stated: Sixteen months after the White House Conference on Aging, the Nation can take some satisfaction from gains made on behalf of Older Americans during that period, but we had better re-

main watchful lest we lose what we have gained.

My reason for raising the possibility of regression—at a time when we thought we were going forward—is that this Administration apparently believes that there is a base level—how they find that level, I don't know—above which the elderly should not go in terms of retirement security.

I have come to this conclusion because of the ill-advised proposal—incorporated in the budget message—to raise the cost of Medicare to those very persons who once were told that Medicare was supposed to end the spectre of financial wipeout because of illness in old age.

The Administration is advocating what it calls "cost-sharing" among the elderly, which is just a fancy name for trying to cut the budget by taking essential help away from the poor and the ill.

If the Administration has its way, this is what will happen:

A patient in need of hospitalization would pay the full cost of his room and board charge for the first day and 10 percent for all costs thereafter. A patient now pays the first $72 of his hospital bill and nothing after that until the 61st day. There is some talk that Medicaid could help patients meet the new requirements, but past experience shows that this kind of help is often difficult to obtain, that it involves a means test, and that many medicare patients regard it as "welfare medicine." It is a far cry from what Congress had in mind when it enacted medicare eight years ago.

The medicare deductible, that which the patient must pay the doctor, is now $60 but the new budget would raise it to $85. And after that the patient's share on the balance would rise from 20 to 25 percent.

The Administration says that such changes would reduce utilization of hospitals and physicians services and would therefore be economy measures. That's like saying: "If food prices are too high, eat less!"

I wish that the budget makers had paid some attention to excellent testimony given within recent days before the Senate Committee on Aging.

For example, Nelson Cruikshank, president of the National Council of Senior Citizens, said that increases in deductibles and coinsurance—euphemistically called "cost-sharing"—inevitably cause the patient to postpone needed care. Mr. Cruikshank said that a 1971 survey by the Blue Cross Association and the National Association of Blue Shield found that coinsurance and deductibles do not, in fact, act as checks against overutilization.

He added:

"It is the poor, not the well-to-do, who will go without health care, thus increasing inequities and aggravating the health problems of all but the most fortunate."

It, therefore, behooves Congress to challenge the Executive Branch on such questionable economics.

As a matter of fact, we *did* challenge the Administration very directly on its Medicare cost-sharing proposals at hearings in March before our Subcommittee on Health.

The Health, Education, and Welfare Secretary—Mr. Weinberger—was there and he didn't give an inch. He kept insisting that elderly people would not abuse their rights to obtain Medicare if their out-of-pocket costs were raised. In my opinion, he did not offer one persuasive fact in support of his stand.

The Secretary also made one other comment which was very much in my mind a few moments ago when I said that the Administration, and Mr. Weinberger in particular, seem to be striving to fix a level of deprivation for the elderly. They apparently believe that older Americans should be kept depressed.

I believe that everyone in this room knows that the Administration has fought every Social Security increase since Mr. Nixon took office. Last year, when I led the Senate fight for the 20 percent, across-the-board Social Security increase, I was subjected to intensive Administration pressures to make it 10 percent instead. On the eve of the Senate vote, I received a personal visit from a Presidential emissary who earnestly asked me to back down. Well, we insisted on 20 percent, and got it.

With that bit of history in mind, listen to what Secretary Weinberger told a Congressional Committee on March 1 in defense of what he called the Medicare "cost-sharing reforms:"

"As you know, social security cash benefits have risen about 70 percent since 1966. It is therefore now feasible to make greater, although still quite limited, use of cost-sharing provisions in order to improve the design of the program."

Mr. Weinberger's view of "quite limited" increases in cost-sharing for Medicare are certainly different from mine. In fact, the Committee on Aging has been told that if the Administration's proposals were to go into effect tomorrow in New York City, for example, a 21-day hospital bill for an older person with Medicare would involve an out-of-pocket cost of $330, or about three and a half times as much as is now paid by the patient.

If that is limited cost-sharing, then I guess we see what the Administration means when it says that Viet Nam, and now Cambodia, are examples of limited warfare.

I pledge to you today, as I have already pledged to the Senate, that I will do all in my power to take the Administration Medicare proposal—and bury it deep. That's the fate it deserves.

Furthermore, I believe that the best thing Congress can do about Medicare at this point in history is to *improve* it, not *constrict* it.

I have, therefore, sponsored legislation for Medicare coverage of certain out-of-hospital prescription drugs.

And I will soon introduce legislation to protect the elderly against the threat of costly and catastrophic illness resulting from a prolonged period in the hospital.

Specifically, my proposal would:

Extend the Medicare lifetime reserve from 60 to 120 days;

Increase hospital coverage for one benefit period from 150 to 210 days; and

Reduce the deductible charge for hospitalization.

And, I am considering other essential improvements as well.

One of the reasons that I have placed such priority attention to Medicare is simply that I am shocked by a statistic which emerged when the Committee made its routine check of Medicare costs for use in the annual Committee report.

I wanted to know how much out-of-pocket health care expenses were being paid, on the average, by older Americans on the Medicare rolls. I was startled last year when I discovered that these per capita costs stood at $225. That, my friends, was only $9 less than the costs in 1966, the year that Medicare took effect.

But the new figures show that in Fiscal Year 1972, the costs shot up to $276, or $42 *more* than was the case in 1966.

I don't put the blame for this situation on Medicare. Far from it, Medicare never has been able to do the job Congress wanted it to do, and today it covers only 42 percent of all health care costs of persons of age 65 and over.

What we need, therefore, are fundamental changes in our health care system. Only then can we hope to improve health care services while maintaining cost controls to give us what we pay for.

Elderly minority groups continue to be among the most disadvantaged in our entire society.

The poverty rate for aged blacks is still about twice as high as for elderly whites. Particularly alarming, more than five out of every eight—or 64 percent—of elderly blacks who live alone had incomes below the poverty threshhold.

Should the members of this group be called upon for increased "cost-sharing" under Medicare?

Why instead doesn't the Administration declare, as I have, that the time has come to eliminate poverty, once and for all, among all older Americans?

Why instead doesn't the Administration come forward with a response worthy of the White House Conference on Aging of 1971?

The answer, Mr. Nixon says, is simple. *We can't afford it.* The President has been largely successful in persuading the media and the bulk of the public that he has presented an "economy" budget to a spendthrift Congress in a determined drive against inflation.

I suppose it is useless to point out that an anti-inflationary budget is a balanced budget, or, better still, a budget in surplus. Since he became President over four years ago, Mr. Nixon has yet to send Congress a balanced budget. Indeed, his new budget embraces a deficit of between twelve and fifteen billion dollars. It is an inflationary budget.

By the same token, I suppose it is equally useless to remind the people that Congress has reduced—yes, I said reduced—the Nixon budget requests over the last four years by a grand total of $20.2 billion dollars! Why, then, should Congress have to wear the hair-shirt for fiscal irresponsibility? It belongs just as much, if not more, on the President's back, as on ours.

The truth is that neither the President nor the Congress has kept the Federal Government's financial house in order. Blaming the "other guy" is the oldest political trick in the books. In the past four years, the national debt has leaped up an astonishing 104.3 billion dollars. Both the Nixon Administration and the Congress are to blame.

In view of this, there is no doubt in my mind that a ceiling must be set on Federal spending, and the over-all budget must be cut to fit within the ceiling. The argument between the Democratic Congress and the Republican Administration has nothing to do with setting a ceiling, but rather with where the spending cuts shall be made.

The President wants to cut back on civilian spending and increase military spending.

I would cut the military spending, instead.

The President wants to cut back on domestic spending and increase foreign spending.

I would spend more at home, and less abroad.

The President wants to curtail spending by executive decision. I believe that spending priorities should be determined by all the elected representatives of the people. Under the Constitution, the power over the purse belongs to Congress, and that's where it should remain!

I believe it to be the duty of Congress to establish its own spending ceiling and stick with it. Then the President will have no excuse to disregard the priorities established by Congress. If he still wants to impound certain appropriated funds, let him submit his case to Congress for its approval. In this way, Congress can again regain true control over the purse strings, as our Founding Fathers intended.

Important as the Congressionally-established ceiling may be, I think that perhaps another ingredient may help Congress in its struggle to make the Nixon budget more human.

Oddly enough, that ingredient may be a byproduct of the unholy Watergate mess.

Men now caught up in the swirl of charges related to Watergate apparently thought

that their cleverness and disregard for the decent way of doing things would somehow hold them above the reach of the law.

A similar arrogance prevails in much else the Administration has done in the name of the "New Federalism."

We see an Office of Economic Opportunity illegally disbanded even while courts and Congress say it cannot be done.

We see a President who says he has found somewhere in the Constitution—or perhaps in his own imperial intuition—the authority to impound appropriated money on a scale never before dreamed of in the history of this republic.

We see Cabinet members who refuse to tell Congress how public money is being spent.

We see much more that offends the American spirit and makes us ask how close we are to one-man rule.

I think, however, that Watergate can infuse this Administration with a quality it has lacked—and needed—since it arrived in Washington.

That quality, of course, is humility. I happen to think that anyone elected or appointed to serve the people should have a good supply of humility.

Arrogance of power, so visibly demonstrated by a senseless war in Indo-China, can occur within our Nation as well as without.

Viet Nam provided lessons that should have been learned on the international scene.

Watergate can provide the lessons that should be heeded at home. That is my fervent hope and my prayer today as we undergo still another period of testing that can and should help us build a stronger and better America.

THE UNITED STATES, THE UNITED NATIONS AND AFRICA

Mr. HUMPHREY. Mr. President, I was recently appointed chairman of the Subcommittee on African Affairs of the Foreign Relations Committee. This carries with it a number of special challenges.

There is tremendous potential in the development of African-American relations. It is a challenge to see that this potential is realized.

The nations of Africa are seeking to expand their ties with countries other than their former colonial rulers. They desire trade and investment relations with all members of the international community. I believe the United States can aid the nations of Africa and benefit from the diversification of African international relations.

The African people share the determination of all Americans to secure freedom, justice, and human dignity for all men. We can join them in this struggle.

African states have great untapped natural and human resources. We can share in the development of these resources which will ultimately enrich the entire world.

But in order to realize this potential, we in Congress will have to take a more active interest in Africa. We cannot afford to neglect this continent because we lack deep historical ties with it. Nor must the fact that Africa is not an arena for a major power confrontation serve as an excuse for official disinterest.

It seems that in the President's global strategy, Africa is a low priority area. African issues do not receive great attention and African interests are often sacrificed to those of Europe and other areas.

The Congress can correct this neglect of Africa.

We can see that the United States has a vital Africa policy that lives up to its full potential. But this can come to pass only if members of Congress take the trouble to learn about Africa, to examine its most critical issues and to play a major role in formulating policy.

For this reason, I plan to deliver a series of statements during the coming year examining a broad spectrum of issues that go to the heart of African-American relations.

Today I want to express my deep concern over the policies of the United States toward southern Africa issues within the United Nations.

On March 10, 1973, the United States abstained in a Security Council vote on the report of the special mission to Zambia. On April 2, 1973, we cast a vote against a Human Rights Commission draft convention making apartheid a crime under international law.

Both of these measures grew out of the commitment of the United Nations to the cause of human rights. These basic rights are being denied to most of the people of South Africa and Rhodesia, because of their race and skin color.

The United Nations has a mandate to defend human rights throughout the world. It is written into the charter. And this responsibility is the reason for a Human Rights Commission.

We are a long way from the ideal of assuring these rights to all men. But, as a former member of the U.S. delegation to the United Nations, I believe that this body can do a great deal to further the cause of human rights. And I believe that when member states stand together in defense of these rights, the United States must stand with them.

The member states have chosen the violation of human rights in southern Africa as a focus for world attention.

Many of the states, as former colonies, find the oppression of one race by another particularly offensive.

This form of officially sanctioned oppression has almost disappeared from the world. The official policies of Rhodesia and South Africa therefore stand out as a tragic and unnecessary anachronism.

I believe that the United States must take the lead in this important defense of human rights.

We should do so, because ours is a multiracial society and we know well how long and difficult the struggle is to assure equal rights to all races.

We should do so, because we are among the nations most committed to human rights. For many nations, the guarantee of these rights is mere rhetoric. For us, it is central to the foundation of our democratic system and we understand its value to the success of our way of life.

We should do so, because of our role as a leading member of the international community. For centuries the great powers of the Western world believed in racial domination as the first step in political and commercial exploitation of peoples around the globe. In this century, it is our duty to see that self-determination is granted to all peoples.

But the United States has not taken the lead in the defense of human rights in southern Africa. Too often we have been the nay-sayers, the abstainers and the users of vetoes.

These two recent votes are part of a long series of U.S. abstentions and "no" votes on southern African issues in the United Nations:

On four occasions, from December 1970, to November 1972, the United States voted against General Assembly resolutions declaring the policies of apartheid of the Government of South Africa a negation of the U.N. Charter and a crime against humanity.

Eight times, from October 1970, to November 1972, the United States abstained on General Assembly resolutions which were intended to intensify the United Nations campaign against apartheid, specifically through the dissemination by the U.N. of information about the evils of the practice.

On January 23, 1970, the United States abstained from supporting a General Assembly resolution which called on all states to observe an arms embargo against South Africa.

Five times, from November 1969, to December 1972, the United States has voted against General Assembly resolutions reaffirming the inalienable right of the people of Zimbawe—Rhodesia—to self-determination, freedom, and independence. These resolutions also deplored the refusal of the United Kingdom to take effective measures against the "illegal racist minority regime" in Southern Rhodesia and urged all states to refrain from any action which would confer a semblance of legitimacy on the regime of Southern Rhodesia.

On five occasions, from February 1972, to March 1973, the United States has abstained on Security Council resolutions urging all states to implement fully the U.N. economic sanctions against Southern Rhodesia.

In March 1970, we chose to cast our first veto in the history of our membership in the United Nations on a southern African issue—that of extending the sanctions against Rhodesia. Since the United Kingdom had already vetoed the measure, our veto was redundant. We had reversed our policy of never vetoing a measure which had strong world wide support.

Third world observers wondered about the implied meaning behind the United States casting its first veto on a measure calling for the United Nations to take a strong stand against racial oppression.

The United States has supported the International Court of Justice decision that South Africa's claims to Namibia are illegal, but has refused to sit on the Council for Namibia. We have withdrawn from the committee of 24, which deals with African liberation movements. Sweden is now the only Western member of that committee.

Finally, since the passage of the Byrd amendment in October 1971, the United States has been the only nation in the

world to authorize by law the breaking of sanctions imposed by the United Nations against Rhodesia.

As Vice President, I made the following remarks at Africa Hall in Addis Ababa in January 1968:

> We have supported majority rule, human rights and self-determination throughout the world. We will not abandon them in the southern sixth of Africa. . . . No country in the world has recognized the small minority which denies to the great majority of the Rhodesian population effective participation in the governing process. In the long run, such reactionary behavior cannot succeed—neither in Southern Rhodesia nor in other parts of Southern Africa where self-determination is still denied.

I firmly believed this then, and I still believe it. But I am concerned today that our actions in the United Nations have put us in the position of giving moral and psychological support to the white regimes of southern Africa. They have cast serious doubt on our commitment to self-determination throughout the world.

The other nations of the world are saying to these minority regimes: "You are an anachronism in this age of self-determination. Your policies are an offense to those of us who have thrown off the yoke of colonial domination and proven our ability to govern ourselves. We will not accept you into the brotherhood of nations until your governments are chosen by all your people. And we will do everything we can to free the victims of oppression in your countries."

The United States seems to be saying, "We do 'abhor' the domination of a black majority by a white minority; but the United Nations attempts to end this domination are 'impractical.' We will accept the white-ruled southern African states into the community of nations, because we see no way of changing them—and because they are good trading partners and provide a good climate for foreign investment."

Many Americans do not realize the impact this stand has on the developing countries of Africa, Asia, and Latin America. These countries regard the U.N. as a forum in which they can put before the world the issues with which they are most concerned: Poverty, hunger, disease, mass unemployment, and domination of the weak by the strong. The issue on which these nations speak with greatest solidarity is the denial of self-determination to the people of southern Africa by white supremist regimes.

Our insensitivity on this issue suggests to these nations that we are not listening when they appeal for understanding of their common problems.

We appear to have tacitly accepted white domination rather than risk any inconvenience—even so small an inconvenience as higher chrome prices—to bring about majority rule.

It is no wonder that representatives of the third world cheer when a U.N. vote goes against us, after we have refused to support them in their fundamental conviction that no race should dominate another.

It is clear that our U.N. position on southern Africa hurts our relations with other African states. We continually praise the Organization of African Unity. We realize that African nations are too small to finance development or provide viable markets by themselves. They are too weak to defend themselves alone against outside attack. These states must work together to solve common economic problems. They must meet to resolve their disputes without involving the major powers. We are grateful for the effectiveness of the OAU in both these areas.

Yet we forget that the chief political goal of the OAU is the liberation of southern Africa. This is why it was formed and why it has survived the splits among African nations over many other issues.

The independent states of Africa know that they cannot regard themselves as wholly free so long as the Africans in the South are still dominated by Europeans.

African unity, of which the OAU is a symbol, can never be realized so long as Africans in part of the continent have no voice in their government.

African states cannot feel secure so long as the nation which has a greater quantity and more sophisticated arms than the rest of them put together—excluding Egypt—is ruled by a racist minority.

It is a basic contradiction in our policy to support the African states in political and economic development efforts, to support the OAU, and yet to vote against them in the United Nations on what they commonly regard as the key political issue on the continent.

Finally, speaking with all candor, we cannot regard our southern Africa policy merely as "foreign relations." It has received a great deal of attention from groups deeply concerned with American race relations. Ten percent of our people trace their heritage to Africa. We have the second largest black population in the world. We cannot say that our southern Africa policy has no domestic constituency.

I fear that there are persons who believe we have gone too far in our domestic civil rights struggle. And it is often these same persons who also believe that we have gone too far in our southern African policy. They hold that we have done enough to fight racism both at home and abroad.

I disagree with this belief. I strongly believe that we must do more to promote racial equality in the United States while maintaining a vigorous international stand against apartheid. The United States must actively promote peaceful change—at home and in southern Africa. The alternatives to nonviolent progress are either continuing injustice or violence.

We must carefully examine the rationale behind our abstentions, "no" votes, and vetoes on southern African issues in the United Nations.

In voting 21 to 2 in favor of the draft convention on apartheid, the Human Rights Commission took a stand wholly consistent with the convictions of the United States. It was a move to assure that international law, like United States law, is based on fundamental human rights. We, of all nations, should support the U.N. in taking such a stand, yet we cast one of the two dissenting votes. We did so for the following reasons:

First, we argued that this draft convention was unnecessary, because the crimes to which it alludes are already covered in existing conventions against racism and genocide. The United States is not a signatory to either of these conventions; and it is strange that we should argue that their authority alone is sufficient when we do not officially recognize that authority ourselves.

Second, we stated that the draft convention represents a "broadening" and "weakening" of the definition of "crimes against humanity." It is necessary to have laws which define the meaning of our broad, universal commitments when applied to a specific situation. Such laws do not "weaken" or "broaden" our commitments. They strengthen them and give them focus by applying them to present, real circumstances. The U.S. civil rights legislation did not "weaken" our commitment to human rights. It strengthened it.

The Human Rights Commission Draft Convention does the same thing internationally. It cannot be separated from a present, real situation that demands the application of international law. Recently, the South African Government has attempted to extend apartheid into Namibia.

We have ceased Ex-Im Bank activities and discouraged investments there on the grounds that the U.N., not South Africa, holds legal jurisdiction over that territory. Now that the Human Rights Commission is trying to put some teeth into that jurisdiction, by making illegal the racist policies South Africa is pursuing in Namibia, the United States is voting against it. In so doing, we, not the United Nations, are weakening our position on "crimes against humanity."

Finally, we argued that this draft resolution would raise the hopes of black South Africans without any real impact on their situation. But I believe it would have a positive effect. It would assure those who are fighting against apartheid from within that the international community is on their side. For the United States to vote against such a resolution, on the other hand, has a negative effect. It reassures the South African Government that the stronger members of the international community do not view their policies as illegal and will take no substantive action to encourage change.

Mr. President, turning now to our March 10 abstention on the Zambian issue, one of the reasons given for this action by our U.N. Ambassador was that the resolution "could have the effect of increasing the confrontation." The resolution did not call for a British or U.N. invasion of Rhodesia, or for increased military support to the liberation move-

ments, or for any other direct escalation of violence.

While the U.N. resolution deliberately avoided the subject of violence, I believe the American public must realize that the governments of southern Africa use violence as a tool of government.

The jailing or execution of all political opposition—often without trial—is a form of violence.

The police firing into a crowd of nonviolent demonstrators in Sharpesville in 1960 was an act which symbolizes the violence used by the white government of South Africa.

The South African pass system which allows the government arbitrarily to "endorse out" a black from the 87 percent of the country which is designated "white" is a form of rule by force and violence.

The recent decision by Ian Smith that whole villages can be forced to pay unlimited fines without redress in the courts is a form of violence.

A second argument that was used by our U.N. Ambassador to justify our recent abstention was that the resolution "was not likely to achieve the desired results." It seems from the text of the resolution that the "desired results" were these: to make clear the U.N. position against the recognition of Ian Smith's regime and in favor of self-determination for the people of Rhodesia;

To oppose the presence of South African troops in Rhodesia;

To encourage the member states to explore all possibilities for extending the scope and improving the effectiveness of sanctions—but none were endorsed in the resolution;

And to define what was required to bring about self-determination in Rhodesia. The results of the United States endorsing such a resolution would have indeed been "desirable": we would have made it clear that we stood with the rest of the world against white supremacy in Rhodesia.

This second argument was consistent with our position that the U.N. should not pass resolutions which are "impractical." I personally can see nothing impractical about the resolution; and I question the strategy of responding to those resolutions which are impractical in a purely negative way. If the United States believes there is hope for peaceful change in southern Africa, we should take the lead in exploring ways the United Nations can help to bring about that change. And we should be the first to implement policies aimed at encouraging self-determination.

In the past few years, we have heard many recommendations as to how the United States could help effect a peaceful transition from white domination to democratic, multiracial societies in Southern Africa. We have heard them from American church, student and labor organizations, from Congressman DIGGS and the Black Caucus, from southern Africans visiting the United States—Chief Buthelesi, David Thebahali, Bishop Muzorewa. It is time we evaluate these recommendations, make those which are workable part of our policy, and take the leadership in the U.N. in advocating resolutions we believe will be effective rather than just criticizing those we believe will not.

A first step in showing our genuine support of self-determination in southern Africa would be to respond to Zambia's appeal for assistance. We voted in favor of a resolution calling on member states to aid this country which has suffered most from the imposition of sanctions against Rhodesia.

On January 19 of this year, Ian Smith unilaterally closed the border between Rhodesia and Zambia, cutting off the route by which Zambia received half her imports. The man who has been arguing that world sanctions against Rhodesia were illegal thus decided to use sanctions himself.

President Kaunda responded by closing off copper exports through Rhodesia and developing alternative trade routes. Although Smith has reopened his side of the border, President Kaunda is determined to keep his closed until there is a majority government in Rhodesia. He is doing this because he has no alternative—it is obvious that he cannot allow his country's economic development to remain at the mercy of the whims of the Rhodesian Prime Minister. If he were to continue importing and exporting through Rhodesia, Smith could shut off his trade route any time and cripple the Zambian economy.

But this policy is expensive for Zambia, already suffering from the decline in world copper prices. The U.N. Special Mission has determined that it will cost her $250 million to develop the alternative truck routes and $5 to $6 million yearly thereafter in higher transport costs. The biggest problem will be finding a way to bring in essential imports—food and mining equipment—many of which are now being airlifted.

President Kaunda has sent representatives to many governments asking for help in this situation. He has appealed to the United States for Ex-Im Bank loans to purchase trucks as well as for aid. Canada, Great Britain, and Australia have already agreed to give some assistance; but it is nowhere near the amount needed. Zambia's economic situation is indeed critical. She cannot deal with it alone. We have the resources to provide some assistance. I believe we should.

AID is now considering assistance to Zambia to help purchase the imports necessary for developing new trade routes. This assistance should be provided.

The Export-Import Bank has helped finance the sale of $13 million worth of trucks and $5½ million worth of locomotives to Zambia. It has provided $8.3 million in loans and $8.3 million worth of guarantees for these exports. I support this policy of encouraging the export of transport equipment to Zambia and believe it should be continued.

Assistance to Zambia is important for two reasons. First, she must have reliable transport routes in order to achieve economic stability. Second, the loss of transport revenue and foreign exchange to the Rhodesian Government has increased the pressure on Ian Smith to reach a peaceful settlement with African leaders. Aid to Zambia is, therefore, one of the tools the world community can use to achieve a peaceful transition to majority rule in Rhodesia.

We should begin now to play an active role in exploring and implementing those policies which will encourage peaceful change in southern Africa. Abstensions, no votes, and vetoes, unaccompanied by positive alternatives, make our commitment to self-determination and human rights questionable in the eyes of the world.

Mr. President, I ask unanimous consent that the Security Council resolution No. 328 concerning political issues relating to Zambia and Rhodesia, the statement made by Ambassador Christopher H. Phillips on March 10, 1973, and the text of the Human Rights Commission's "Convention on the Suppression and Punishment of the Crime of Apartheid" be printed at this point in the RECORD.

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

RESOLUTION 328 ADOPTED BY THE SECURITY COUNCIL AT ITS 1694TH MEETING, ON MARCH 10, 1973

[Vote—13–0–2 (U.S., U.K.)]

The Security Council,

Having considered with appreciation the report of the Security Council Special Mission established under resolution 326 (1973) of 2 February 1973,

Having heard further a statement by the Permanent Representative of the Republic of Zambia,

Recalling its resolutions 277 (1970) and 326 (1973),

Reaffirming that the situation in Southern Rhodesia constitutes a threat to international peace and security,

Gravely concerned at the persistent refusal of the régime of South Africa to respond to the demands contained in its resolution 277 (1970) and 326 (1973) for the immediate withdrawal of its military and armed forces from Southern Rhodesia and convinced that this constitutes a serious challenge to the authority of the Security Council,

Bearing in mind that the Government of the United Kingdom, as the administering Power, has the primary responsibility for putting an end to the illegal racist minority régime and for transferring effective power to the people of Zimbabwe on the basis of the principle of majority rule,

Reaffirming the inalienable right of the people of Zimbabwe to self-determination and independence in accordance with General Assembly resolution 1514 (XV) and the legitimacy of their struggle to secure the enjoyment of their right as set forth in the Charter of the United Nations,

1. Endorses the assessment and conclusions of the Special Mission established under resolution 326 (1973);

2. Affirms that the state of tension has been heightened following the recent provocative and aggressive acts committed by the illegal régime of Southern Rhodesia against the Republic of Zambia;

3. *Declares* that the only effective solution to this grave situation lies in the exercise by the people of Zimbabwe of their right to self-determination and independence in accordance with General Assembly resolution 1514 (XV);

4. *Strongly condemns* the racist regime of South Africa for its persistent refusal to withdraw its military and armed forces from Southern Rhodesia;

5. *Reiterates* its demand for the immediate withdrawal of South African military and armed forces from Southern Rhodesia and from the border of that territory with Zambia;

6. *Urges* the Security Council Committee established in pursuant of resolution 253 (1968) concerning the question of Southern Rhodesia to expedite the preparation of its report undertaken under Security Council resolution 320 (1972), taking into account all

proposals and suggestions for extending the scope and improving the effectiveness of sanctions against Southern Rhodesia (Zimbabwe);

7. *Requests* all Governments to take stringent measures to enforce and ensure full compliance by all individuals and organizations under their jurisdiction with the sanctions policy against Southern Rhodesia and calls upon all Governments to continue to treat the racist minority regime in Southern Rhodesia as wholly illegal;

8. *Urges* the United Kingdom as the administering Power to convene as soon as possible a national Constitutional Conference where genuine representatives of the people of Zambabwe as a whole would be able to work out a settlement relating to the future of the Territory;

9. *Calls upon* the Government of the United Kingdom to take all effective measures to bring about the conditions necessary to enable the people of Zimbabwe to exercise freely and fully their right to self-determination and independence including:

(a) The unconditional release of all political prisoners, detainees and restrictees;

(b) The repeal of all repressive and discriminatory legislation;

(c) The removal of all restrictions on political activity and the establishment of full democratic freedom and equality of political rights;

10. *Decides* to meet again and consider further actions in the light of future developments.

STATEMENT BY AMBASSADOR CHRISTOPHER H. PHILLIPS, U.S. REPRESENTATIVE, IN THE SECURITY COUNCIL, EXPLANATION OF VOTE ON THE RESOLUTION DEALING WITH THE REPORT OF THE SPECIAL MISSION TO ZAMBIA, MARCH 10, 1973

Mr. President, briefly with respect to the second resolution, S/10898/Rev. 1, I believe members of the Council will recall that my delegation abstained on Security Council Resolution 326 of the current year and we did so because we felt the resolution was not likely to achieve the desired results and could have the effect of increasing confrontation. We find, unfortunately, the same to be true of Resolution S/10898/Rev. 1. And there are elements in that resolution which the United States has been unable to accept in the past, particularly the idea that the scope of sanctions against Southern Rhodesia might be extended as distinct from strengthening existing sanctions. But we do agree with the assessment by the Special Mission that the situation in Southern Africa and particularly in Southern Rhodesia is in large part a result of the denial of the right of self-determination of the majority of the African people.

REVISED DRAFT CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

The States Parties to this Convention,

Guided by the Charter of the United Nations, which provides for international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion,

Recalling the Declaration on the Granting of Independence to Colonial Countries and Peoples, in which the General Assembly stated that an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Observing that, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination, States particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Observing that, in the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, "inhuman acts resulting from the policy of apartheid" are described as crimes against humanity,

Recalling the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour or national origin,

Observing that the United Nations General Assembly and Security Council have adopted a number of resolutions in which the policy of apartheid is condemned as a crime against humanity,

Convinced of the need to take further effective measures at the international and national levels with a view to the suppression and punishment of the crime of apartheid.

Have agreed as follows:

ARTICLE I

1. The States Parties to this Convention declare that inhuman acts resulting from the policies and practices of apartheid and similar racial segregation are crimes violating the principles of international law, and in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.

2. The States Parties to this Convention declare criminal those organizations, institutions and individuals which pursue a policy of apartheid.

ARTICLE II

In this Convention, the term "the crime of apartheid" shall apply to the following acts, committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and of systematically oppressing them:

(a) Denial to a member of members of a racial group or groups of the right to life, liberty and security of person, or the murder of members of a racial group or groups, infliction upon them of serious bodily injuries or mental derangement or subjecting them to torture or to cruel, inhuman or degrading treatment;

(b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction;

(c) Any measures, including legislative measures, calculated to debar a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the all-round development of such a group or groups;

(d) Any measures, including legislative measures, forcibly dividing the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups and the prohibition of mixed marriages between various racial groups, and by the expropriation of landed property belonging to a racial group or groups;

(e) Denial to members of such a group of elementary human rights and freedoms, including the right to work, the right to education and the right to freedom of movement and of speech;

(f) Exploitation of the labour, including forced labour, of the members of a racial group or groups;

(g) Legal and administrative prosecution of organizations and persons opposing *apartheid;*

(h) Arbitrary arrest and illegal imprisonment of the members of a racial group or groups.

ARTICLE III

International criminal responsibility shall apply to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they:

1. Participate in, directly inspire or conspire in the commission of any of the acts mentioned in article II of the present Convention; or

2. Abet or encourage such participation, inspiration or conspiracy.

ARTICLE IV

1. The States Parties to this Convention undertake:

(a) To adopt any legislative or other measures necessary to prevent any encouragement of the crime of *apartheid* or of manifestations of *apartheid* and to punish persons guilty of that crime;

(b) To prevent the encouragement and commission of the acts declared to be crimes under international law arising from the policies and practices of *apartheid* within their territorial jurisdiction.

2. Persons charged with the acts enumerated in article II shall be tried by a competent tribunal of the State in the territory of the State Party to this Convention.

ARTICLE V

The States Parties to this Convention undertake to participate in international measures adopted by the United Nations Security Council and aimed at the suppression and punishment of the crime of apartheid, and to co-operate in the implementation of decisions adopted by other competent organs of the United Nations with a view to achieving the purposes of this Convention.

ARTICLE VI

The States Parties to the present Convention undertake to send reports to the Commission on Human Rights on:

1. Information concerning entry visas issued, entries made and business conducted by the represetatives of the Government of the Republic of South Africa and other persons believed to be responsible for acts defined in article II of this Convention;

2. Information concerning the legislative, judicial and administrative measures adopted to bring to trial and punish, if found guilty, persons believed to be responsible for the acts defined in article II in accordance with article IV (a) of this Convention;

3. Proceedings instituted and findings made under article IV, paragraph 2, of the present Convention.

ARTICLE VII

1. The Chairman of the Commission on Human Rights shall appoint a group consisting of three members of the Commission on Human Rights who are also representatives of States Parties to this Convention to consider reports submitted by States Parties in accordance with article VI.

2. If among the members of the Commission on Human Rights there are no representatives of States Parties to this Convention or if there are fewer than three such representatives, the Secretary-General shall, after consulting all States Parties to the Convention, designate a representative of the State Party or representatives of the States Parties which are not members of the Commission on Human Rights to take part in the work of the group established in accordance with paragraph 1 above, until such time as representatives of the States Parties to the Convention are elected to the Commission on Human Rights.

3. The group may meet for a period of not more than five days, either before the opening or after the closing of the session of the Commission on Human Rights, to consider the reports submitted in accordance with article VI.

ARTICLE VIII

The States Parties to the present Convention empower the Commission on Human Rights to:

(a) Request United Nations organs, when

transmitting copies of petitions under article 15 of the Convention on the Elimination of All Forms of Racial Discrimination, to draw its attention to complaints concerning acts which are enumerated in article II of this Convention;

(b) Prepare, on the basis of the information submitted to it under article VI, a list of individuals, organizations, institutions and representatives of States who are alleged to be responsible for the crimes enumerated in article II of this Convention as well as those against whom legal proceedings have been undertaken by States Parties to this Convention;

(c) Request information from States Parties to this Convention, and from authorities responsible for the administration of trust and Non-Self-Governing Territories mentioned in article 15 of the Convention on the Elimination of All Forms of Racial Discrimination, as to the measures that have been taken by them with regard to such individuals alleged to be responsible for crimes under article II of this Convention who are believed to be within their territorial and administrative jurisdiction.

Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514(XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

ARTICLE IX

Acts enumerated in article II of this Convention shall not be considered as political crimes for the purpose of extradition.

ARTICLE X

Disputes between States Parties arising out of the interpretation, application or implementation of this Convention which have not been settled by negotiation shall, at the request of the States Parties to the dispute, be brought before the International Court of Justice, save where the parties to the dispute have agreed on some other form of settlement.

ARTICLE XI

This Convention shall be open for signature by all States. Any State which does not sign the Convention before its entry into force may accede to it subsequently at any time.

ARTICLE XII

1. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE XIII

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the tenth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

ARTICLE XIV

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

ARTICLE XV

The Secretary-General of the United Nations shall inform all States of the following particulars:

(a) Signatures, ratifications and accessions under articles XI and XII;

(b) The date of entry into force of this Convention under article XIII;

(c) Denunciations under article XIV.

ARTICLE XVI

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

TAX LOSS FARMING

Mr. ABOUREZK. Mr. President, with the memory of tax time still fresh in our minds, I am gratified that the tax-loss-farming issue is gaining steam in the current campaign for tax reform.

In my view, the practice of tax-loss farming, which permits large corporations and hobby farmers to farm at a loss and then write off that loss against big profits from their nonfarm income, presents one of the most indefensible inequities anywhere in our tax system. It is just another example of how our tax laws work to the advantage of the rich and to the detriment of the average wage earner.

Jeanne Dangerfield has recently written a background paper on tax-loss farming for the Agribusiness Accountability Project which provides an excellent analysis of this disturbing practice. Mr. President, I ask unanimous consent that this report be printed in the RECORD.

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

SOWING THE TILL

(A background paper on tax loss farming by Jeanne Dangerfield)

INTRODUCTION

In the past twenty years, the tax load on farmers has increased by 297 percent. The price the farmer receives for his product has increased by only six percent in that same period. Such skyrocketing production cost, coupled with low farm income, has made farming a mighty tough row to hoe. In fact, there are only about half as many farmers today as there were in 1952.

But, while many farmers have been losing and going under, an increasing number of corporations and wealthy urbanites have learned how to lose at farming and still get away with a profit. Rather than working the land, they work the tax laws.

In detail, it's complicated. In concept, it's simple: lose money in farming and write those losses off against nonfarm income. The impact is to lower the amount of income that is taxable. There's a bonus: the losses are not real, only paper losses. That is because the costs of "farming" can be written off on one year, even though the product will not be sold until another year. Thus, there are tax losses this year, profits next year. And those profits can be re-invested for still another tax loss. In 1972, these farm losses cost the U.S. Treasury over 840 million dollars.

While the rich get richer, the family farmer is competitively disadvantaged. Agricultural markets are distorted, the public treasury is avoided, land values are artificially inflated and consumers are faced with a threat to food prices and supplies. It is a losing proposition, unless you are rich.

Tax shelter farming is made possible by special tax concessions intended to benefit real farmers. As far back as the Internal Revenue Act of 1916, special provision was made for farmers on the basis that they lack sophisticated accounting techniques, that it is difficult to appropriate expenses to particular crops or animals, and that there are sizeable fluctuations in annual profits in farming. Such considerations remain appropriate, even critical, to family farmers.

But John Connelly, Jack Nicklaus, Ronald Reagan and Jack Benny are not family farmers. Neither are thousands of high income doctors, lawyers and other professionals who enjoy winning in agriculture by losing. Tax shelter farming is a rich man's game. The newspaper advertisements soliciting big city investors in these agricultural schemes specify that no one need apply whose tax bracket is less than 50 percent.

TILLING THE TAX LAWS: TAX BREAKS IN FARMING

The key to tax shelter farming as a haven for the surplus dollars of city investors, is a series of tax loopholes built into revenue acts that go back to 1916. The legislative history of these provisions shows the Congressional intent to provide for the special problems involved in farming.

In practice, however, those laws have catered to the special needs of wealthy investors and corporations, and, in many cases, they have led to new problems for the farmers they were designed to benefit.

CASH VERSUS ACCRUAL ACCOUNTING

The first of the special provisions for farmers was in the Revenue Act of 1916. It gave the farmer the option of using either the "cash accounting method" used by individuals on their tax returns, or the "accrual accounting method", required of all other businesses, to compute their yearly income. Under the accrual method, taxpayers must inventory their goods held for sale at the end of the year and add the value of these goods to the total sales from the year, subtracting last year's inventory value, to arrive at the year's gross income. Under this method, an expense or sale is ruled to be effective at the time the goods purchased actually change hands.

Taxpayers using the cash accounting method are not required to keep inventories. Their income is computed on a basis of cash actually received during the year from the sale of products. An expense or sale is considered incurred at the moment the money changes hands.

If a cash farmer pays for $1,000 worth of feed in December, he can deduct the cost in that year, even if the feed is not delivered until January of the following year. Under the accrual method, the farmer could not take the deduction until the feed is actually delivered.

Cash accounting is important to both the farmer and the farm investor. To the farmer, cash accounting means some flexibility in adjusting year-to-year income; it also simplifies bookkeeping chores.

To the tax-loss investor, who is generally in the position to be able to afford the accountants and bookkeepers, cash accounting creates "artificial losses" by allowing premature deductions of expenses against high non-farm income. This lets him postpone paying taxes on that percentage of his income equivalent to the amount of his farm deductions. In effect, he gets an interest-free loan from the government. When the product is finally sold and profit realized, the public's interest-free "loan" to the investor can be extended if the investor chooses to reinvest his profits in another farm venture.

Benefits to the wealthy investor are compounded, since the greater the investor's income, the greater the value of each deductible dollar. The actual subsidy received by the tax-loss investor increases in proportion to his tax bracket. For example, an investor in the 50% tax bracket would normally pay half of every $1000 of income in taxes. If he can deduct a $1,000 feed expense from his tax bill, however, he has, in effect paid only $500 for the $1,000 worth of feed, the difference between what he would have given up in taxes and the actual price of the

feed. The average farmer's income tax bracket is around 20%. A farmer in the 20% tax bracket would save only $200 on a $1,000 feed bill. The richer you are, the richer you get.

There are advantages the city investor, whose investment cash is essentially surplus, has over the farmer, who is actually counting on his farm investment for a livelihood. First, if a profit is realized when the crop is sold, the tax shelter farmer can reinvest the total amount in another tax-loss venture to earn more. The farmer, however, must live off his profit and must pay taxes on it. Secondly, in a situation in which actual profit is not realized, the city farmer who has invested in tax farming for an independent income still is ahead of the game from the savings he realizes on his tax bill. He can lose and still win. To the farmer, who depends on his farm profits for support, the real income and the farm income are the same, and a non-profit venture means exactly that.

Capital expenditures

Under the cash accounting method a farmer can deduct expenses of materials and services that actually go into or are a part of, a final saleable product—such as feed, seed, stud fees, and management services. Other farm inputs, such as machinery and equipment and improvements to barns and farm buildings, are classified as capital assets and are not immediately deductible. The definition of a capital asset is an asset that is part of the tools and machinery of running the business—an asset that is not incorporated in any one final end product, but that can be used to develop many end products over a period of time. The cost of these assets is generally recovered through depreciation, which involves deducting a certain percentage of the cost of the item over a fixed number of years equal to its useful life.

Orchards, vineyards and dairy and breeding herds, because they are not actually products to be sold, but rather they produce commodities that are sold, are capital assets. The cost of maintenance, upkeep and development of these capital assets is called a capital expenditure and in nonfarm businesses would not be immediately deductible. Under the Revenue Acts of 1916 and 1919, farmers received another special privilege: the costs of raising livestock held for draft, breeding or dairy purposes, and the costs involved in developing vineyards and fruit and nut orchards, are all fully deductible, even though they are capital expenditures.

Capital gains

The principles of cash accounting and related deduction benefits enable the investor to postpone taxes, but eventually the product, or capital asset, will be ready for sale. At this point the investor and the farmer are both liable for taxes on any profit which might occur from the sale, and the tax owed the government is based on the individual's tax bracket for his total income.

The Revenue Act of 1942 included a special provision-capital gains treatment on farm assets such as trees and vines. A later court decision further expanded this provision to include draft and dairy breeding animals. This means that income from sales of these capital assets, which have been held for a specific minimum period of time, are taxed at rates equivalent to half the person's regular tax bracket. Furthermore, capital gains taxation has a 25% minimum of gains of less than $50,000 and a 35% maximum on gains in excess of $50,000. The holding period to qualify for capital gains tax rate varies from asset to asset: the holding period for cattle and horses, for example, is two years. For other livestock, it is only one year

The rationale behind this privilege is the special nature of farming. Many farm products—such as grapes, tree fruits and cattle—require a substantial time of investment before they can return a profit. It might take an orchard or vineyard 4 to 8 years to reach maturity and a breeding herd at least four years before they bring any profit. There is a great deal of risk involved in farming, due to such factors as weather, disease, accidents, and price fluctuations.

The capital gains treatment for agriculture, like the other special agricultural provisions, works out better for a wealthy investor than for a real farmer. Again, the benefits increase proportionately to the taxpayers income bracket. For example, if an investor sells an orchard for $1,000 after holding it the prescribed amount of time, he is eligible for capital gains treatment on his income from that sale, and need only pay taxes at half of his normal tax rate. However, if he is in the 70% tax bracket, one half his normal tax rate exceeds the capital gains maximum on amounts less than $50,000 which is 25%, so the tax bill is reduced by another 10% for a total of $250,000. The 20% tax bracket farmer also saves half his tax bill on his sale, but there are two disadvantages. First, his savings on the $1,000 sale is only half of $200, rather than half of $700, and secondly, in many cases, to take advantage of the capital gains opportunity a farmer would have to sell his source of support. This tax "benefits" puts teeth in the old adage that farmers live poor and die rich.

The farm investor, on the other hand, with little commitment to a particular plot of land, area, or commodity, can liquidate his interests, make his profit, and reinvest elsewhere.

Other tax benefits

Cash accounting, deduction of capital expenditure and capital gains treatment are the keys to understanding tax shelter farming, but there are certain other benefits available to farmers which have implications for the non-farmer investor, too. Under the Revenue Act of 1971, the investment credit was made available for purchase of livestock and various kinds of real property, such as feed bins and farm buildings. The investment credit allows a dollar-for-dollar reduction of the tax bill of an amount equal to 7% of the cost of eligible property. The merit of a credit, as opposed to a deduction, is that it is equally beneficial to taxpayers in all tax brackets. Furthermore, a limitation is built into the code providing that the credit, or a percentage of the credit, will be recaptured if the asset is not held the length of its useful life.

A similar restriction is placed on special deductions available to farmers for soil and water conservation and land clearing costs, specifying that the land must be held five years, or the deductions will be disallowed completely. The land must be held ten years to qualify for full recognition of the deductions as legitimate expense. Despite the limitations, however, it is the top bracket investors who can best afford to make these improvements, sell the appreciated land, pay only capital gains tax, and make a profit. These land improvement deductions are particularly attractive to the big city professional who picks up a piece of country property for weekend recreation, such as hunting, fishing, camping and so forth. Not only can this investor improve his land for his recreational needs and get a tax deduction for doing it, but he also increases the re-sale value of his property.

A final inducement to investing in ranching is the availability of accelerated depreciation rule (ADR) on certain assets, including cattle and real property. Although the cash-basis taxpayer does not inventory cattle born into the herd, he can use the ADR to depreciate rapidly any animal he buys to build up the herd.

BECOMING A FARMER: THE LIMITED PARTNERSHIP AND OTHER DEVICES

Various arrangements are available to the investor who wants to become a farmer for tax purposes. In fact, it is considerably less risky and less expensive to become an investment farmer than to actually farm the land for a living. The Chairman of the House Subcommittee on Agricultural Appropriations commented last year on the family farmer's investment plight, when he noted that it takes "about as much money to start a farm as to start a bank, and about as much nerve as to rob a bank."

For the city investor, steel nerves are less important than a good tax accountant. The investor's "management" responsibilities are limited to his ability to account for his farm gains and losses on April 15th. The investment farmer need not ever see his farm or even own more than a percentage of a beef herd. He is considered a farmer in the eyes of the IRS so long as he is the owner or part owner of any farm assets that will be developed for profit.

"Tax shelter farmers" are not only individuals. A corporation is a legal entity and can reap the same benefits in farming as do individual taxpayers. Individual stockholders of a corporation are not considered farmers, however, since the corporation is considered responsible for gains and losses, which do not flow through directly to the stockholder.

Limited Partnerships

The primary mechanism which makes "farmers" out of tax shelter investors is the limited partnership. It is an organizational form that has been used in oil, gas, and real estate for some time, but it is relatively new in agricultural enterprises. A limited partnership allows the pass-through of profits and losses—and tax deferals—straight to the individual partners. The partnership itself is not taxed, but rather each partner is taxed in proportion to his share of the venture.

Partnership status, as opposed to classification as a corporation, is necessary to assure this benefit. A limited partnership will not be so defined if it has two or more of the attributes that define a corporation. These traits are: limited liability, continuity of life, transferability of interest, and centralization of management. In all limited partnerships, liability is limited to the amount of the partner's actual investment. Limited partnerships use various technicalities to avoid the other traits of a corporation: (1) continuity of life is avoided by setting a time limit, but often giving the option to renew the venture; (2) management is vested in the general partner, but the limited partners often retain the same rights held by a corporation's stockholders, such as the ability to remove or replace the management (the general partner) and to vote to dissolve the operation; and (3) transferability of interest is usually possible in a limited partnership, but it requires the formality of the consent of the general partner.

A limited partnership is formed by first creating a corporation to act as the general partner in the venture. In most cases an existing corporation establishes a subsidiary corporation for this purpose, and the subsidiary then acquires its capitalization, line of credit, and, frequently, land from the parent organization. The general partner will be responsible for the management and liability of the venture. State laws specify that such programs must file with the state securities commission, but only if interests will be offered to more than a mininum number of potential investors (ten in California), which exempts many from the registration requirement. In addition, registration must be made with the SEC if an inter-state offering is planned. Offerings are then made either directly to the public or through security dealers.

Feedlots and food distributors, such as Montana Beef Industries, Inc., and Cal-Maine Foods, Inc., often set up partnerships to assure clientele or capital for their services. Railroads, oil companies, and utilities figure prominently in the organization of limited

partnerships, since they have available land for such projects. Insurance companies, too, are appearing as farm venture backers, partly because they hold the mortgages on a large amount of farm land. Southern Pacific, Atlantic Richfield, Buttes Gas and Oil, Kaiser Aetna, Apache Corporation, and Hartford Life Insurance are just a few of the companies becoming interested in farming.

Agency services

A different possibility for the investor would be to enter into a contract with an agency that specializes in managing farm investments. Oppenheimer Industries is one such firm that will purchase breeder or feeder cattle for clients, contract with ranchers or feedlots to care for them, and arrange putting the cattle on the market. Kaiser Aetna's Ventura Operations in California will manage absentee owner's citrus or walnut groves.

In a limited partnership arrangement the investor owns only a percentage of the total operation. Under an agency agreement, the investor becomes the legal owner of a plot of land or a herd of cattle, and he can use these holdings as collateral for his personal loans. In agency set-ups the investor raises his own financing, therefore having the opportunity to get a better rate than may be available through the partnerships. The investor generally sets up a drawing account from which the agent makes investments. The agent is paid a flat fee per head of livestock or per acre managed or, in some cases, a percentage of the gross sales.

Individual placements

A third possibility for the investor is to make direct contact with his investment, by personally arranging to buy land or a rancher's cattle, for example. In order to take advantage of tax benefits, the investor must be considered to be engaged in farming for a profit. If the IRS determines the investor-farmer is just in it for pleasure, recreation, or some other non-business purpose, his deductions may be disallowed. The investor could choose to hire a farm manager to look after his property for wages, or he might opt for a share-lease arrangement where risk and profit are split between himself and his manager. The first of these alternatives has drawbacks for the average business person because his employees lack the incentive to strive for maximum profit potential; investors are advised that "it's usually best to consider a farm near enough to your home so you can inspect it now and then." In the case of a corporation, a subsidiary might be created to be devoted to farming, but whose gains and losses would be reflected on the tax bill of the parent corporation.

Leveraging

A principle common to most farm investments is the concept of leveraging one's capital. That is, using one's actual cash investment in the venture as collateral for securing a loan to increase the total available working capital. Tax laws provide that an investor can deduct not only the expenses incurred by the actual cost to him of his investment, but also expenses incurred by borrowed money. In other words, if the investor's actual cash contribution is $5,000, and that money is used as collateral to borrow an additional $10,000, the investor may be able to make deductions worth two to three times the real cost of his investment.

FAVORITE TAX LOSS CROPS

Not all areas of agriculture are equally attractive to the tax-loss farmer. The selection of a crop or livestock venture will take into account the desire of the investor to maximize his tax shelter assets. like deductions and the possibility of converting ordinarily income to capital gains, while minimizing his non-shelter assets, such as machinery and buildings. In addition, the investor will want to invest in assets that can be used as collateral for maximum borrowing power, so that he can leverage or "pyramid" his money to make each dollar go further.

Whatever tax shelter he choses, the reasons that a prospective investor pours his capital into a specific farm crop or product have little to do with market demand, soil suitability, production efficiency or other factors which are the major concerns of the working farmer. Rather, the decision is based on the potential for maximum tax write-off.

From the point of view of the tax loss farmer, the areas which currently seem most attractive in agriculture are orchard and vineyard development, cattle breeding herds, and cattle feeding programs. The investors' orchards and vineyards are planted and developed. At maturity, the trees and vines will yield fruit and nuts. In the years before the orchard or vine reaches maturity, the investor can make liberal deductions against his non-farm income. When the investment begins producing fruits and nuts for sale, these products are taxable at ordinary income rates, but the orchards or vines themselves bring capital gains.

The investor in breeding herds gets similar benefits. The purpose of breeding is to increase the size and quality of the herd, and the investor can deduct the expenses of feeding and maintaining the animals while he is doing this. The breeder sells male calves born into the herd and culled animals (those not up to the quality of the herd) for beef. Taxes on the proceeds are paid at ordinary income rates. However, animals held for two years or more will bring capital gains when the herd is sold.

Cattle feeding programs involve an investment in young cattle that will be fattened for slaughter. Cattle and feed are bought for the investor, and the animals are put in a feedlot where they are confined until heavy enough for slaughter for meat. This process usually takes about six months, so the investor's money is returned within a year. Fattened animals will not bring capital gains, but the ability to pre-pay the feed bill and other costs of maintaining the animals are sufficient enough attractions to the tax-loss investor.

Variations of these three basic tax loss themes sometimes crop up. An arrangement quite similar to the cattle feeding programs is available in egg production. The principle is the same in both operations: a large end-of-the-year investment in feed and chickens will provide first year write-offs; returns will come back with the sale of eggs the following year. Cal-Maine, Inc., a holding company, whose subsidiaries conduct a fully integrated commercial egg business, is the backer of such a venture called National Farming Program 1972, (See Appendix A) offering potential investors $6,000,000 of interests in the egg business. The irony of the situation is that nobody else seems to be making any money on eggs; the egg industry is plagued with over-production and poor returns to farmers.

Some of the more bizarre tax loss schemes demonstrate the ingenuity of promoters in their efforts to find a tax dodge in every commodity. Recently a novel tax-loss idea was introduced for dairy breeding herds. A promoter came up with a plan allowing investors to buy three-month old heifer calves that would be bred in fifteen months, then sold to dairy men just before calving. Since cows would be held for a period of 24 months, investors are promised the chance to get capital gains on the sale. Although the cows are theoretically held for breeding purposes, they actually are held for sale, and it seems unlikely that investors will receive a favorable ruling on this point from the IRS.

Work is also being done on a similar program which would lease rather than sell dairy cattle. This effort is probably inspired by what was once called the Codding "Rent-a-Cow" Program. Codding offered investors the chance to lease a pregnant cow for a year, keeping any calves born to her during that time. If the leased cow's offspring did not live, the investor was assured of a replacement calf. This round-about scheme was devised so that the price of the cow could be deducted rather than capitalized. One would guess that a lease-a-dairy-cow program would simply have investors lease their pregnant Holsteins to the dairyman, who would then milk the cow during its useful life.

Within the programs described as having the best potential for the tax-loss farmer, certain commodities tend to come in and out of popularity. In the 1960's investor money was going into citrus and almonds. But, the Tax Reform Bill of 1969 required the costs of developing citrus and almonds to be capitalized rather than keeping these costs deductible, so investors turned to pistachios, apricots, and walnuts. Now because of rising popularity and increased consumption of wine in the U.S., investors are rushing into grapes.

The entire grape acreage in California last year consisted of 400,000 acres, of which 93,000 had been planted in the past three years—53,000 acres in 1972 alone. Projected new plantings for 1973 may exceed 70,000 acres. Two partnerships alone will plant 50,000 acres. By 1973 many of the new plantings, mostly in varietal wine grapes, will be ready for harvest.

Meanwhile, Wells Fargo Bank is labelling the wine industry, "one of the brightest spots in California's agriculture." Wells Fargo is backing its words with dollars by financing grape syndicates.

The Southern Pacific Railroad is among those jumping on the grape train. Southern Pacific is planning a joint venture with Russell Giffen, a grape grower from the San Joaquin Valley. The railroad is investing $2 million, 1000 acres af land and miles of surplus telegraph wire which was left over from the switch to microwave radio several years ago. The wire will be used to support the vines. Giffen will then put another 1,000 acres in the venture, called Golden Vinyards, which Southern Pacific estimates will bring a net income of $400,000 annually by 1975.

SOME IMPACTS OF TAX LOSS FARMING

Such tree crops as apples, peaches and avocados are ideally suited to tax loss farming. All development expenses during the first years before the orchard reaches maturity are deductible and capital gains are realized when the investment is sold. For the full-time farmer, trying to make a living from tree crops, the tax loss farmers pose a serious problem.

Tree crops account for only a very small percentage of farm land (.3%) and only 3.9% of the total farm revenue. Producers of these commodities face an inelastic market demand for their products. Even a seemingly insignificant increase in production may mean that the price a producer can get for his product will drop and that surpluses are created.

Although the farmer gets a tax subsidy from the government by deducting development expenses, the subsidy is not necessarily sufficient to offset loss of revenue from depressed prices. And family farmers are more interested in fair prices than a tax subsidy. Oversupplies and depressed prices of oranges and almonds prompted growers to petition Congress in 1969 to revoke their privilege of deducting orchard development expenses. As a result, citrus and almond growers are now required to capitalize those development expenses.

When lowered prices are taken into account, the value of the tax deduction is reduced radically for real farmers. An unpublished report from California found that low prices in 1972 reduced the peach farmers' deduction to only 12% of its potential value, the apple growers' deduction to 15% of value and the avocado producers' deduction to 23% of value. Apricot producers are actually los-

ing money because tax breaks do not make up for the low price for apricots in an oversupplied market.

Suddenly oversupply within a commodity has disastrous effects on the smaller producer who is always the first to suffer when the market is squeezed. At recent Senate hearings on Land Ownership, Use and Distribution in California, one family farmer described the impact of an oil company's quickie tax dodge. The company planted several thousand acres of cling peaches on the western side of the Fresno Valley. As a result, the market was glutted and many growers were forced to let their peaches rot on the trees. The oil company was left with a tax write-off and the farmers were left with all the peaches they could eat.

Tax loss farming threatens sudden market fluctuations in nearly every commodity suitable to its requirements. Walnut growers, who are concerned about tax-loss threats to their industry, will be interested in the Kaiser plan for walnut production. A recent article in *Western Fruit News* stated that Kaiser Industries expects soon to be the world's leading producer of walnuts.

As economist Michael Perleman points out in a recent paper on unfair competition in agriculture, a corporation with vertical integration potential is not as vulnerable to low market prices as an individual producer. "As a corporation like Tenneco goes into the almond canning business, it can use its leverage from its large production of almonds to force down almond prices. The losses to Tenneco as a farmer are more than compensated by the gains to Tenneco as a buyer of almonds."

While financial giants like Wells Fargo and major corporations like Southern Pacific are pouring enormous amounts of capital into limited partnerships, the family farmer finds the credit door slammed in his face. The agricultural loan officer of California's Bank of America stated that "of course the commercial farm, in our opinion, has to produce a gross income of at least $20,000 a year annually. Anything below that we consider a very small farm, and in California $20,000 is very small."

John Deere and Company makes farm loans as "a sales tool," but it's not the average farmer who is sought out, as the corporate president recently made clear: "We do not attract this business by taking excessive risks. Our credit standards have been high . . . our losses have been minor."

Confucius said that "The best fertilizer is the footsteps of the landowner." The current tax system works against that wisdom by fostering absentee ownership. High-income lawyers, doctors, movie stars, athletes and other investors might not recognize fertilizer, even if it was on their boots, but they do recognize a good tax deal.

Most city investors who are encouraged to enter agriculture know little about farming operations and can provide little guidance or oversight. Promoters of agricultural ventures are the ones with the management power. These promoters often charge a set fee per head of livestock or acre of land managed. There is often no real consideration given to costs of production—the emphasis is on generating commissions for management.

When the tax loss venture goes to market, promoter concern with volume rather than profit can result in price cutting. Again, this kind of non economic competition is most felt by the smaller operator. And, price cutting on this level has little chance of being reflected in the Consumer's food bill since extra profit dollars are absorbed by middlemen and promoters who have interests in the ventures.

Consumers have a vested interest in the farmer's welfare. America's abundant supply "of cheap food" has depended on the skill and diligence of family farmers who know their land, care about their production, and oversee a manageable acreage. Tax loss investors who have little, if any, personal commitment to producing commodities for profit, have the potential to force these family farmers out of business. As the number of family farmers who are unable to stay in production increases, the consumer will find himself dependent on corporate and syndicated enterprises for food.

It is the existence of a large number of relatively small-scale independent farms which has provided pressure to keep prices competitive. As the small operations are taken over, and the larger firms and ventures no longer have an incentive to keep costs and prices down, the consumer will eventually have to pay. Concentration of agricultural production increases the potential for collusion, market sharing, restrictions on entry of new firms, and out-right control of food supplies, quality and prices.

A look at Penn Central, Lockheed and Litton Industries indicates that corporate efficiency is not all it's cracked up to be. Agriculture may be more of an art than it is a business or a science, and the casualty list of corporate "farmers" is not encouraging. Fortune magazine recently listed some of the more spectacular failures:

No public agency formally keeps track of the financial records of big corporate farms. But Agriculture Department officials can rattle off the names of more than a dozen spectacular failures. Among them:

Gates Rubber Co. tried for three years to grow sugar beets, corn, and vegetables on 10,000 acres in eastern Colorado before selling off its land and fleet of expensive equipment in early 1971.

In 1967, CBK Agronomics, Inc., began acquiring what was to have been 80,000 acres in Missouri, Texas, and California, planning to grow diversified crops and feed cattle, but gave up last year and went into coal mining.

Multiponics, Inc. (originally Invanhoe Associates, Inc.), drained or cleared 35,000 acres in Florida, Arkansas, Mississippi, and Louisiana in 1969 and produced two crops of soybeans, cotton, and grain. But it ran into financial problems, failed in an effort to sell a public stock offering, and is now in bankruptcy proceedings.

Great Western Ranches, Inc., assembled a four-million acre complex of operating orchards and ranches in the West, along with timber and recreational land, paying the owners with stock. It went bankrupt last year.

Tax-loss ventures, too, can do badly in agriculture. One of the most notorious examples of a badly managed investment is the Black Watch farms fiasco. In October of 1970 Black Watch collapsed on 585 doctors, lawyers, brokers, and other city investors who had thought beef breeding would be the answer to their tax problems. Instead, the investors stand to lose $40 million of the $50 million they had put into cattle. Black Watch failed primarily for two reasons: (1) the promoters made unreasonable guarantees of returns, and (2) the venture lacked experienced management that understood the cattle business.

In 1967 the original promoter sold Black Watch to Bermec Corporation, a truck leasing firm run by H. L. Meckler. After taking it on as a struggling family-run operation, Meckler turned Bermec into a financial giant by using the leveraging principle: Pyramid your capital for all it is worth. Looking for a new challenge, Meckler was struck by what appeared to him to be great similarities between equipment leasing and cattle breeding. Any farmer could have told him ahead of time that cattle are not as predictable as machinery and are subject to disease, accidents, and weather.

Black Watch promised its investors a $2000 return per cow and guaranteed to replace any lost from six months to its ninth birthday. A computer and team of 8 programmers were entrusted with keeping track of investor cattle, but nothing seemed to work out. Records were kept improperly, worthless cattle were bought sight unseen, poor animals were not removed from the herd, calf crop was only 60% (90–95% is normal), and tremendous costs bogged down the venture. The computer never got things straight. $200 per animal per year was needed to pay executive salaries, a staff of 75 and other expenses at the company headquarters. The company's total operating costs came to $424 per animal per year.

The Black Watch pyramid collapsed because it was built on worthless cattle and bad management. The Black Watch collapse was felt by more than unlucky investors. Twenty-three independent farms and ranches filed suits for $1.5 million owed them on maintenance contracts. Presumably one of the advantages of encouraging non-farmer investment in agriculture is that it takes some of the risk and financial burden off ranchers who contract to manage investor cattle. The danger in such an arrangement is that if the investor fails to come up with the maintenance payment, the rancher is out of luck. An added tragedy was the plight of 30,000 abandoned cattle on 70 ranches.

The Black Watch incident did not deter investor interest in the cattle industry. Some of the appeal of cattle seems to be based on psychological needs—for many investors, a deal in cattle is the fulfillment of a childhood dream to play cowboy, tinged with the glamour and intrigue of becoming a cattle baron. The prospectuses that describe the various agri-deals appeal to the latent gentleman farmer. As one ad put it, "the prime market for the new agribusiness participations are those legions of desk bound executives who have always thought they wanted to get closer to the land if only through proxy."

TAX LOSS FARMING AND BEEF

Cattle offer many real economic incentives to the investor beyond tax benefits. Beef prices are high, and the demand for beef is increasing steadily. USDA predicts that per capita consumption of beef will jump from 113.4 pounds a year to 130 pounds per year by 1980. Cattle, furthermore, require little or no investment in machinery, make good collateral for loans, and provide the investor with the opportunity of making large premature deduction by pre-paying the cost of feed.

Tax-loss farmers focus on three areas of the beef industry—purebred breeding operations, commercial cow-calf breeding herds, and cattle feeding. Purebred breeding operations breed registered animals to produce foundation stock that will produce more and better meat. Since the laws of genetics state that an animal will pass his characteristics on to his offspring, bulls born into these purebred herds are sold to commercial breeders who wish to improve the quality of their herds. Commercial breeding herds produce calves for sale that will be fed and fattened in feedlots and slaughtered for meat.

Profits in beef cattle have historically been so erratic that most beef producers in the U.S. do not depend entirely on beef as their sole source of income. Capital gains on their breeding herds help somewhat in easing the burden of these producers. Commercial breeding has long been the domain of a vast number of small, privately-owned, cow-calf enterprises, whose holdings average only 42 head each. Currently over 90% of the estimated 1.3 million farms and ranches that produce beef cows have fewer than 50 cows, yet they produce 80% of the output of beef calves. These smaller operators are under great pressure to expand to keep up with "optimum farm size" estimates for credit and other purposes. A cattle ranch large enough to assure a farmer an adequate income is an operation with at least 300 head of cattle and a $300,000 investment. But small

operators are having difficulties trying to expand in the face of inflated land prices, brought about by city investors who are paying $25 to $100 per acre more than the productive value of the land.

City investors do not use the same measures in evaluating the worth of acreage as do full-time farmers. Factors such as the aesthetic beauty, the recreational potential, and the proximity of the property to a metropolitan area generally weigh more heavily in the investor's mind than the capacity of the land to support cattle or the suitability of the soil for feed grains.

Tax-loss farming is having a definite upward effect on beef prices by pushing up one of the factors of beef production—land. The fact that outside investors can, and are, outbidding farmers for acreage has led to a situation where farm land increasingly is scarce—a Texas rancher noted that he knew of no land between Houston and Dallas (250 miles) that was priced in a range economically feasible for farming.

When the tax-loss farmer will pay more an acre than the projected yield of the plot should warrant, it means that all farmers wishing to expand their operations will be forced to pay the higher price in order to expand. This means that rather than trying to make his costs as low as the farmer, the tax-loss farmer effectively makes the farmer's costs rise to meet his. And the tax-loss investor still comes out ahead, because he can deduct interest payments on the purchase price against his non-farm income, and these deductions will be more valuable the higher the purchaser's tax bracket.

Not all tax-loss breeders actually own the land used for grazing their cattle. Usually the general partner of a limited partnership will have legal title to the land, since land is not a good tax-shelter asset. In other cases, an agency will contract with ranchers to graze investor cattle on their lands. Land that is owned by investor groups is frequently planned to be subdivided and turned over to some non-farm use after the investors have received all their tax deductions, a practice which is also contributing to the spiralling costs of land.

The price of land is not the only problem of the small rancher trying to make a living in the beef business. Even more of a threat to the farmer-rancher is the fact that he is suddenly being forced to compete against investors who are not farming for profit. The promoters and managers who look after these investors' holdings frequently charge a flat fee per head or acre managed and therefore have little incentive to get a competitive price on their products.

The prospect of tax-loss farming pushing beef prices up is further increased if one takes a careful look at the operations of a typical tax-loss venture. In many cases it is the organizer of the venture rather than the investor himself who is the real winner on these deals. Arthur J. Groesbeck, Jr., a Los Angeles tax adviser estimated that probably half of all tax shelters were of no value—glib promoters can skim as much as 50% as their take. The commitment of the typical promoter-manager is even less than the commitment of the typical investor towards healthy agricultural production, since the investor, at least, had to put up the capital.

Of the three kinds of cattle programs, purebred cattle offers the most flagrant examples of abuses on the part of the promoters of these schemes.

One such offering, the Calderone-Curran Ranches, Inc., offered investors the chance to own their own purebred herd of 10 cows for a price tag of $28,570. The securities dealer making the sale would get 6¾ percent of the sale amount, and an additional 2½ percent would go to the dealer-manager, making selling commissions a grand total of 9% of the investment. In addition, the purchaser enters into a maintenance contract whereby the company feeds, cares for and breeds the animals in exchange for the assignment upon birth of all bull calves and every tenth heifer calf produced by the herd. Proceeds realized by the sale of culled animals (animals not up to the standard of the herd) would also go to the management company. The difference, furthermore, between the net price of $2571 per head received by the company and the actual cost of the animal (about $400) goes to cover all the costs involved in breeding and maintaining the animals, the costs of arranging financing and making the offering, and the costs necessary to support the supervisory and management staffs. The promoter of this venture is meeting his costs and making his profits whether or not the enterprise turns out to be profitable. On top of that, he shares in 50% of any profits that do return to the venture.

The taxpayer-consumer should be concerned about these promoters. All taxpayers end up subsidizing the tax-loss farmer's venture by way of higher taxes and cut backs in other government expenditure programs that might seem more appropriate for subsidy than the purebred cattle, which unlike the commercial breeding herds, has always been associated with wealth, glamor, and even royalty. The taxpayer, therefore, has a vested interest in the success of the enterprise.

Cattle feeding ventures do not offer capital gains to the investor, but they do give the taxpayer with an unexpected high taxable income in one year a chance to defer all or part of his tax bill to another year when his tax rate may be lower. Cattle feeding funds are also used for a quick shelter until the investor decides what long term shelter he wants. Cattle feeding gives high, first-year write-offs for feed and management expenses of up to 200–300% of the amount of the investment.

In the following year, when the cattle are sold, tax on the income will be due, but in the meantime the investor has had interest-free use of money that otherwise would have been paid in tax, and he has the time to decide whether or not to reinvest the returns in another feeding program or convert to breeder cattle for long-term capital gains.

Small feed lots are also affected by the trend toward bigness brought on in part by tax loss farming. There are currently 154,536 feedlots in the United States, 99 percent of which are under 1000-head capacity, accounting for 38% of production. Fifteen thousand of these smaller feedlots folded in 1971.

Meisner and Rhodes, economists at the University of Missouri, have reported on the dominance of huge feedlots in the West:

"Recent developments include the further growth of the very large feedlots and the multiple ownership of large lots. Feedlots of more than 32,000 capacity tripled from 13 in 1967 to 44 in 1971. Cattle capacities (one-time) of large feeding corporations are reported to be approximately 173,000 for Western Beef, 135,000 for Meso Agro, 108,000 for Prochemco and 130,000 for Stratford of Texas, to name a few of the corporate leaders in custom feeding, which each control multiple lots."

The trend to "custom feeding" has increased as "limited partnership" and "agency service" deals have attracted increasing amounts of outside capital into the industry. Feedlots without a subsidiary of their own to attract investor capital, or without affiliations with an independent cattle breeding program, run into problems bidding against the bigger, well-financed operations for feeder cattle. As feeder prices inflate, it is the smaller feedlots that cannot afford to keep their lots full, and many farmer-feeders have given up trying to match the buying and marketing power of the huge Western lots.

The attractions of cattle feeding are sufficient in any case to have produced a rush of investor money into the cattle feeding programs. Prospectuses of cattle programs have multiplied over the past two or three years.

Prior to 1969, there was little interest in cattle feeding, but suddenly investor interest caught on so that now one source estimates that 60% of the cattle on feed in California are owned by limited partnerships and cattle feeding funds. A recent study at Texas A. & M. shows that 90% of the 1.4 million head of cattle being fed in the Panhandle-Plains Region are owned by individuals and groups other than the feedlots, which means a potential investment of around $348 million dollars by tax loss farmers.

The effect of increased dependence in the cattle industry on custom feeding arrangements, sponsored by tax-loss capital, may have long-term implications for the cattle industry. Because the availability of tax-loss capital is responsive to fluctuations outside of the industry, rather than within it, problems relating to the amount and constancy of investment capital may eventually have effects on retail prices. For example, there is usually a substantial increase in investment capital available to feeding programs at the end of the year when taxpayers need a quick shelter. Because of the increased end-of-the-year demand, prices for feeder cattle and feed are forced up during this time. As a result, the increasing demand for feeder cattle may lead to early placement of the younger calves on feed. The younger stock has a slower feed-to-fat conversion rate, takes longer to reach slaughter age, and therefore are less profitable. The rate of return of a calf averages 5.3%, whereas, on a yearling steer, the rate of return is 12.8%. Since feedlots average about an 8% margin of return, the increased use of younger, less profitable calves may lead to increased prices for fed cattle, rather than a cutback in the feedlot's profit margin.

Another disadvantage to the increased dependence of cattle feeding programs on an unsteady supply of outside capital is mainly felt by the smaller operators. In the summer, when investor interest lags, smaller lots, without the help of the promotion staffs and contacts available to the bigger lots, often find the going tough.

THE HIDDEN FARMERS: WHAT WE DO NOT KNOW ABOUT TAX SHELTERS

One of the unsettling things about tax-loss farming is that by all indicators it appears to be a rapidly increasing trend—but no one seems to know very much about it. No substantive work has been done to evaluate either the extent or the impact of tax-loss farming. Certainly a phenomena that has such potential to alter the whole structure of food production in this country deserves more attention.

Secretary of Agriculture Earl Butz, who likes to tell farmers that he is their "cowhand on the Potomac," has yet to put himself or his Department on the line in opposition to tax-shelter "farmers," even though real farmers are being adversely affected. In February of this year, the House Ways and Means Committee held three days of hearings on agricultural taxes, but neither the "cowhand" nor any other USDA official bothered to appear or submit a viewpoint.

The Department of Agriculture has exactly two staff members working on tax-related issues in agriculture. A third staff member has informally been keeping track of limited partnership offerings filed with the SEC. So far, USDA has come out with only three short studies touching on the problems of tax-loss farming, the first of which appeared in May of 1972. All three studies have concentrated on the methods rather than on the impacts of tax-loss farming.

A few facts can be gleaned from some of the work coming out of the land grant col-

leges, but the problem with this material is that it tends to be area-specific rather than providing a comprehensive picture of the problem. Texas A & M has produced a study of the financial structure of the Texas beef feeding industry, for example, and work is being done at the University of Missouri on cattle feeding. By far the most thorough thinking on the subject of the current and potential effects of tax-loss farming has been done by Hoy Carmon and Charles Davenport of the University of California. Carmon has worked on cattle breeding and feeding, and in orchard and vineyard development. But there are still many holes to be filled in, and it is hard to evaluate effects of something so little is known about.

The National Coalition for Land Reform found that neither the California Department of Real Estate, the State Department of Agriculture, the Commissioner of Corporations, the U.S. Department of Agriculture nor the Securities and Exchange Commission had any comprehensive idea of the extent and impact of tax-loss farming. No one seemed to know what crops were being focused on, how much acreage was involved, or whether anyone was checking to see if the quality of soil was suitable for the anticipated crop.

Part of the problem in determining the extent of tax-loss farming is that many farm ventures are exempt from filing with state or national regulatory agencies because they plan intrastate offerings or they have less than a minimum number of partners. Agencies that manage investor herds are not required to file prospectuses with the SEC no matter what their size, since they are ruled to be providing services as opposed to offering interest in securities. No one knows how much acreage is "farmed" by individuals who have contracted with these agencies or those who have made their own arrangements to become "tax-loss" farmers.

RECOMMENDATIONS

"If the government objects to tax avoidance, it should change the law."—J. P. Morgan

In 1968, Orville Freeman, then Secretary of Agriculture, wrote that "We believe there are serious problems in the area of tax treatment of farm income, and that these problems can be remedied . . . We strongly urge passage of legislation which eliminates existing farm tax haven's for individuals and corporations with substantial nonfarm incomes." He was supported by an Assistant Secretary of the Treasury, who wrote that "When a taxpayer purchases and operates a farm for tax purposes . . . this cannot help but result in a distortion of the farm economy, especially for the ordinary farmer who depends on his farm to produce the income needed to support him and his family."

In 1969 Congress took a token step to limit some of the abuses in tax-loss farming by requiring farmers with losses exceeding $25,000 in any one year to establish something called the Excess Deductions Account (the EDA). This provision requires that every dollar of loss over $25,000 will reduce the amount of income qualified taxable at the capital gains rate.

The EDA provision has had little effect, however, in deterring tax-loss farming. To some extent it has discouraged interest in beef breeding—the number of prospectuses offering partnerships in beef breeding do not seem to have increased appreciably since 1969, but neither do they seem to have decreased. Oppenheimer Industries reports that the EDA has had little effect on their breeding operations. The EDA has no effect whatever on the kinds of tax-loss farming where capital gains is not a factor, like feeding and egg production.

By postponing action on tax-loss farming, the chances of ever correcting the situation become dimmer and dimmer. Beef feedlots already are becoming dependent on the financing provided by tax-loss farmers. When Congress failed to enact effective limitations in the Tax Reform Act of 1969, promoters took it as a sign of tacit approval, and tax shelters have proliferated.

The Agribusiness Accountability Project calls on the Administration and on Congress to initiate steps immediately that will eliminate tax-loss competition with America's family farmers.

(1) Tax loss farming has negative impact on farmers and on consumers. The U.S. Department of Agriculture has taken no position on the issue. The Agribusiness Accountability Project calls on Secretary of Agriculture Earl Butz to make a policy statement of the Department's position on the subject of tax-loss farming.

(2) Congress is urged to devise legislative methods that do not promote unfair competition in farming by giving proportionately more benefits to the wealthier taxpayers. Such possibilities include:

Imposing an outside limit on the amount of farm deductions that can be used to offset non-farm income in any one year, but providing for loss-carry back and loss-carry forward privileges for losses exceeding that amount so that farmers would not lose the ability to make legitimate deductions.

Placing a restriction on the percentage of allowable deductions to be claimed by taxpayers whose effective tax rate exceeds a set figure.

Changing the status of certain farm expenses from deductions to tax credits, so that all farmers would receive a tax credit equal to a straight-across the board percentage of their expenses.

(3) Administrative agencies are asked to take action to correct tax-loss farming abuses:

The Internal Revenue Service is called on to deny partnership status to the limited partnerships in agricultural ventures, which would thus subject the venture to corporation tax and disallow the pass-through of gains and losses to investors. This can either be achieved by IRS rulings that such ventures fulfill two of the four characteristics that are used to define a corporation, or that the operation is not profit-oriented.

The Treasury Department is asked to take administrative action to disallow limited partners, whose liability is theoretically limited to the extent of their investment, from making deductions that exceed their actual cash contributions to the venture. This can be accomplished by amending IRS Regulation 1.752, paragraph (e).

The SEC is urged to tighten disclosure requirements by

(a) Restricting further the regulations on who must file farm offerings

(b) Requiring agencies offering management services to investors to file for registration and supply information on the number of their clients and the amount of acreage controlled

(c) Requiring annual public disclosure of the financial status of limited partnerships

(d) Requiring prospectuses to spell out dangers of over-planting in particular commodities.

(4) State and local governments should take measures to protect their rural constituencies from the potential deleterious effects of tax-loss farming on their communities, for example:

Requiring permits for any limited partnership, where either, an offer will be made to more than ten individuals, more than five partners will be involved, or the total investment in the venture exceeds more than $200,000.

The approval of such permits would take into account potential negative impact on the farm community and the stability of the industry or crop planned for development.

An alternative approach would have communities adopt policies that would levy a special tax or require special zoning on land that will be farmed by an absentee owner.

(5) The AAP calls for a full-scale public inquiry into the extent and potential impact of tax-loss farming.

The Department of Agriculture should initiate a thorough, public investigation of tax-loss farming, with particular emphasis on the acreage, crops, and commodities affected and the implications of such on farmers and rural communities.

Concurrently, an evaluation should be made of alternative sources of supply of capital that could be provided for farmers, ranchers, and feedlots now dependent on this kind of outside capital.

The Joint Committee on Internal Revenue and Taxation is urged to speed up the release of its current study of the legislative history and economic impact of tax-loss farming.

Studies should be undertaken at the state and local levels and in the land grant colleges to measure the impact of tax-loss farming on various localities of the country.

APPENDIX A. PROFILES OF FIVE LIMITED PARTNERSHIPS INVESTING IN AGRICULTURE

Examining five tax shelters in California, Mississippi, Texas, Arizona and Mexico, totaling $38 million worth of partnership interests in agriculture, it is possible to see the type of financial power which is today seriously disrupting America's agricultural economy.

In California the state's tenth largest bank (U.S. National) bankrolls the state's largest farmer (Hollis Roberts) to form a syndicate. Another nearby 295,000 acre ranch (Tejon Ranch) controlled by the west's largest publishing company (Times Mirror Corporation), borrows $27 million from one of the nation's largest insurance company's (John Hancock) to form an agricultural syndicate which plans to market many of its crops through an international conglomerate (Tenneco, Inc.).

In Mississippi a major food company (Cal-Maine Foods, Inc.) absorbs a syndicate of its own creation into its fully integrated commercial egg business which will have to compete with many of the company's own contract farmers. In Arizona a newly-created U.S. real estate investment company (Antaeus Development Company) creates a joint venture syndicate using cheap Mexican land and labor to produce crops for distribution in the U.S.

And a large, integrated nationwide financial service organization (Equity Funding Securities Corporation) sets up a beef cattle syndicate installing one its executive vice presidents as chairman of the syndicate's board only to see him resign from the company 16 months later along with five other corporation executives in the wake of a major fraud scandal involving the corporation and its subsidiaries.

Ankony Cattle Systems—1971

A limited Partnership Formed to Engage in the Breeding and Sale of Seedstock Beef Cattle and the Feeding of Commercial Cattle for Slaughter.

$5,000,000 of limited partnership interests (2000 units $2500 per unit—Minimum purchase: two units)

General Partner: Equity Funding Cattle Management Company manages the partnership and Ankony Angus Corporation maintains the herd (both wholly-owned subsidiaries of Equity Funding Corporation of America).

Underwriters: Equity Funding Securities Corporation.

Equity Funding Securities Corporation—an integrated financial service organization primarily engaged, through subsidiaries, in the sale of life insurance and mutual fund shares, either separately or in coordinated acquisition plans, and in life insurance

operations. In early 1973 the Corporation filed bankruptcy proceedings after federal and states investigators discovered over two-thirds of the insurance written by the firm's key subsidiary were bogus policies that the company sold to reinsurers for cash. Millions of dollars of company assets were also found missing.

The Feeders purchased by the Partnership are fed at independent feed lots, or at feed lots which Ankony has acquired or manages. The purchase of Feeders and feed by the partnership are financed through banks, feed lot operators or "other lenders."

"The Partnership may engage to a limited extent in the trading of cattle and grain futures. Hedging is the purchase or sale of "paper lots" of a given commodity. Management of the General Partner has had limited experience in hedging operations and there can be no assurance that hedging, if engaged in, will be profitable, or will minimize the Partnership's Risks."

—Prospectus, December 6, 1971

Main office is in Los Angeles, California at 1900 Avenue of the Stars.

1971 Antaeus Annual Preference Program
(Terminated June 30, 1972)

A limited partnership formed to participate in joint ventures engaged in the growing of agricultural produce in Mexico for distribution primarily in the United States.

$2,500,000 of limited partnerships (Maximum of 1000 and minimum of 480 units of limited partnership interest at $2500 per unit).

General partner: Antaeus Development Company, (subsidiary of Antaeus Resources Corporation).

Underwriter: Antaeus Distributors, Inc. (subsidiary of Antaeus Resources Corporation).

Antaeus Resources Corporation—sponsors natural resources and real estate investment programs with tax shelter characteristics, e.g., San Diego Company (cut flowers and potted plants), Boulder Properties (real estate properties development in Arizona, Colorado and Florida).

Joint Ventures in Mexico included the Almada (2960 acres of cucumbers, pole tomatoes, bell peppers, squash, safflower, soy beans, sorghum, corn), Zaragoza (1,310 acres of vegetables and 1245 acres of citrus), Palomares-Rendon (1110 acres of cucumbers, pole tomatoes, bell peppers, egg plant), Riveros (360 acres of pole tomatoes, cucumbers, bell peppers, cherry tomatoes) Rivera (2260 acres of bell peppers, red peppers, cantaloupe melons, squash, string beans, pole tomatoes, cucumbers, pickles, eggplant).

"The supply of labor traditionally has exceeded demand in the areas of the Joint Ventures."

—Prospectus, November 11, 1971

All produce of joint ventures except for the Rivera Joint Venture was to be distributed exclusively by Sierra Pacific Distributors, the Nogales, Arizona division of DVR Corporation, a wholly owned subsidiary of Antaeus.

Desert Citrus Packers (a division of DVR Corporation) harvests, grades, stores and packs and Sunkist Growers, Inc., a citrus marketing cooperative, sells citrus grown by six limited partnerships, of which three officers and directors of Antaeus Development are general partners and of five in which Antaeus is a limited partner, in competition with the citrus grown by one of the Joint Ventures.

Neither Program nor the General Partner or the distributors had any history of operations prior to this offering.

National Farming Program—1972

A limited partnership formed to engage in an agricultural business limited to activities in connection with the production and sale of Shell Eggs (from Partnership flocks).

$6,000,000 of limited partnership interests (6,000 units at $1,000 per unit—minimum purchase: five units)

General Partner: Jefferson County Egg Farms, Inc. (Jackson, Mississippi) (a subsidiary of Cal-Maine Foods, Inc.)

Distributors: Thirty-three Twenty Securities Corporation (a subsidiary of Cal-Maine Foods, Inc.) and GFCS, Inc. (both organized specifically for this offering).

Cal-Maine Foods, Inc.—A fully integrated commercial egg business with owned and leased facilities located in the South, West, Midwest and Northeast with a net worth as of April 22, 1972, of $9,558,496.

Chicken flocks to be maintained in facilities owned or operated by farmers under *contract* with the partnership. All replacement birds, feed, medication and supplies to be purchased from Cal-Maine Foods, Inc. A portion of the Partnership flocks will be maintained under *contract* at farms owned or operated by affiliates of Cal-Maine. Partnership to sell all its marketable egg production to Cal-Maine. Upon dissolution of Partnership all its assets to be sold to Cal-Maine pursuant to a right of first refusal.

Upon sale of the initial laying flock to the Partnership and the purchase of feed, Cal-Maine to realize an approximate profit of between $75,000 to $877,000 (depending on number of units sold).

General Partner to receive an initial management fee of 8% of the gross proceeds of the offering (maximum of $480,000), a continuing fee computed and paid *weekly* for the management of the Partnership's flocks of 1.5 cents per dozen eggs produced and sold, a distribution of up to 25% of the gain realized by the Partnership upon sale of its properties.

Eugene C. Pace (Securities salesman licensed by the State of California) is controlling shareholder and principal executive officer of GFCS, Inc., and the initial Limited Partner of the Partnership. Fred Adams, Jr., Chief Executive Officer and Director, and George A. Rabinoff, Vice President and Director, of the General Partnership are both founders and principal stockholders of Cal-Maine Foods, Inc.

"Because of the relationship of parties, conflicts of interest exist and may arise in the future between the Partnership and the General Partner, its affiliates and other private limited partnerships managed by the General Partner."

—Prospectus, July 28, 1972.

Roberts Syndication—1971

A limited partnership formed to engage in the Business of Owning and Farming 5,829 Acres of Vineyards and Fruit and Nut Groves and Fresno, Kern and Tulare Counties, California.

$8,400,000 of limited partnership interests (8,400 units at $1000 per unit (payable $365 at time of subscription)—Minimum purchase: five units.

General Partner: Roberts Management Corporation (sole general partner of Roberts Syndication—1971), a wholly-owned subsidiary of Roberts' Farms Inc.

Underwriter: First California Company, Inc.

Farm Manager: *Roberts' Farms Inc.*—wholly-owned by Hollis and Manon Roberts of McFarland, California. Engaged in citrus farming since 1958 and in fruit, nut and grape farming since 1957. Controls 130,000 acres worth $125 million (approximately 80,000 acres bought in 1971 from Tenneco, Inc. for $80 million with which the farms now has a marketing agreement). Presently, farms citrus and nut groves for 49 different owners, including Getty Oil Company, Texaco, Inc., Buttes Gas and Oil Company and PIC Realty Corporation (a subsidiary of Prudential Life Insurance Co.). Frequently financed by C. Arnholt Smith and U.S. National Bank in San Diego, California.

All monies received by the Farm Manager from the sale of crops (except expenses) are paid into a special account of the Company at the U.S. National Bank.

Any contract or future labor negotiation and resultant contract which could result in higher labor costs would cause an increase in the management fee paid by the Company to the Farm Manager.

Purchasers must be a resident of California, either have a present net worth (exclusive of home, furnishings and personal automobiles) in excess of $50,000 and an annual gross income in excess of $35,000, or that he has a present net worth (exclusive of home, furnishings and personal automobiles) in excess of $100,000, regardless of annual gross income.

Farm manager receives $351.34 per acre, harvests and markets all crops for a fee equal to cost plus 10%, "extraordinary" farming services cost plus 10%, incentive payments which are 25% of the amount by which net cash receipts (after principal and interest payments) exceed an accumulative amount equal to an annual rate of 10% of the limited partners, 25% of any profit made by Company (exceeding sales price of $2350 per acre) less applicable principal payments, and 3% of the purchase price of capital items purchased by the Company.

"In the event that trees or vines die or become commercially unproductive, (Farm Manager) will have no duty under this agreement to either remove or replace said trees or vines, (Farm Manager) will have no duty to make capital improvements or pay real property or personal property taxes on the property or improvements thereon, or pay any assessments by virtue of the ownership of the real property."—1971 Farm Management Agreement, December 30, 1971

Tejon Agricultural Partners

A Limited Partnership Formed to Engage In the Business of Farming Approximately 21,000 Acres of Land in Kern County, California, which will be planted with Grape Vineyards, Nut, Citrus and Fig Groves, and Vegetable and Field Crops.

$16,000,000 of Limited Partnership Interests (16,000 units at $1000 per unit (subject to assessment up to $200 per unit)—Minimum purchase: five units)

General Partner: Tejon Agricultural Corporation (wholly owned by Tejon Ranch Co.) organized in connection with this offering.

Underwriters: The First Boston Corporation and Dean Witter and Company, Inc.

The General Partner will contribute the property to the Company which obtained a loan (approximately $27,000,000) secured by the property and the improvements to be developed therein, from John Hancock Mutual Life Insurance Company. The property will be returned to the General Partner at the end of the partnership term which will occur on or before December 31, 1997.

Farm Manager:

Tejon Ranch Company—publicly held corporation (Times Mirror Corporation owns 12.8% and Chandis Securities Company—wholly owned by the Times Mirror Chandler family—owns 5.8%) which owns a 295,000 acre ranch—largest single operating ranch in California. Formed in 1936 as a successor to a partnership organized in 1912 the Ranch Company raises beef cattle (14,000 head), cotton, potatoes, oranges, and field grains.

Purchasers must have a net worth of $50,000 or more and an estimated taxable income in the 50% or higher tax bracket or a net worth of not less than $200,000.

Will market wine grapes (43% of plantings) through "one or more California wineries," vegetables and field crops through "brokers, shippers and grower-shippers who purchase for customers or for wholesale distribution on a seasonal basis," almonds through California Almond Orchards (a subsidiary of Tenneco, Inc.), oranges and lemons will be packed at Terra Bella Citrus Association Inc. (subsidiary of Pacific Lighting Corporation) and marketed by Sunkist Growers, figs through Sunland Marketing, Inc. ("Sun-

sweet" and "SunMaid"), walnuts through Diamond Walnut Growers Association, pistachios through either California Almond Orchards or W. D. Fowler and Sons Corporation (a subsidiary of Pacific Lighting Corporation).

Water will be provided to 73% of the Partnership's land by Federal and State of California Water Projects including the California Water Project and the U.S. Bureau of Reclamation's Central Valley Project.

Farm manager is not presently a party to a collective bargaining agreement with any labor union.

"Farm Manager, both as a direct farm operator and as a lessor to other farm operators, may from time to time be in competition with the Company as to one or more crops. However, the Farm Manager has agreed that during the initial four years of the Company's operation it will not plant or permit new lessees to plant new trees and wine crops in competition with the Company."—Prospectus, May 22, 1972.

APPENDIX B. A $100,000,000 WHO'S WHO OF SYNDICATED FARMING

1. *Amfac Cattle Company*—A subsidiary of Amfac, and agent was marketing agent for Amfac Cattle Programs. Was formed out of an acquisition of Wilhelm Foods. Pens in Fort Collins and Rocky Ford, Colorado. Pen capacity is 65,000 head.

2. *Amfac Cattle Programs*—A $20,000,000 limited partnership engaged in the cattle feeding business for a limited period of time.

3. *Amfac, Inc.*—A diversified merchandising (Western Drug Supply), asset management (86,000 acres owned and 94,000 acres leased principally in Hawaii, credit, mortgage banking, and financial corporations), hospitality (hotels, restaurants—"Fred Harvey," and resorts), and food processing (Lamb-Weston, Inc., Wilhelm Foods, Pacific Pearl Seafoods, Inc., five sugar companies—largest producer of raw cane sugar in Hawaii, fresh and frozen beef operations in Australia) corporation.

4. *Ankony Angus Corporation*—A breeder, buyer and seller of registered black Angus cattle which maintains the herd for Equity Funding Cattle Management Company.

5. *Ankony Cattle Systems—1971*—A $5,000,000 limited partnership formed to engage in the breeding and sale of seed-stock beef cattle and the feeding of commercial cattle for slaughter.

6. *Antaeus Annual Preference Program/1971*—A $2,500,000 limited partnership formed to participate in joint ventures engaged in the growing of agricultural produce in Mexico for distribution primarily in the United States. Terminated in June, 1972.

7. *Antaeus Development Company, Inc.*—General partner in the 1971 Antaeus Annual Preference Program (subsidiary of Antaeus Resources Corporation).

8. *Antaeus Resources Corporation*—Sponsors natural resources and real estate investment programs with tax shelter characteristics through its subsidiaries.

9. *Apache Corporation*—A diversified company engaged in manufacturing operations, providing investment services with controlling interests in a gas and oil exploration company and general partner of Apache Grove Land Program 1972. The Corporation has 28 operating oil and gas programs, a realty fund, two other grove land programs, and 27 operating subsidiaries including Apache Programs, Inc., a NASD member broker-dealer and S & J Ranch, Inc., a manager of agricultural properties.

10. *Apache Grove Land Program 1972*—A $5,950,000 limited partnership to acquire, own and develop 2178 acres of land in Fresno, Medera and Tulare Counties, California which include oranges, figs, pistachio and olive trees. The objective of the program is to hold part of the land for possible appreciation in value while in the interim attempting to produce income from farming operations.

11. *Bell Cattle Funds*—A $10,000,000 limited partnership formed to engage in cattle feeding in Arizona.

12. *Buttes Gas & Oil Company*—A publicly held corporation engaged principally in the exploration for, and development and production of, oil, gas and other minerals and the development and farming of some 16,000 acres of agricultural properties. Organized the 1971 Treecrop Company. A subsidiary of the Company is White River Farms, producer of 20%–30% of the wine grapes for Guild Winery ("Roma," "Wine Master," "Virginia Dare," "Cresta Blanca") and currently refusing to renegotiate a contract with the United Farm Workers Union (AFL–CIO)

13. *Calafia Groves Company*—An $8,000,000 limited partnership formed to engage in the business of owning and farming of approximately 2814 acres of almond and citrus groves in Kern County, California. Offering was withdrawn in March, 1972.

14. *Calafia Land Corporation*—The general partner of Calafia Groves Company. The Corporation is owned 30.6% by Sunland Development, Inc., 3.8% by its officers and directors, 4.5% by Midland Securities Company, Inc. and 61.1% by approximately 23 other persons. Sunland Development, Inc. is owned 8.6% by Midland Securities Company, Inc. and its affiliates. Midland Securities Company, Inc. is wholly owned by M. J. Coen, Chairman of the Board of Calafia Land Corporation. Midland Securities Company, Inc. owns 51% of First California Company, Inc., (whose president is M. J. Coen).

15. *Cal-Maine Foods*, Inc.—A holding company whose subsidiaries (including several limited partner syndicates) conduct a fully integrated commercial egg business throughout the U.S.

16. *Circle Three Land and Cattle Company*—A $6,000,000 limited partnership for the purpose of engaging in the cattle and ranching business in California, Texas, Mississippi, Oklahoma, Nebraska, Kansas and Iowa.

17. *Equity Funding Cattle Management Company*—The general partner of Ankony Cattle Systems—1971 and a subsidiary of Equity Funding Corporation of America. Samuel B. Lowell, Chairman of the Board of Directors, and Executive President and Director of EFCA, and Stanley Goldblum, a director, and President and Chairman of the Board of EFCA, both recently resigned from EFCA in the wake of a major fraud scandal.

18. *Equity Funding Corporation of America*—Is engaged in the marketing, creation and management of financial services and products. In recent months the company has filed bankruptcy proceedings, two thirds of its insurance written by the firm's key subsidiary were bogus policies that the company sold to reinsureres for cash, the company's stock is no longer being traded, and millions of dollars of the company's assets are missing.

19. *First California Company, Inc.*—A San Francisco, California underwriting firm which handles a variety of agricultural syndicates in California (including Roberts Syndication—1971 and Calafia Groves Company) and has strong business ties with C. Arnholt Smith, Westgate-California and U.S. National Bank.

20. *Great Plain Western Corporation*—The general partner of Circle Three Land and Cattle Company. Corporation does not own or operate any feed yard but places cattle on feed in commercial feedlots entrusting the actual care and feeding to the selected feedlots. The Corporation also manages four other limited partnerships.

21. *Jefferson County Egg Farms, Inc.*—A corporation (subsidiary of Cal-Maine Foods, Inc.) engaged in the production of shell eggs in Jackson, Mississippi, and the general partner of the National Farming Program/1972 limited partnership syndicate.

22. *John Hancock Mutual Life Insurance Company.*—Fifth largest U.S. insurance company with assets of $10.6 billion who provided a $27 million loan to help establish the Tejon Agricultural Partners.

23. *Lava Financial Company.*—A California corporation which is the general partner of Bell Cattle Funds. Certain principal stockholders are also principal stockholders of McElhaney Cattle Company.

24. *Lincoln Industries Corporation.*—Sole limited partner of McFaryland Management Company. Wholly-owned subsidiary of Hornblower & Weeks Hemphill, Noyes.

25. *Maple Leaf Pistachio Ranch.*—A $2,240,000 limited partnership formed in California to engage in the business of raising pistachios and cattle.

26. *McElhaney Cattle Company.*—Maintains, purchases, and feeds cattle for Bell Cattle Funds.

27. *McFarland Land Company.*—Manages and participates in the ownership of 7,926 acres of California wine grape vineyards which are owned by private limited partnerships or other ventures formed privately through offerings to limited groups of investors. Owned by M. B. McFarland, Myron B. McFarland, Jr., and Gerald B. McFarland (general partners).

28. *McFarland Management Company.*—The general partner of Vineyards Ltd. Partnership of Investco Associates Inc. and McFarland Land Company.

29. *Monterey Vineyards*—A $8,300,000 limited partnership formed to acquire up to 4355 acres of land in Monterey County, California for the purpose of planting and harvesting wine grapes. The partnership also has secured loans of $5,774,000 from John Hancock Mutual Life Insurance Co., $3,640,000 from Mutual Benefit Life Insurance Company and an unsecured loan of $1,298,000 from Wells Fargo Bank.

30. *National Farming Program/1972*—A $6,000,000 limited partnership formed by subsidiary of Cal-Maine Foods, Inc. to engage in an agricultural business limited to activities in connection with the production and sale of shell eggs.

31. *Nazko Valley Ranch Company Ltd.*—A Canadian corporation which is managing cattle for Maple Leaf Pistachio Ranch.

32. *Oakville Limited Partnership*—A $1,500,000 limited partnership has exercised an option assigned to the partnership by Oakville Vineyards to purchase certain properties, including certain farm equipment and all of the stock in a corporation owning vineyards, wineries, farming equipment and other miscellaneous property located in Napa Valley, California.

33. *Oakville Vineyards*—the general partner of the Oakville Limited Partnership, whose stock is owned by W. E. van Loben Sels. Vineyards comprised of 260 acres in addition to various farm and wine-making equipment. Eight wines are bottled with the Oakville label.

34. *Rancho De Las Frutas*—A $389,500 limited partnership formed in California to purchase and engage in the business of farming 320 acres of tree fruit and vineyards.

35. *Roberts Farms Inc.*—Wholly owned by Hollis and Manon Roberts and located throughout the southern San Joaquin Valley, California. Controls 130,000 acres making Roberts the valley's largest individual farmer, and one of the nation's top suppliers of fruits and nuts. In 1971 Roberts bought nearly 80,000 acres of prime agricultural land from Tenneco, Inc. for almost $80,000,000. Roberts is a close business associate of C. Arnholt Smith and the U.S. National Bank; manages farms for some 49 different customers, including Roberts Syndication–1971, 1971 Treecrop Company, Jasmine Groves, Rancho Santa Maria, SWESGA Land Corporation, Getty Oil Co., Texaco and PIC Realty (a subsidiary of Prudential Life Insurance Co.).

36. *Roberts Management Corporation*—

General partner for Roberts Syndication–1971. Wholly owned by Roberts Farms Inc.

37. *Roberts Syndication–1971*—A $8,400,000 limited partnership formed to engage in the business of owning and farming approximately 5,829 acres of vineyards and fruit and nut groves located in Fresno, Kern and Tulare Counties, Calif.

38. *S & J Ranch, Inc.*—A subsidiary of the Apache Corporation and farm manager for Apache Grove Land Program 1972. Properties in Tulare, Fresno, and Kings Counties, Calif. Manages two other Apache land programs and farms an additional 707 acres in Madera County for various landowners not affiliated with Apache.

39. *Sierra Pacific Distributors*—The Nogales, Arizona division of DVR Corp. (wholly owned subsidiary of Antaeus) who acted as distributor of produce for the 1971 Antaeus Annual Preference Program.

40. *Sun Fruit, Ltd.*—Farm manager for Wine Lands, Inc. Formerly known as Federal Fruit Distributors and whose farming operations spread throughout California. Stockholders equity is $1,813,244.

41. *Tejon Agricultural Corporation*—A subsidiary of Tejon Ranch Company and the general partner of Tejon Agricultural Partners. One director of the Corporation is James B. Kendrick, Jr., Vice President in charge of Agricultural Sciences, University of California.

42. *Tejon Agricultural Partners*—A $16,000,000 limited partnership formed by the Tejon Ranch Co. (295,000) in California with a $27 million loan from John Hancock Insurance Co. to engage in the business of farming approximately 21,000 acres of land which are to be planted with grape vineyards, nut, citrus and fig groves and vegetable and field crops.

43. *Tejon Ranch Company*—A 295,000 acre ranch in Kern County, California which is publicly held but controlled by the Times-Mirror Corporation and which is leasing the land used by the Tejon Agricultural Partners.

44. *Thirty-Three Twenty Securities*—A division of Cal-Maine Foods, Inc. and distributor of the units offered by National Farming Program/1972.

45. *Times Mirror Corporation*—The west's largest publishing company (*The Los Angeles Times*) owned by the Norman Chandler family and owner of the controlling interest in the Tejon Ranch Co.

46. *Treecrop 1971 Management Corporation*—The general partner of 1971 Treecrop Company and a wholly-owned subsidiary of Buttes Gas and Oil Company.

47. *U.S. National Bank* (San Diego, Calif)—Tenth largest bank in California with assets of over $750 million. President and Chairman of the Board is C. Arnholt Smith, a close personal friend of President Nixon and an important GOP fund raiser. Both the bank and Smith are deeply involved in many of the complicated financing programs of California agricultural and real estate syndicates.

48. *Vineyards Ltd.*—The general partner of Monterey Vineyards.

49. *Vista Ranching,* Inc.—A Merced County, California ranch which is to develop and manage pistachio groves for Maple Leaf Pistachio Ranch.

50. *Wine Lands, Inc.*—The general partner of Rancho De Las Frutas. Newly formed corporation.

51. *1971 Treecrop Company*—A $2,100,000 limited partnership formed to farm approximately 2408 acres of land (purchased on option from Buttes Gas & Oil Co.), substantially all planted with nut, citrus and other fruit trees and grape vineyards, located in Tulare and Kern Counties, California. Company was organized through the efforts of Buttes. Farm Manager is Roberts Farms Inc. Certain crops will be marketed through Tenneco, Inc., Sunkist Growers, Inc. and the California Canners and Growers Assoc.

LEGAL AND CONSTITUTIONAL POSITION RESPECTING BOMBING IN CAMBODIA

Mr. JAVITS. Mr. President, on April 30, 1973, Secretary of State Rogers appeared before the Foreign Relations Committee to testify on the State Department authorization bill. At that time he presented to the committee a memorandum entitled "Presidential Authority To Continue United States Air Combat Operations in Cambodia." This memorandum was submitted in response to a request from Chairman FULBRIGHT some weeks earlier for a statement of the administration position.

In my judgment, the State Department memorandum fails to make its case. When Secretary Rogers again appeared before the Foreign Relations Committee, at the request of myself and other members, on May 10, 1973, I submitted a memorandum which is a reply to the State Department memorandum in some detail. My memorandum is entitled "A Rebuttal to the State Department Legal Memorandum on Authority for the Continued Bombing of Cambodia."

In view of the importance of the issues involved and the many requests received for copies of my memorandum, I ask unanimous consent that the following documents be printed in the RECORD at the conclusion of my remarks: First, the State Department memorandum; second, my memorandum in rebuttal; and third, the full text of the opinion, cited in the State Department memorandum, by Judge Wyzanski for the U.S. Court of Appeals for the District of Columbia in Mitchell against Laird.

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

PRESIDENTIAL AUTHORITY TO CONTINUE U.S. AIR COMBAT OPERATIONS IN CAMBODIA

The purpose of this memorandum is to discuss the President's legal authority to continue United States air combat operations in Cambodia since the conclusion of the Agreement on Ending the War and Restoring Peace in Vietnam on January 27, 1973 and the completion on March 28, 1973 of the withdrawal of United States armed forces from Vietnam and the return of American citizens held prisoner in Indochina. The memorandum also discusses the background of the Agreement of January 27 and the purposes of various United States actions in order to clarify the legal issues.

For many years the United States has pursued a combination of diplomatic and military efforts to bring about a just peace in Vietnam. These efforts were successful in strengthening the self-defense capabilities of the armed forces of the Republic of Vietnam and in bringing about serious negotiations which culminated in the Agreement on Ending the War and Restoring Peace in Vietnam, signed at Paris on January 27, 1973.[1] This Agreement provided for a cease-fire in Vietnam, the return of prisoners, and the withdrawal of United States and allied armed forces from South Vietnam within sixty days. The Agreement (in Article 20)[2] also required the withdrawal of all foreign armed forces from Laos and Cambodia and obligated the parties to refrain from using the territory of Cambodia and Laos to encroach on the sovereignty and security of other countries, to respect the neutrality of Cambodia and Laos, and to avoid any interference in the internal affairs of those two countries. This Article is of central importance as it has long been apparent that the conflicts in Laos and Cambodia are closely related to the conflict in Vietnam and, in fact, are so inter-related as to be considered parts of a single conflict.

At the time the Vietnam Agreement was concluded, the United States made clear to the North Vietnamese that the armed forces of the Khmer Government would suspend all offensive operations and that the United States aircraft supporting them would do likewise. We stated that, if the other side reciprocated, a *de facto* cease-fire would thereby be brought into force in Cambodia. However, we also stated that, if the communist forces carried out attacks, government forces and United States air forces would have to take necessary counter measures and that, in that event, we would continue to carry out air strikes in Cambodia as necessary until such time as a cease-fire could be brought into effect. These statements were based on our conviction that it was essential for Hanoi to understand that continuance of the hostilities in Cambodia and Laos would not be in its interest or in our interest and that compliance with Article 20 of the Agreement would have to be reciprocal.

It has recently been suggested that the withdrawal of all U.S. armed forces from South Vietnam and the return of all U.S. prisoners has created a fundamentally new situation in which new authority must be sought by the President from the Congress to carry out air strikes in Cambodia. The issue more accurately stated is whether the constitutional authority of the President to continue doing in Cambodia what the United States has lawfully been doing there expires with the withdrawal of U.S. armed forces from Vietnam and the return of American prisoners despite the fact that a cease-fire has not been achieved in Cambodia and North Vietnamese troops remain in Cambodia contrary to clear provisions of the Agreement. In other words, the issue is not whether the President may do something new, but rather whether what he has been doing must automatically stop, without regard to the consequences even though the Agreement is not being implemented by the other side.

The purposes of the United States in Southeast Asia have always included seeking a settlement to the Vietnamese war that would permit the people of South Vietnam to exercise their right to self-determination. The President has made this clear on many occasions. For example, on May 8, 1972, when he made the proposals that formed the basis for the ultimately successful negotiations with North Vietnam, he said there were three purposes to our military actions against Vietnam: first, to prevent the forceful imposition of a communist government in South Vietnam; second, to protect our remaining forces in South Vietnam; and third, to obtain the release of our prisoners.[3] The joint communique issued by the President and Mr. Brezhnev in Moscow on May 29, 1972[4] in which the view of the United States was expressed said that negotiations on the basis of the President's May 8 proposals would be the quickest and most effective way to obtain the objectives of bringing the military conflict to an end as soon as possible and ensuring that the political future of South Vietnam should be left for the South Vietnamese people to decide for themselves, free from outside interference. The recent opinion of the United States Court of Appeals for the District of Columbia Circuit in *Mitchell* v. *Laird* makes it clear that the

Footnotes at end of article.

President has the constitutional power to pursue all of these purposes. In the words of Judge Wyzanski the President properly acted "with a profound concern for the durable interests of the nation—its defense, its honor, its morality."

The Agreement signed on January 27, 1973 represented a settlement consistent with these objectives. An important element in that Agreement is Article 20 which recognizes the underlying connections among the hostilities in all the countries of Indochina and required the cessation of foreign armed intervention in Laos and Cambodia. The importance of this article cannot be overestimated, because the continuation of hostilities in Laos and Cambodia and the presence there of North Vietnamese troops threatens the right of self-determination of the South Vietnamese people, which is guaranteed by the Agreement.

The United States is gratified that a cease-fire agreement has been reached in Laos. It must be respected by all the parties and result in the prompt withdrawal of foreign forces. In Cambodia it has not yet been possible to bring about a cease-fire, and North Vietnamese forces have not withdrawn from that country. Under present circumstances, United States air support and material assistance are needed to support the armed forces of the Khmer Republic and thereby to render more likely the early conclusion of a cease-fire and implementation of Article 20 of the Agreement. Thus, U.S. air strikes in Cambodia do not represent a commitment by the United States to the defense of Cambodia as such but instead represent a meaningful interim action to bring about compliance with this critical provision in the Vietnam Agreement.

To stop these air strikes automatically at a fixed date would be as self-defeating as it would have been for the United States to withdraw its armed forces prematurely from South Vietnam while it was still trying to negotiate an agreement with North Vietnam. Had that been done in Vietnam, the Agreement of January 27 would never have been achieved; if it were done in Cambodia, there is no reason to believe that a cease-fire could be brought about in Cambodia or that the withdrawal of North Vietnamese forces from Cambodia could be obtained. It can be seen from this analysis that unilateral cessation of our United States air combat activity in Cambodia without the removal of North Vietnamese forces from that country would undermine the central achievement of the January Agreement as surely as would have a failure by the United States to insist on the inclusion in the Agreement of Article 20 requiring North Vietnamese withdrawal from Laos and Cambodia. The President's powers under Article II of the Constitution are adequate to prevent such a self-defeating result. It is worth noting that in reaching a similar conclusion, the report entitled "Congress and the Termination of the Vietnam War" recently prepared for your Committee by the Foreign Affairs Division of the Congressional Research Service, arrived at the same general conclusion as to the President's Constitutional power.

One must recognize that the scope and application of the President's powers under Article II of the Constitution are rarely free from dispute. Under the Constitution, the war powers are shared between the Executive and Legislative branches of the Government. The Congress is granted the powers "to provide for the common defense", "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water", "to raise and support armies", "to provide and maintain a navy", "to make rules for the government and regulation of the land and naval forces", and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers . . ."[5] On the other hand, the Constitution provides that "the executive power shall be vested in a President," that he "shall be Commander-in-Chief of the army and navy of the United States," and that "he shall take care that the laws be faithfully executed."[6] The President is also given the authority to make treaties with the advice and consent of two thirds of the Senate, to appoint ambassadors with the advice and consent of the Senate, and to receive ambassadors and other public ministers.

The proceedings of the Federal Constitutional Convention in 1787 suggest that the ambiguities of this division of power between the President and the Congress were deliberately left unresolved with the understanding that they were to be defined by practice. There may be those who wish the framers of the Constitution would have been more precise, but it is submitted that there was great wisdom in realizing the impossibility of foreseeing all contingencies and in leaving considerable flexibility for the future play of political forces. The Constitution is a framework for democratic decision and action, not a source of ready-made answers to all questions, and that is one of its great strengths.

There is no question but that Congress should play an important role in decisions involving the use of armed forces abroad. With respect to the continuation of U.S. air combat activity in Cambodia, what is that role? The Congress has cooperated with the President in establishing the policy of firmness coupled with an openness to negotiation which has succeeded in bringing about the Agreement of January 27 and which can succeed in securing its implementation. This cooperation has been shown through consultations and through the authorization and appropriation process. The Congress has consistently rejected proposals by some members to withdraw this congressional participation and authority by cutting off appropriations for necessary military expenditures and foreign assistance. The Congress has also enacted several provisions with specific reference to Cambodia.[7] The President's policy in Cambodia has been and continues to be fully consistent with these provisions.

It was, of course, hoped that the Agreement signed at Paris on January 27 would be strictly implemented according to its terms, including the prompt conclusion of cease-fires in Laos and Cambodia and the withdrawal of foreign troops from those two countries. What has happened instead is that, in Laos, the cease-fire has been followed by continuing communist stalling in forming the new government and, in Cambodia, the communists responded to the efforts of the Khmer Government to bring about a *de facto* cease-fire with a fierce, general offensive. North Vietnamese forces remain in Laos and Cambodia and continue to infiltrate men and war material through these countries to the Republic of Vietnam. North Vietnamese forces in Cambodia continue to participate in and to support Communist offensive operations.

United States air strikes in Laos were an important element in the decision by North Vietnam and its Laotian allies to negotiate a cease-fire in Laos. If United States air strikes were stopped in Cambodia despite the communist offensive, there would be little, if any, incentive for the communists to seek a cease-fire in that country, and the temptation would doubtless be great for North Vietnam to leave its troops and supply lines indefinitely in Laos and Cambodia. Such a situation would be the opposite of that prescribed by Article 20 of the Vietnam Agreement and would so threaten the viability of the settlement in Vietnam and the right to self-determination of the South Vietnamese people as to be totally unacceptable to the Republic of Vietnam and to the United States. In light of these facts, it seems clear that the argument that the Constitution requires immediate cessation of U.S. air strikes in Cambodia because of the Paris Agreement is, in reality, an argument that the Constitution which has permitted the United States to negotiate a peace agreement—a peace that guarantees the right of self-determination to the South Vietnamese people as well as the return of United States prisoners and withdrawal of United States armed forces from Vietnam—is a Constitution that contains an automatic self-destruct mechanism designed to destroy what has been so painfully achieved. We are now in the process of having further discussions with the North Vietnamese with regard to the implementation of the Paris Agreement. We hope these discussions will be successful and will lead to a cease-fire in Cambodia.

FOOTNOTES

[1] LXVIII, *Bulletin*, Department of State, No. 1755 February 12, 1973, p. 169.

[2] "(a) The parties participating in the Paris Conference on Vietnam shall strictly respect the 1954 Geneva Agreements on Cambodia and the 1962 Geneva Agreements on Laos, which recognized the Cambodian and the Lao people's fundamental national rights, i.e., the independence, sovereignty, unity, and territorial integrity of these countries. The parties shall respect the neutrality of Cambodia and Laos.

"The parties participating in the Paris Conference on Vietnam undertake to refrain from using the territory of Cambodia and the territory of Laos to encroach on the sovereignty and security of one another and of other countries.

"(b) Foreign countries shall put an end to all military activities in Cambodia and Laos, totally withdraw from and refrain from reintroducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material.

"(c) The internal affairs of Cambodia and Laos shall be settled by the people of each of these countries without foreign interference.

"(d) The problems existing between the Indochinese countries shall be settled by the Indochinese parties on the basis of respect for each other's independence, sovereignty, and territorial integrity, and non-interference in each other's internal affairs."

[3] *Bulletin*, Department of State, May 29, 1972, p. 747.

[4] *Bulletin*, Department of State, June 26, 1972, p. 899.

[5] U.S. Constitution, Article I, Section 8.

[6] U.S. Constitution, Article II, Sections 1 and 2.

[7] For example, Sec. 7 of the Special Foreign Assistance Act of 1971 (Pub. L. 91–652, Jan. 5, 1971, 84 Stat. 1942) and Sections 655 and 656 of the Foreign Assistance Act of 1961, as amended (added by Section 304 (b) of Pub. L. 92–226, Feb. 7, 1972, 86 Stat. 29).

A Rebuttal to the State Department Legal Memorandum on Authority for the Continued Bombing of Cambodia

(By Senator Jacob K. Javits)

The memorandum titled *Presidential Authority to Continue United States Air Combat Operations in Cambodia*, submitted to the Senate Foreign Relations Committee by Secretary Rogers on April 30, 1973, is an untenable case built on false premises. A refutation in some detail of its major premises and arguments is important for the public record.

I. CONTINUITY OF AUTHORITY

The State Department memorandum (pp. 3–4) poses the fundamental question in this manner: "The issue more accurately stated is whether the constitutional authority of the President to continue doing in Cambodia what the United States has lawfully been

doing there expires with the withdrawal of U.S. armed forces from Vietnam and the return of American prisoners despite the fact that a cease-fire has not been achieved in Cambodia contrary to clear provisions of the Agreement." The memorandum bases its affirmative answer to the constitutional question on these grounds: a) "The President's powers under article II of the Constitution are adequate . . ." (p. 8); b) A recent United States Court of Appeals decision which the memorandum (p. 6) states: "makes it clear that the President has the constitutional power to pursue all of these purposes" (i.e., the purposes of the Vietnam peace agreement of January 27, 1973).

The State Department's constitutional argument cannot, in my judgment, withstand close scrutiny. First, as the question is posed whether the President can *continue* to bomb in Cambodia after the Vietnam peace agreement, we must examine the basis of the authority for bombing in Cambodia *before* the peace agreement.

In announcing on April 30, 1970 his decision to initiate U.S. combat actions in Cambodia, President Nixon stated:

". . . I have concluded that the actions of the enemy in the last 10 days clearly endanger the lives of Americans who are in Vietnam now and would constitute an unacceptable risk to those who will be there after withdrawal of another 150,000.

"To protect our men who are in Vietnam and to guarantee the continued success of our withdrawal and Vietnamization programs, I have concluded that the time has come for action."

In his Interim Report to the nation of June 3, 1970 concerning U.S. military operations in Cambodia, President Nixon stated:

". . . The only remaining American activity in Cambodia after July 1 [1970] will be air missions to interdict the movement of enemy troops and material where I find that is necessary to protect the lives and security of our men in South Vietnam."

In a television interview on May 3, 1970 Secretary of State Rogers was asked to define the President's constitutional authority as Commander-in-Chief with respect to the Cambodian operation.

"Q. Mr. Secretary . . . do you believe that the President . . . has the constitutional authority to move American ground forces into another country, although part of a Vietnam operation . . .?"

"A. Well, I have no doubt at all that the President has the constitutional authority to take this action as Commander-in-Chief of the Armed Forces. He has the constitutional authority to do it to protect the lives of Americans."

The President had no statutory authority from the Congress to initiate air bombardment or any other combat activities. He based his decision on his claimed authority as Commander-in-Chief "to protect the lives and security of our men in South Vietnam." The basis of the President's own claim of authority to bomb in Cambodia thus has been eliminated by the completion of the withdrawal of U.S. forces from Vietnam and the return of U.S. prisoners, pursuant to the Vietnam peace agreement.

Next let us examine the contention that "the President has the constitutional power to pursue all of these purposes" of the Vietnam peace agreement, which is based on the *dicta* of a lower court judge.

It is an elementary principle of law that a "purpose" may be legal and constitutional but that the *methods* employed to pursue the "purpose" may be illegal and unconstitutional. The methods must independently meet the criteria of legality and constitutionality. Methods do not acquire legality or constitutionality from the "purpose" in which they are employed.

There are two additional important constitutional points in this regard. First, it is an established principle of constitutional practice under our system of checks and balances that no one branch of the federal government may push the exercise of its constitutional authority to the limit where it effectively preempts and prevents another branch of the government from exercising its constitutional powers and prerogatives. Accordingly, the President cannot push the exercise of his powers as Commander-in-Chief and Chief Executive to the point where the Congress is preempted and prevented from exercising its war powers under Article I, section 8 of the Constitution.

Second, as the State Department bases much of its claim of legal and constitutional authority on the terms of the Vietnam peace agreement, it is essential to point out that under constitutional law the President cannot acquire constitutional or legal authority on the basis of a unilateral action of his own. The "Agreement on Ending the War and Restoring Peace in Vietnam" is an executive agreement and, as such, it is for constitutional purposes strictly a unilateral action of the President. As an executive agreement, the Vietnam peace agreement short circuits the constitutionally prescribed treaty process which requires the advice and consent of the Senate in order for it to acquire status as the "law of the land."

II. AGREEMENT ON ENDING THE WAR AND RESTORING PEACE IN VIETNAM

In addition to the fallacious constitutional arguments put forth, the State Department memorandum lays great stress on the terms of the Vietnam peace agreement as justification for the continued bombing of Cambodia. However, the memorandum's arguments with respect to the peace agreement itself are equally specious.

In particular, the memorandum bases its case on Article 20 of the agreement, stating on p. 2: "The Article is of central importance as it has long been apparent that the conflicts in Laos and Cambodia are closely related to the conflict in Vietnam and, in fact, are so inter-related as to be considered parts of a single conflict." It is further stated on p. 6: "The importance of this article cannot be overestimated, because the continuation of hostilities in Laos and Cambodia and the presence there of North Vietnamese troops threaten the right of self-determination of the South Vietnamese people, which is guaranteed by the Agreement."

Article 20 consists of four short clauses as follows:

"Article 20

"(a) The parties participating in the Paris Conference on Vietnam shall strictly respect the 1954 Geneva Agreements on Cambodia and the 1962 Geneva Agreements on Laos, which recognized the Cambodian and the Lao peoples' fundamental national rights, i.e., the independence, sovereignty, unity, and territorial integrity of these countries. The parties shall respect the neutrality of Cambodia and Laos.

"The parties participating in the Paris Conference on Vietnam undertake to refrain from using the territory of Cambodia and the territory of Laos to encroach on the sovereignty and security of one another and of other countries.

"(b) Foreign countries shall put an end to all military activities in Cambodia and Laos, totally withdraw from and refrain from reintroducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material.

"(c) The internal affairs of Cambodia and Laos shall be settled by the people of each of these countries without foreign interference.

"(d) The problems existing between the Indochinese countries shall be settled by the Indochinese parties on the basis of respect for each other's independence, sovereignty, and territorial integrity, and non-interference in each other's internal affairs."

Let us now examine whether there is anything in Article 20 which gives the President legal authority to continue the heavy air bombardment of Cambodia. In doing so, we set aside the larger question of whether the President can acquire any legal authority on the basis of a unilaterally executed "executive agreement."

In examining Article 20, the first thing to be noted is that it applies to the parties "participating in the Paris Conference on Vietnam." This is important because neither the Lon Nol Government, nor any of the Cambodian opposition factions are parties to the Agreement or Article 20. According to the Administration's own testimony, all but a very minor proportion of the continuing fighting in Cambodia is between the forces of Lon Nol and the opposing, indigenous Khmer opposition. The American Embassy in Phnom Penh recently stated that there was no evidence that any North Vietnamese forces were involved in the fighting *per se*.

Second, it must be noted that there is no mention anywhere in Article 20 of a cease-fire in Cambodia. Moreover, the obligation of "foreign countries" (i.e., the U.S. and North Vietnam) to "put an end to all military activities in Cambodia and Laos, totally withdraw from and refrain from reintroducing into these two countries troops, military advisers and military personnel, armaments, munitions and war material" is *not conditioned on a cease-fire*. Accordingly, the absence of a cease-fire in Cambodia among the contending Cambodian factions cannot be cited as an authority under Article 20 for continued U.S. combat involvement there. If the U.S. were to cite the continuing presence of North Vietnamese forces in Cambodia as a violation of Article 20, it could not cite the absence of a cease-fire as the basis of such a violation, and logic would indicate that the North Vietnamese could equally cite the massive continuing U.S. military bombing in Cambodia as the justification for the continuing presence of its forces there.

At this point it is pertinent to cite the statements of Dr. Henry Kissinger, in explaining the Vietnam peace agreement on January 24, 1973 that: "There are no secret understandings" and that: "The formal obligations of the parties have all been revealed, and there are no secret formal obligations."

The State Department memorandum stresses the importance of Article 20 ("cannot be overestimated") primarily in relation to "The right of self-determination of the South Vietnamese people, which is guaranteed by the Agreement."

Administration witnesses have testified that the U.S. resumed bombing in Cambodia at the request of the Lon Nol Government pursuant to a scenario described in the State Department memorandum as follows: ". . . in Cambodia, the communists responded to the efforts of the Khmer Government to bring about a *de facto* cease-fire with a fierce, general offensive." The implication might be drawn that the forces described herein as "communist" were North Vietnamese, if we had not independently been informed that this is not the case.

(It is interesting to note that in his testimony before the Senate Foreign Relations Committee on February 21, 1973 Secretary Rogers described the situation in quite different language: "However, it must be noted that President Lon Nol's declaration of a unilateral end to offensive operations on January 28 has unfortunately been met by an increase in Khmer insurgent hostilities.")

At issue is the question of legal and constitutional authority and not a question of the correctness of policy. Although it bases its case heavily upon it, the State Department memorandum fails to prove—indeed, it scarcely discusses—the condition essential to its contention: that is, that the continued presence of enough North Vietnamese support

troops in Cambodia to require or justify continued bombing because that continued presence threatens the right of self-determination in South Vietnam. Such a contention might be difficult to prove in light of Dr. Kissinger's explanation that the peace agreement countenances the continued presence within South Vietnam itself of approximately 145,000 North Vietnamese troops.

The memorandum does not argue that the outcome of the present fighting between the contending Cambodian factions, in what Dr. Kissinger has described as a "civil conflict," is crucially related to the South Vietnamese "right of self-determination" which is "guaranteed" under the Agreement.

Pertinent to this last point are the remarks of Secretary Rogers on June 7, 1970 on "Face the Nation":

Mr. KALB. Mr. Secretary, the President has established as a matter of principle, by his action against the sanctuaries, that he finds unacceptable and intolerable Communist control of the border areas. Does it then not follow that he would find equally "intolerable" communist control of all of Cambodia?

Secretary ROGERS. No, I don't think so. I mean, the reason he found intolerable the sanctuaries is because they were using those sanctuaries to fire on American forces. Now, that is not true if they moved to the west in Cambodia.

Mr. KALB. But if they control the entire country, they would have a larger reserve from which to fire upon American forces.

Secretary ROGERS. Well, they still wouldn't control the sanctuary areas.

Mr. KALB. What I'm trying to get at, sir, is——

Secretary ROGERS. Well, there is no doubt, Mr. Kalb, that obviously if the government of Cambodia came into Communist hands, it would be an unfavorable development. We would hope that that doesn't happen.

Mr. HERMAN. Would it be "unacceptable"?

Secretary ROGERS. No, not unacceptable in the sense that we would use American forces to support the government. Now, that is a decision that the President made when he entered into Cambodia. And there has never been any deviation from that.

* * * * *

Mr. BAILEY. Are you saying, sir, that we don't want the government of Cambodia to fall into Communist hands, we would regard it as an unfortunate development, but that we are not prepared to use American troops to prevent that happening?

Secretary ROGERS. Correct.

In summary, the State Department memorandum fails to establish that a cease-fire in Cambodia is required under Article 20 of the Agreement.

It fails to establish North Vietnamese or Vietcong substantial responsibility for the continued fighting in Cambodia, and none of the contending Cambodian factions is a party to the Agreement.

It fails to establish that the defeat of the Lon Nol forces would per se threaten the right of South Vietnamese self-determination.

It fails to establish that the Vietnam peace agreement does, or can, give the President the legal or constitutional authority to "guarantee" the right of South Vietnamese self-determination through the instrumentality of the continued aerial bombardment of Cambodia.

It fails to establish its contention that the claimed authority to bomb in Cambodia before the Vietnam peace agreement and subsequent U.S. withdrawal and prisoner return, on the basis of the Commander-in-Chief's power "to protect American forces in Vietnam," has not lapsed with the withdrawal of U.S. forces from Vietnam.

It fails to establish that the President has the constitutional authority to bomb Cambodia.

No. 71-1510—THE HONORABLE PARREN J. MITCHELL, ET AL., APPELLANTS v. MELVIN R. LAIRD, ET AL

(Appeal from the United States District Court for the District of Columbia; decided March 20, 1973)

Lawrence R. Velvel, with whom *Stefan Tucker* and *Christopher Sanger* were on the brief, for appellants.

Gregory Brady, Assistant United States Attorney, with whom *Harold H. Titus, Jr.*, United States Attorney, *John A. Terry, Michael A. Katz*, Assistant United States Attorneys and *Hermine Herta Meyer*, Attorney, Department of Justice were on the brief for appellees, *Thomas A. Flannery* United States Attorney at the time the record was filed and *Walter H. Fleisher*, Attorney, Department of Justice, also entered appearances for appellees.

Before BAZELON, Chief Judge, and TAMM, *Circuit Judge* and CHARLES E. WYZANSKI, JR.,[1] *Senior United States District Judge for the District of Massachusetts.*

Opinion for the Court filed by *Senior District Judge* WYZANSKI.

WYZANSKI, *Senior District Judge:* April 7, 1971 thirteen members of the United States House of Representatives, as plaintiffs, filed in the District Court, a complaint against the President of the United States, the Secretaries of State, Defense, Army, Navy, and Air Force, and the United States of America. Plaintiffs alleged that for seven years the United States, by the named individual defendants and their predecessors, has been engaged in a war in Indo-China without obtaining "either a declaration of war or an explicit, intentional and discrete authorization of war" and thereby "unlawfully impair and defeat plaintiffs' Constitutional right, as members of the Congress of the United States, to decide whether the United States should fight a war." Plaintiffs prayed for, first, an order that defendants be enjoined from prosecuting the war in Indo-China unless, within 60 days from the date of such order, the Congress shall have explicitly, intentionally and discretely authorized a continuation of the war, and second, "a declaratory judgment that defendants are carrying on a war in violation of Article I, Section 8, Clause 11 of the United States Constitution."

The District Court dismissed the action as to the President, on the authority of *Mississippi v. Johnson*, 71 U.S. (4 Wall.) 475 (1866), and as to the other defendants, on the authority of *Luftig v. McNamara*, 126 U.S. App. D.C. 4, 373 F.2d 664 (1967), cert. denied 387 U.S. 945 (1967).

By somewhat different paths, the three judges who have heard this appeal from the District Court's judgment of dismissal have concluded unanimously that said appeal should be dismissed.

The first issue presented is whether the case is now moot. Recently, the President has purported formally to end hostilities in Vietnam and Laos. There has been no similar action with respect to Cambodia, another part of Indo-China. The continuation of hostilities there precludes our holding that this case is moot. Furthermore, a declaratory judgment respecting past action might have legal import, inasmuch as, though this point is not specifically pleaded, plaintiffs have a duty under the Constitution to consider whether defendants in continuing the hostilities did commit high crimes and misdemeanors so as to justify an impeachment of the individual defendants, pursuant to United States Constitution, Article I, Section 2, Clause 5.

The second issue is whether the dismissal of the action against the United States was correct for a reason not given by the District Court. We are unanimously of the view that as to the government the dismissal was correct because the sovereign has not consented to be sued.

The third issue is whether the dismissal of the action as to the remaining defendants was proper for another reason not given by the District Court: to wit, that plaintiffs have no standing to sue. None of the judges who heard this appeal is persuaded that plaintiffs are sound in their explicit reliance upon defendants' alleged duty not to interfere with what the complaint alleges is "plaintiffs' Constitutional right, as members of the Congress of the United States, to decide whether the United States should fight a war."

Implicit in plaintiffs' contention is their assumption that the Constitution gives to the Congress the *exclusive* right to decide whether the United States should fight *all* types of war. Without at this point exhaustively considering all possibilities we are unanimously of the opinion that there are some types of war which, without Congressional approval, the President may begin to wage; for example, he may respond immediately without such approval to a belligerent attack, or in a grave emergency he may, without Congressional approval, take the initiative to wage war. Otherwise the country would be paralyzed. Before Congress could act the nation might be defeated or at least crippled. In such unusual situations necessity confers the requisite authority upon the President. Any other construction of the Constitution would make it self-destructive.

However, plaintiffs are not limited by their own concepts of their standing to sue. We perceive that in respects which they have not alleged they may be entitled to complain. If we, for the moment, assume that defendants' actions in continuing the hostilities in Indo-China were or are beyond the authority conferred upon them by the Constitution, a declaration to that effect would bear upon the duties of plaintiffs to consider whether to impeach defendants, and upon plaintiffs' quite distinct and different duties to make appropriations to support the hostilities, or to take other legislative actions related to such hostilities, such as raising an army or enacting other civil or criminal legislation. In our view, these considerations are sufficient to give plaintiffs a standing to make their complaint. Cf. *Flast v. Cohen*, 392 U.S. 83 (1968); *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150 (1970); *Barlow v. Collins*, 397 U.S. 159 (1970)

The fourth issue is whether plaintiffs seek adjudication of a "political question" beyond the jurisdiction conferred upon the courts by Article III of the Constitution. Despite *Luftig* v. *McNamara, supra*, which admittedly indicates that it is beyond judicial competence to determine the allocation, between the executive and the legislative branches, of the powers to wage war, we are now persuaded that there may be, in some cases, such competence. *Massachusetts* v. *Laird*, 451 F. 2d 26 (1st Cir. 1971), aff'ng s.c. 327 F. Supp. 378 (D. Mass. 1971); *Orlando* v. *Laird*, 443 F. 2d 1039 (2nd Cir. 1971). Cf. *Powell* v. *McCormack*, 395 U.S. 486 (1969).

Here the critical question to be initially decided is whether the hostilities in Indo-China constitute in the Constitutional sense a "war," both within and beyond the meaning of that term in Article I, Section 8, Clause 11. That the hostilities have been not merely of magnitude but also of long duration is plainly alleged in paragraph 4 of the complaint. It is there said that "For at least the last seven years . . . the United States . . . has been engaged in Indo-China in the prosecution of the longest and one of the most costly wars in American history. As of the present, one million human beings, including over 50,000 Americans have been killed in the war, and at least one hundred billion dollars has been

[1] Sitting by designation pursuant to Title 28, U.S.C. § 294(d).

spent by the United States in and for the prosecution of the war." There would be no insuperable difficulty in a court determining whether such allegations are substantially true. If they are, then in our opinion, as apparently in the opinion of President Nixon, as revealed by his use of the word "war" in his second Inaugural Address, delivered January 20, 1973, there has been a war in Indo-China. Nor do we see any difficulty in a court facing up to the question as to whether because of the war's duration and magnitude the President is or was without power to continue the war without Congressional approval.

But the aforesaid question invites inquiry as to whether Congress has given, in a constitutionally satisfactory form, the approval requisite for a war of considerable duration and magnitude. Originally Congress gave what may be argued to have been its approval by the passage of the Gulf of Tonkin Resolution, 78 Stat. 384 (1964). See *Orlando v. Laird, supra.* However, that resolution cannot serve as justification for the *indefinite* continuance of the war since it was repealed by subsequent Congressional action, 84 Stat. 2055 (1971). Apparently recognizing that point, the Government contends that Congressional approval has been given by appropriation acts, by extension of the Selective Service and Training Act, and by other measures.

We are unanimously agreed that it is constitutionally permissible for Congress to use another means than a formal declaration of war to give its approval to a war such as is involved in the protracted and substantial hostilities in Indo-China. See *Massachusetts v. Laird* and *Orlando v. Laird,* both *supra.* Any attempt to require a declaration of war as the only permissible form of assent might involve unforseeable domestic and international consequences, without any obvious compensating advantages other than a formal declaration of war does have special solemnity and does present to the legislature an unambiguous choice. While those advantages are not negligible, we deem it a political question, or, to phrase it more accurately, a discretionary matter for Congress to decide in which form, if any, it will give its consent to the continuation of a war already begun by a President acting alone. See *Massachusetts v. Laird, supra, s.c.,* 327 F. Supp. 378 (D. Mass. 1971): *Orlando v. Laird, supra; Berk v. Laird,* 317 F. Supp. 715 (E.D.N.Y. 1970). That is, we regard the Constitution as contemplating various forms of Congressional assent, and we do not find any authority in the courts to require Congress to employ one rather than another form, if the form chosen by Congress be in itself constitutionality permissible. That conclusion, however, leaves unanswered the further question whether the particular forms which the Government counsel at our bar refer to as having been used by Congress in the Indo-China war are themselves of that character which makes them *in toto,* if not separately, a constitutionally permissible form of assent.

The overwhelming weight of authority, including some earlier opinions by the present writer, holds that the appropriation, draft extension, and cognate laws enacted with direct or indirect reference to the Indo-China war (and which have been acutely and comprehensively analyzed by Judge Judd in *Berk v. Laird, supra*) did constitute a constitutionally permissible form of assent. *Massachusetts v. Laird, Orlando v. Laird, Berk v. Laird,* all *supra,* and *United States v. Sisson,* 295 F. Supp. 511 (D. Mass. 1968). Judge Tamm is content to adhere to that line of authority.

But Chief Judge Bazelon and I now regard that body of authority as unsound. It is, of course, elementary that in many areas of the law appropriations by Congress have been construed by the courts as involving Congressional assent to, or ratification of, prior or continuing executive action originally undertaken without Congressional legislative approval. Without a pause to cite or to examine in detail the vast body of cases involving such construction, it is more relevant to emphasize the special problem which is presented when one seeks to spell out from military appropriation acts, extensions of selective service laws, and cognate legislation the purported Congressional approval or ratification of a war already being waged at the direction of the President alone. This court cannot be unmindful of what every schoolboy knows: that in voting to appropriate money or to draft men a Congressman is not necessarily approving of the continuation of a war no matter how specifically the appropriation or draft act refers to that war. A Congressman wholly opposed to the war's commencement and continuation might vote for the military appropriations and for the draft measures because he was unwilling to abandon without support men already fighting. An honorable recent, compassionate act of aiding those already in peril is no proof of consent to the actions that placed and continued them in that dangerous posture. We should not construe votes cast in pity and piety as though they were votes freely given to express consent. Hence Chief Judge Bazelon and I believe that none of the legislation drawn to the court's attention may serve as a valid assent to the Vietnam war.

Yet it does not follow that plaintiffs are entitled to prevail. When on January 20, 1969 President Nixon took office, and when on the same or even later dates the other individual defendants took their present offices, they were faced with a belligerent situation not of their creation. Obviously, the President could not properly execute the duties of his office or his responsibility as Commander-in-Chief by ordering hostilities to cease on the very day he took office. Even if his predecessors had exceeded their constitutional authority, President Nixon's duty did not go beyond trying, in good faith and to the best of his ability, to bring the war to an end as promptly as was consistent with the safety of those fighting and with a profound concern for the durable interests of the nation—its defense, its honor, its morality.

Whether President Nixon did so proceed is a question which at this stage in history a court is incompetent to answer. A court cannot procure the relevant evidence: some is in the hands of foreign governments, some is privileged. Even if the necessary facts were to be laid before it, a court would not substitute its judgment for that of the President, who has an unusually wide measure of discretion in this area, and who should not be judicially condemned except in a case of clear abuse amounting to bad faith. Otherwise a court would be ignoring the delicacies of diplomatic negotiation, the inevitable bargaining for the best solution of an international conflict, and the scope which in foreign affairs must be allowed to the President if this country is to play a responsible role in the council of the nations.

In short, we are faced with what has traditionally been called a "political question" which is beyond the judicial power conferred by Article III of the United States Constitution. And on that ground the complaint was properly dismissed by the District Court.

Appeal dismissed.

DEFENSE FIRMS AND EXCESSIVE PROFITS

Mr. PROXMIRE. Mr. President, I am today releasing the names of more than 100 defense firms against whom excessive profits determination were made by the Renegotiation Board for fiscal year 1972, together with the amounts firms were required to refund to the Government.

I am also making available to the public additional information showing the profits earned by these same Government contractors after the amounts considered excessive were refunded.

After deducting "excessive" amounts, defense profits, according to information supplied by the Renegotiation Board, range from modest to outrageously high. In one case a defense contractor was allowed to retain profits of nearly 2,000 percent as a return on net worth, computed after deducting the amount considered excess.

The firms determined to have made the highest excessive profits were engaged mostly in the production of bombs, fuses, ammunition, and miscellaneous ordnance.

The largest refund was obtained from National Union Electric Corp. which was directed to give back $8,900,000. Other large refunds were obtained from Norris Industries, Inc., $2,000,000; Kilgore Corp., $1,700,000; and Wells Marine Inc., $1,-700,000.

Most disturbing are the exorbitant rates of return earned by the firms on this list even after they were forced to make sizable refunds, and the fact that some firms were found to have taken excessive profits several years in a row.

The Pentagon is, in effect, condoning excessive profits by continuing to award contracts to firms against whom excessive profits determinations are made year after year.

National Union Electric Corp. made excessive profits on defense contracts in 1967, 1968, and 1969. Yet, after subtracting the amounts determined to be excess, this firm's profits amounted to 74 percent, 72 percent, and 91 percent as a return on net worth, for each of those years.

Similarly, Norris Industries' after-refund profits was a 71-percent return on net worth, and Wells Marine made a whopping 206 percent.

Of the 131 firms named, the after refund profits of 94 exceeded 50 percent of net worth, 49 made over 100 percent, 22 made over 200 percent, and 4 defense contractors made over 500-percent profit on net worth. Only four contractors on the list made returns on net worth below 25 percent.

The firm with the highest return on net worth was Eisen Brothers, Inc., a manufacturer of ammunition parts. This contractor's profit, after refunding $150,000 determined to be excessive, was 1,902.7 percent of net worth.

Whitaker Corp. made 579 percent on net worth; Major Coat Co., Inc., made 589 percent; and M. Sloane Manufacturing Co., made 872 percent.

Most of the companies on the list are small and medium sized, with the exception of a few giants such as Teledyne and Norris Industries—both of whom are among the Pentagon's 100 largest contractors—and Trans World Airlines.

The absence of many large firms from the list may be explained by two factors. First, excessive profits are determined on the basis of a contractor's entire defense business for each year, rather than for individual contracts. A company's en-

tire annual defense business is averaged and considered as a whole so that losses or low profits on some contracts offset high profits on others.

Defense contractors are also permitted to consolidate the defense business of two or more subsidiaries or divisions of a parent firm. These rules give a tremendous advantage to large conglomerate corporations who can average the profits of many contracts and offset low returns from one type of defense business against high profits on another type of defense business.

One result of this policy is to give conglomerates an incentive to "buy in" to defense business and an unfair business advantage over others. A giant firm that knows it can make up for losses on one contract with higher profits on another, can afford to underbid the smaller companies and drive them from the field.

Another major problem with the way excessive profits are measured is the Renegotiation Board's use of return on sales. Most experts agree that return on capital employed or net worth is the preferred method of measuring profitability.

The Pentagon and defense contractors like to use the sales measure because typically it suggests low or moderate profits when the return on investment may be shockingly high. Computing profits as a percentage of sales is often meaningless and misleading.

Some experts prefer the return on capital employed measure rather than return on net worth. "Capital employed" is defined more broadly than "net worth" which includes borrowings. Use of this measure usually results in rates of return that are lower than would result from use of net worth.

Nevertheless, returns on capital of the firms on the Renegotiation Board's list are generally far higher than is reasonable, in my judgment.

Teledyne's return on capital, after being required to refund $700,000 in excessive profits, was 79.8 percent. Teledyne's return on net worth, after the refund, was 217 percent. Of the 131 firms on the list, 64 were allowed to retain profits based on capital of 35 percent or more, 32 firms retained profits of more than 50 percent, and 9 firms made more than 75 percent.

Federal statistics show that average profits on stockholders' equity—a measure that closely approximates net worth—for all manufacturing firms ranges from 18 to 20 percent annually.

I want to emphasize that not all defense firms make the high and excessive profits reflected by the contractors I have referred to. We do not know the profits of most contractors because the Pentagon has refused, despite my repeated requests, to collect information about profits as a return on capital and net worth. The Renegotiation Board points out that due to shortcomings in the data the returns it has computed on capital and net worth are not always good indicators of comparative profitability.

But it is clear from the information available that many defense contractors are making excessive profits, as determined by the Renegotiation Board, and that profits are still very high after refunds of excessive amounts are made.

It is also clear that the laws and rules under which the Renegotiation Board operates have been rigged to favor the giant defense contractors, especially the conglomerate corporations. Most of the conglomerates escape renegotiation and excessive profits by averaging the results of all defense contracts and by consolidating the results of subsidiaries and divisions.

I have requested additional information about profits from the Renegotiation Board and hope to make public additional facts in the near future.

With unanimous consent, I am having printed at the close of my remarks a number of tables showing the profit margins I have referred to. Table 1 shows the names of the firms, the amounts of refunds, and the profits as a return on capital and net worth after deducting the excessive profits. Table 2 shows the amounts of renegotiable sales and the dollar amounts of profits retained after deducting the excessive amounts. Table 3 shows the profit rates as a return on sales, and a list of the location by city and State of each of the firms.

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

TABLE 1

Determination No.	Name of contractor	Amount of excessive profits refunded	Profits after refund as percent of— Capital [1]	Net worth [1]
1	The Stalker Corp	$70,000	20.8	38.2
2	Allen Electric & Equipment Co. Sii to Crown Steel Products Co.	175,000	36.0	90.1
3	Rex Precision Products, Inc	50,000	35.0	82.0
4	George D. LaBarre T/A Mohawk Products Co	50,000	[4]	[4]
5	Clevepak Corp	250,000	42.9	99.9
6	Thomaston Special Products, Inc. Sii to Thomaston Special Tool.	200,000	33.2	49.3
7	Bradford Dyeing Association (U.S.A.), Inc	150,000	58.3	226.5
8	Eisen Bros., Inc	150,000	30.4	1,902.7
9	Pascoe Steel Corp	350,000	36.3	100.5
10	Nu-Pak Co	150,000	113.6	434.0
11	Nu-Pak Co	300,000	45.6	115.5
12	Gillmore M. Perry	135,000	[4]	[4]
13	Gillmore M. Perry	145,000	[4]	[4]
14	Gillmore M. Perry	125,000	[4]	[4]
15	United Telecontrol Electronics, Inc	100,000	66.4	108.2
16	Sandnes' Sons, Inc	125,000	68.9	463.9
17	CYJO Dissolution Co	150,000	31.4	62.5
18	Pembroke, Inc	700,000	41.2	109.8
19	Burns Manufacturing Co	100,000	48.2	80.7
20	Dart Industries, Inc. Sii to The West Bend Co	175,000	26.1	47.3
21	Calabrese & Sons	65,000	39.3	76.5
22	Federal Cartridge Corp	350,000	[3]	[3]
23	Guy H. James Industries, Inc	725,000	43.4	126.4
24	Holly Corp	400,000	[4]	[3]
25	Holly Corp	200,000	[3]	[3]
26	Holly Corp	200,000	[3]	[3]
27	Air Industries Corp	550,000	34.2	54.5
28	Far West Industries, Inc	50,000	[2] 200.0	[2] 200.0
29	Penland Container, Inc	125,000	44.3	69.5
30	DeRossi & Son Co	125,000	38.7	49.5
31	Victor Comptometer Corp	200,000	15.6	31.2
32	H. H. Robertson Co	50,000	26.9	46.9
33	Galion Amco, Inc	475,000	40.2	80.5
34	Clymer Machine Co., Inc	40,000	73.2	248.8
35	Electronic Products & Engineering Co., Inc	150,000	58.1	292.1
36	M. L. W. Corp	150,000	33.2	83.5
37	Tan-Tex Industries, Inc	650,000	15.9	44.5
38	Portec, Inc	225,000	33.4	40.7
39	Vega Precision Laboratories	125,000	56.5	107.3
40	Cleveland Steel Products Corp	200,000	29.7	40.2
41	J. Schoeneman, Inc	75,000	28.9	35.4
42	Chapman Machine Co., Inc	75,000	32.6	51.2
43	Lee Realty Corp	70,000	[2] 10.0	[2] 51.2
44	Abbot Machine Co	150,000	81.7	203.6
45	Continental Connector Corp	500,000	25.4	34.3
46	Mosaic Fabrications, Inc	100,000	57.4	137.0
47	Glass Designers, Inc	50,000	56.9	95.1
48	Glass Designers, Inc	$50,000	53.2	73.2
49	Bilt-Rite Box Co., Inc	75,000	39.4	60.1
50	Trans World Airlines, Inc	200,000	[3]	[3]
51	Norris Industries, Inc	2,000,000	33.0	70.8
52	Lake Shore, Inc	75,000	26.8	52.3
53	Texas Aluminum Co., Inc	50,000	20.3	442.2
54	H. Walters & Co., Inc	225,000	53.7	124.0
55	National Union Electric Corp	5,000,000	22.4	74.4
56	Major Coat Co., Inc	750,000	84.6	589.3
57	Graniteville Co	600,000	20.8	32.4
58	Camel Manufacturing Co	600,000	52.0	102.6
59	Tools Products Co., Inc	225,000	31.0	52.4
60	Elliott Bros. Steel Co	50,000	27.1	95.6
61	Valcor Engineering Corp	50,000	25.4	34.9
62	Teledyne Inc., Sii to Sewart Seacraft, Inc	700,000	79.8	217.0
63	John Wood Co	450,000	21.2	40.5
64	Dynasciences Corp	125,000	31.2	255.4
65	Kellwood Co	50,000	38.9	142.3
66	Air Treads of Atlanta, Inc	100,000	72.8	435.4
67	Adrian Wilson Associates	150,000	[3]	[3]
68	Hardie-Tynes Manufacturing Co	300,000	19.1	23.8
69	Putnam-Herzl Finishing Co., Inc	100,000	29.0	96.9
70	Thomaston Special Products, Inc. Sii to Precise Products Industries, Inc.	225,000	55.4	55.4
71	Standard Resources Corp	75,000	56.3	237.9
72	The Tubular Products Co	75,000	35.6	74.7
73	The United Tool & Die Co	100,000	25.9	35.0
74	International Chair Corp	15,000	[3]	[3]
75	Aircraft Service Intl. Janitorial, Inc	40,000	[3]	[3]
76	Aircraft Service Intl. Janitorial, Inc	150,000	[3]	[3]
77	Flight Belt Corp	7,000	[2] 5.2	[2] 7.8
78	Flight Manufacturing Corp	15,000	[2] 4.6	[2] 4.8
79	O'Brien Gear & Machine Co	250,000	48.1	210.2
80	The Stanwick Corp	150,000	[2]	[3]
81	Plaza Mills, Inc	50,000	17.8	55.6
82	Computer Instruments Corp	50,000	37.6	55.1
83	Portec, Inc	550,000	29.8	38.2
84	Michaels Stern & Co., Inc	100,000	25.1	63.3
85	So-Sew Styles, Inc	350,000	[2] 121.1	[2] 121.1
86	Centre Manufacturing Co., Inc	375,000	45.4	104.6
87	Aerial Machine & Tool Corp	75,000	23.0	49.3
88	National Union Electric Corp	3,100,000	23.7	72.4
89	Rex Precision Products, Inc	40,000	30.7	74.6
90	Whittaker Corp. Sii to Bermite Powder Co	300,000	53.7	579.7
91	The Stalker Corp	125,000	35.7	54.8
92	Kilgore Corp	950,000	32.7	68.0
93	Kilgore Corp	750,000	26.3	42.7
94	Glenn Manufacturing Co., Inc	900,000	58.7	123.7

Footnotes at end of table.

Determination No.	Name of contractor	Amount of excessive profits refunded	Profits after refund as percent of— Capital [1]	Net worth [1]
95	Ametek, Inc. Sii to Plymouth Industrial Products, Inc.	$600,000	90.9	226.4
96	United Telecontrol Electronics, Inc	125,000	35.5	69.3
97	Model Screw Products, Inc	100,000	50.0	137.3
98	Wells Marine, Inc	1,700,000	52.8	206.1
99	Shinn Engineering, Inc	350,000	33.4	63.2
100	Superior Stell Ball Co	100,000	44.8	120.8
101	Warren Pumps, Inc	200,000	23.2	46.9
102	M. Sloane Manufacturing Co	200,000	20.8	872.2
103	American Technical Industries	175,000	30.5	58.3
104	American Technical Industries Sii to Lem Products Corp.	35,000	57.4	140.0
105	Neapco Products, Inc	175,000	25.7	30.3
106	Carlisle Corp	500,000	37.0	91.0
107	Sterling Electronics Corp. Sii to 872 Rockaway Corp.	40,000	50.4	83.7
108	Milan Box Corp	50,000	23.1	32.9
109	Patty Precision Products Co	40,000	41.1	244.3
110	Sun Garden Packing Co	100,000	22.2	95.3
111	Dale Fashions, Inc	150,000	62.0	[3]
112	American Sportswear Co., Inc	15,000	[3]	[3]
113	National Union Electric Corp	800,000	21.5	91.5
114	The Dyson-Kissner Corp. Sii to Northwest Automatic Products Corp.	275,000	24.5	33.8
115	The Dyson-Kissner Corp. Sii to Northwest Automatic Products Corp.	225,000	20.4	27.6
116	Anixter Bros., Inc. Sii to Anixter-Normandy	250,000	39.1	109.6
117	AWA Corp	150,000	55.0	237.1
118	AWA Corp	500,000	48.5	137.0
119	M.L.W. Corp	375,000	56.3	64.5
120	Abbot Machine Co	275,000	66.5	122.6
121	Lee Realty Corp	125,000	[3]	[3]
122	Landis Clothes, Inc	100,000	46.4	214.6
123	Kreisler Industrial Corp	315,000	45.7	138.4
124	Metro Machine Corp	34,000	44.8	119.2
125	Sterling Commercial Steel Ball Corp	225,000	39.3	58.1
126	The Lawrence Jaros Co., Inc	30,000	[4]	[4]
127	The Lawrence Jaros Co., Inc	30,000	[4]	[4]
128	Oppenheimer Inc	40,000	16.9	22.2
129	Opacalite Inc	40,000	26.5	135.0
130	Rodale Electronics, Inc	100,000	21.6	46.5
131	Macrodyne-Chatillon Corp., Sii to Consolidated Missile Co., Inc.	80,000	[2] 86.4	[2] 163.4
132	Hitco Sii to Hawley Products Co	250,000	42.2	78.1
133	Alaska-Puget-United Transportation Co	75,000	[3]	[3]
134	Clearwater Die & Manufacturing Co., Inc	50,000	40.3	64.0
135	Hutt, Inc	$175,000	166.1	329.1
136	The National Tool & Die Co	135,000	32.6	46.4
137	Pembroke, Inc	425,000	41.3	56.4
138	The Border Machinery Co., Inc	40,000	52.5	105.5
139	Puritan Fashions Corp	175,000	25.5	29.6
140	John Wood Co	150,000	20.5	31.5
141	Dallathe Corp	5,000	[3]	[3]
142	Dallathe Corp	12,000	[3]	[3]
143	Panco Corp. Sii to Beeville Corp	29,000	[3]	[3]
144	Panco Corp. Sii to Beeville Corp	18,000	[3]	[3]
145	Panco Corp. Sii to Corpus Mainbase Corp	12,000	[3]	[3]
146	Panco Corp. Sii to Corpus Mainbase Corp	22,000	[3]	[3]
147	Panco Corp. Sii to Corpus Mainbase Corp	16,000	[3]	[3]
148	Glynco Corp	12,000	[3]	[3]
149	Glynco Corp	10,000	[3]	[3]
150	Panco Corp. Sii to Jaxs Corp	44,000	[3]	[3]
151	Panco Corp. Sii to Jaxs Corp	28,000	[3]	[3]
152	Panco Corp. Sii to Jax Corp	32,000	[3]	[3]
153	Panco Corp. Sii to Key West Corp	30,000	[3]	[3]
154	Panco Corp. Sii to Key West Corp	18,000	[3]	[3]
155	Panco Corp. Sii to Key West Corp	17,000	[3]	[3]
156	Panco Corp. Sii to Kingsville Corp	2,000	[3]	[3]
157	Panco Corp. Sii to Kingsville Corp	12,000	[3]	[3]
158	Panco Corp. Sii to Kingsville Corp	5,000	[3]	[3]
159	Panco Corp. Sii to Medius Corp	12,000	[3]	[3]
160	Panco Corp. Sii to Medius Corp	24,000	[3]	[3]
161	New York Corp	9,000	[3]	[3]
162	New York Corp	11,000	[3]	[3]
163	New York Corp	14,000	[3]	[3]
164	Olathe Corp	6,000	[3]	[3]
165	Olathe Corp	3,000	[3]	[3]
166	Olathe Corp	7,000	[3]	[3]
167	Bahia Dorado Corp	10,000	[3]	[3]
168	Metro Machine Corp	40,000	29.6	49.0
169	Broomfield Corp	550,000	45.7	109.0
170	Stanadyne, Inc	275,000	28.0	36.4
171	Lasko Metal Products, Inc	600,000	28.2	63.7
172	Kaynar Mfg. Co., Inc	75,000	27.0	39.7
173	Cone Mills Corp	325,000	25.4	42.1
174	Jernberg Forgings Co	100,000	32.3	36.9
175	Gibraltar Manufatcuring Co	475,000	48.7	147.4
176	Jonathan Logan, Inc	100,000	25.1	198.7
177	Paramount Warrior, Inc. Sii to Pacific Crane & Rigging Co.	150,000	[3]	[3]
178	E. Walters & Co., Inc	50,000	35.6	79.5

[1] Because of the presence or absence of factors, such as Government short- or long-term capital input, sole source or rated order procurement conditions, critical production or delivery requirements, etc., return rates on beginning capital and beginning net worth allocated to renegotiable business on a cost-of-goods sold basis are not always good indicators of comparative profitability. This is particularly true in case of smaller contractors with large increases in renegotiable business during the review year. Also, it is important to note that the ratios are the results of the Board's determinations and that, because of the small number of cases involved and the great variety in underlying conditions, these ratios are not amenable to statistical interpretation.

[2] Ratios influenced by intercompany relationships.

[3] Not relevant, because of the nature of the contractor's business.

[4] Nominal capital and/or net worth deficit.

APPENDIX TABLE I.—EXCESS PROFITS DETERMINATIONS, FISCAL 1972

[In thousands of dollars]

Determination No.	Contractor's fiscal year	Product or service	SIC No.	Before determination: Renegotiable sales: Prime	Sub-contracts	Total	Renegotiable profits	Profit (before determination) as percent of: Sales	Capital	Net worth	Excessive profits [1]	After determination renegotiable: Sales	Profits
1	1970	Aircraft engine parts	3722	----	1,930	1,930	384	19.9	25.5	46.7	70	1,860	314
2	1965	Miscellaneous machinery	3599	604	1,244	1,848	420	22.7	61.6	154.4	175	1,673	245
3	1968	Castings	3323	----	2,537	2,537	359	14.2	40.7	95.2	50	2,487	309
4	1968	Manuf. representative	5088	----	249	[2] 249	173	[5]	[5]	[5]	50	[2] 199	123
5	1967	Fiber containers	2655	491	5,320	5,811	945	16.3	58.3	135.8	250	5,561	695
6	1968	Fuse parts	1929	3	1,189	1,192	342	28.7	78.9	117.0	200	992	142
7	1967	Dyeing and finishing	2261	----	9,627	9,627	1,176	12.2	66.9	259.6	150	9,477	1,026
8	1968	Ammunition parts	1929	5,997	----	5,997	854	14.2	36.9	2,308.1	150	5,847	704
9	1967	Metal pontoons	3449	13,257	6,514	19,771	2,707	13.7	41.7	115.4	350	19,421	2,357
10	1967	Metal containers	3491	5,350	----	5,350	827	15.5	138.7	531.3	150	5,200	677
11	1967	do	3491	1,926	----	1,926	522	27.1	107.4	272.2	300	1,626	222
12	1965	Manuf. representative	5097	----	279	[2] 279	252	[5]	[5]	[5]	135	[2] 144	117
13	1966	do	5097	----	306	[2] 306	279	[5]	[5]	[5]	145	[2] 161	134
14	1967	do	5097	----	294	[2] 294	245	[5]	[5]	[5]	125	[2] 169	120
15	1968	Electronic equipment	3662	2,101	101	2,202	430	19.5	87.0	141.0	100	2,102	330
16	1967	Rope assemblies	2298	3,799	77	3,876	575	14.8	88.1	592.8	125	3,751	450
17	1967	Machining	3599	----	958	958	294	30.7	64.3	128.0	150	808	144
18	1968	Coats	2311	5,653	----	5,653	1,362	24.1	84.8	225.9	700	4,953	662
19	1968	Wooden boxes	2441	2,189	1,434	3,623	548	15.1	59.0	98.6	100	3,523	448
20	1968	Cartridges	1961	1,297	----	1,297	355	27.4	51.9	94.0	175	1,122	180
21	1967	Machining	3599	997	65	1,062	220	20.7	55.8	108.6	65	997	155
22	1967	Government plant operations	3901	74,410	356	74,766	2,351	3.1	[4]	[4]	350	74,416	2,001
23	1967	Trousers	2327	2,268	1,382	3,650	1,112	30.5	124.6	362.8	725	2,925	387
24	1962	Storage	4226	3,598	----	3,598	1,253	34.8	[4]	[4]	400	3,198	853
25	1963	do	4226	1,453	----	1,453	455	31.3	[4]	[4]	200	1,253	255
26	1964	do	4226	1,419	----	1,419	423	29.8	[4]	[4]	200	1,219	223
27	1967	Fasteners	3452	132	2,652	2,784	828	29.7	102.0	162.6	550	2,234	278
28	1967	Metal finishing	3471	----	111	111	57	51.5	[3] 1,630.0	[3] 1,630.0	50	61	7
29	1967	Fiber containers	2655	1,122	252	1,374	287	20.9	78.4	123.2	125	1,249	162
30	1969	Coats	2311	4,463	284	4,747	677	14.3	47.5	60.7	125	4,622	552
31	1967	Office machines	3579	2,101	32	2,133	459	21.5	27.5	55.7	200	1,933	259
32	1966	Fabricated metal products	3499	970	221	1,191	203	17.0	35.8	62.2	50	1,141	153
33	1968	Ammunition	1961	3,839	389	4,228	1,008	23.9	76.1	152.2	475	3,753	533
34	1968	Machining	3599	1,343	301	1,644	239	14.6	87.9	298.8	40	1,604	199
35	1968	do	3599	----	2,796	2,796	445	15.9	87.6	440.6	150	2,646	295
36	1968	Trousers	2327	----	1,675	1,675	337	20.1	59.9	150.4	150	1,525	187
37	1968	Wholesaler	5033	6,006	13,121	19,127	1,641	8.6	26.4	73.7	650	18,477	991
38	1966	Construction equipment	3531	2,043	125	2,168	500	23.1	60.7	73.9	225	1,943	275

Determination No.	Contractor's fiscal year	Product or service	SIC No.	Before determination: Renegotiable sales: Prime	Before determination: Renegotiable sales: Subcontracts	Before determination: Renegotiable sales: Total	Before determination: Renegotiable profits	Profit (before determination) as percent of: Sales	Profit (before determination) as percent of: Capital	Profit (before determination) as percent of: Net worth	Excessive profits [1]	After determination renegotiable: Sales	After determination renegotiable: Profits
39	1967	Transponders	3662	1,533	970	2,503	464	18.6	77.3	147.0	125	2,378	339
40	1968	Miscellaneous ordnance	1999	2,047		2,047	493	24.1	49.9	67.6	200	1,847	293
41	1967	Coats	2311	1,526		1,526	297	19.5	38.7	47.4	75	1,451	222
42	1969	Machining	3599		2,516	2,516	432	17.2	39.5	62.0	75	2,441	357
43	1968	Miscellaneous machinery	3599		322	322	113	35.1	[3] 26.4	[3] 134.5	70	256	43
44	1967	Machining	3599		2,775	2,775	547	19.7	112.6	280.5	150	2,625	397
45	1968	Electrical connectors	3643	419	3,209	3,628	962	26.5	52.8	71.4	500	3,128	462
46	1966	Glass products	3231	178	1,811	1,989	415	20.9	75.6	180.4	100	1,889	315
47	1966	Glass	3229		246	246	120	48.8	97.6	163.1	50	196	70
48	1966	do	3229		206	206	105	50.9	101.9	140.2	50	156	55
49	1970	Wooden boxes	2441		2,470	2,470	364	14.7	49.6	75.7	75	2,395	289
50	1968	Support services	7399	30,002		30,002	1,219	4.1	[4]	[4]	200	29,802	1,019
51	1967	Bombs	1929	133,315	5,459	138,774	17,700	12.8	37.2	79.8	2,000	136,774	15,700
52	1968	Machinery	3531	1,855	3,556	5,411	750	13.9	29.8	58.1	75	5,336	675
53	1968	Aluminum extrusions	3352		1,925	1,925	333	17.3	23.9	520.3	50	1,875	283
54	1968	Machining	3599	710	1,535	2,245	525	23.4	93.9	216.9	225	2,020	300
55	1967	Fuzes	1929	28,268	4,080	32,348	9,082	28.1	51.2	169.9	5,000	27,348	4,082
56	1968	Coats	2311	2,973	345	3,318	1,080	32.5	276.9	1,928.6	750	2,568	330
57	1966	Broad woven fabric	2231	1,711	4,017	5,728	1,176	20.5	42.4	66.1	600	5,129	576
58	1967	Tents	2394	3,788		3,788	998	26.3	130.5	257.2	600	3,188	398
59	1968	Aluminum castings	3361		1,942	1,942	535	27.5	54.0	90.4	225	1,717	310
60	1968	Steel strapping	3499	2,117		2,117	334	15.8	31.8	112.1	50	2,067	284
61	1969	Valves	3494	221	1,114	1,335	241	18.0	32.0	44.0	50	1,285	191
62	1966	Boats	3732	6,166		6,166	1,722	27.9	134.4	365.6	700	5,466	1,022
63	1967	Bombs	1929	3,889	2,348	6,237	1,140	18.3	34.9	66.9	450	5,787	690
64	1967	Fire control equipment	1941	1,291	920	2,211	360	16.3	47.7	391.3	125	2,086	235
65	1968	Tents	2394		2,986	2,986	504	16.9	43.2	158.0	50	2,936	454
66	1969	Tire retreading	7534	1,437		1,437	309	21.5	107.7	643.8	100	1,337	209
67	1967	Architectural engineering service	8911	3,041	407	3,448	766	22.2	[4]	[4]	150	3,298	616
68	1968	Blowers	3564	1,155	662	1,817	618	34.0	37.1	46.2	300	1,517	318
69	1967	Dyeing and finishing	2262		760	760	190	25.0	60.2	203.6	100	660	90
70	1968	Fuze parts	1929		826	826	297	36.0	228.5	228.5	225	601	72
71	1965	Diodes	3674	239	1,542	1,781	351	19.7	71.6	302.6	75	1,706	276
72	1968	Tube assemblies	3498		1,220	1,220	262	21.5	49.8	105.2	75	1,145	187
73	1968	Miscellaneous machinery	3599		1,945	1,945	393	20.2	34.7	46.9	100	1,845	293
74	1967	Wooden boxes	2441		75	75	21	28.0	[5]	[5]	15	60	6
75	1965	Custodial services	7349		1,213	1,213	100	8.2	[4]	[4]	40	1,173	60
76	1967	do	7349		2,576	2,576	316	12.3	[4]	[4]	150	2,426	166
77	1968	Seat belts	2399		29	29	10	33.7	[3] 17.1	[3] 26.7	7	22	3
78	1968	Machining	3599		53	53	20	37.6	[3] 18.3	[3] 19.5	15	38	5
79	1967	Electronic components	3679	1,745		1,745	374	21.4	145.0	633.9	250	1,495	124
80	1967	Management consulting	7392	9,342	504	9,846	831	8.4	[4]	[4]	150	9,696	681
81	1968	Wholesaler	5033		1,653	1,653	190	11.5	24.2	75.3	50	1,603	140
82	1963	Potentiometers	3611	409	1,215	1,624	311	19.2	44.7	65.6	50	1,574	261
83	1967	Rock crushing equipment	3531	3,717	10	3,727	1,023	27.4	64.5	82.7	550	3,177	473
84	1967	Coats	2311	1,524		1,524	297	19.5	37.9	95.5	100	1,424	197
85	1966	Raincoats	2385		731	731	396	54.2	[3] 1,042.1	[3] 1,042.1	350	381	46
86	1966	do	2385	7,029		7,029	1,006	14.3	72.4	166.8	375	6,654	631
87	1968	Hardware	3429	1,384	346	1,730	292	16.9	31.0	66.4	75	1,655	217
88	1968	Ammunition	1929	30,005	4,220	34,225	7,771	22.7	39.5	120.5	3,100	31,125	4,671
89	1969	Castings	3323		1,994	1,994	307	15.4	35.3	85.8	40	1,954	267
90	1967	Explosives	2892	18,860	1,315	20,175	2,268	11.2	61.9	668.0	300	19,875	1,968
91	1969	Aircraft engine parts	3722		3,296	3,296	643	19.5	44.4	67.9	125	3,171	518
92	1967	Pyrotechnic ammunition	2899	16,257		16,257	2,626	16.2	51.3	106.5	950	15,307	1,676
93	1968	do	2899	13,538		13,538	2,197	16.2	40.0	64.8	750	12,788	1,447
94	1967	Trousers	2327	2,609		2,609	1,119	42.9	300.0	632.2	900	1,709	219
95	1967	Plastic products	3079	3,071	2,601	5,672	1,329	23.4	165.7	412.7	600	5,072	729
96	1969	Radar equipment	3662	3,871	204	4,075	711	17.4	43.0	84.1	125	3,950	586
97	1968	Screw machine products	3451	1,893	163	2,056	354	17.2	70.0	191.4	100	1,956	254
98	1967	Ammunition	1961	5,836		5,836	2,306	39.5	201.0	784.4	1,700	4,136	606
99	1968	Aircraft parts	3729			4,835	1,090	22.5	49.1	93.2	350	4,485	740
100	1967	Ball bearings	3562	2,339	2,493	4,832	692	14.3	52.4	141.2	100	4,732	592
101	1968	Pumps	3561	3,241	3,555	6,796	1,277	18.8	27.5	55.6	200	6,596	1,077
102	1967	Canvas products	2394	1,794	148	1,942	357	18.4	47.2	1,983.3	200	1,742	157
103	1968	Machining	3599	64	4,521	4,587	839	18.3	38.6	73.7	175	4,412	664
104	1968	do	3599		255	255	70	27.6	114.8	280.0	35	220	35
105	1969	Fuses	1929	2,025		2,025	427	21.1	43.6	51.4	175	1,850	252
106	1966	Wire and cable	3357	376	5,133	5,509	1,255	22.8	61.4	151.0	500	5,009	755
107	1968	Electronic systems	3662	1,350		1,350	243	18.0	60.7	100.7	40	1,310	203
108	1970	Wooden boxes	2441		2,743	2,743	247	9.0	29.0	41.3	50	2,693	197
109	1968	Missile parts	3729		809	809	158	19.6	54.9	327.8	40	769	118
110	1968	Canned fruits	2033	4,639		4,639	673	14.5	26.1	112.0	100	4,539	573
111	1968	Coats	2311	2,514	355	2,869	447	15.6	93.3	[5]	150	2,719	297
112	1968	Equipment rental	7394		30	30	26	[4]	[4]	[4]	15	15	11
113	1969	Miscellaneous ordnance	1929	23,745	2,468	26,213	4,598	17.5	26.0	110.6	800	25,413	3,798
114	1966	Screw machine products	3451	465	2,780	3,245	732	22.6	39.3	54.2	275	2,970	457
115	1967	do	3451	225	2,981	3,206	639	19.9	31.5	42.7	225	2,981	414
116	1967	Wholesaler	5063	3,322	4,338	7,660	919	12.0	53.6	150.5	250	7,410	669
117	1966	Electrical equipment	3694	543	3,895	4,438	693	15.6	70.2	302.6	150	4,288	543
118	1967	do	3694	3,544	3,501	7,045	1,303	18.5	78.6	222.4	500	6,545	803
119	1969	Trousers	2327	4,039	664	4,703	738	15.7	114.4	131.1	375	4,328	363
120	1968	Machining	3599		3,888	3,888	859	22.1	97.8	180.5	275	3,613	584
121	1967	Equipment rental	7394		397	397	178	[4]	[4]	[4]	125	272	53
122	1969	Jackets	2328	1,526	168	1,694	291	17.2	70.6	327.0	100	1,594	191
123	1968	Aircraft parts	3729		3,599	3,599	777	21.6	76.8	232.8	315	3,284	462
124	1967	Ship repair	3731	1,034		1,034	208	20.1	53.6	142.2	34	1,000	174
125	1968	Steel balls	3499	2,380	256	2,636	573	21.7	65.0	95.6	225	2,411	348
126	1967	Manufacturers representative	5099		174	[2] 174	81	[5]	[5]	[5]	30	[2] 144	51
127	1968	do	5099		174	[2] 174	73	[5]	[5]	[5]	30	[2] 144	43
128	1968	Lighting fixtures	3642	57	1,990	2,047	286	14.0	19.7	25.9	40	2,007	246
129	1967	do	3642		1,101	1,101	198	18.0	33.2	169.2	40	1,061	158
130	1969	Electronic equipment	3662	3,165	216	3,381	600	17.7	26.0	55.8	100	3,281	500
131	1967	Aircraft parts	3729		867	867	220	25.4	[3] 147.5	[3] 257.0	80	787	140
132	1965	Fiber products	2655	855	1,314	2,169	528	24.4	80.2	148.3	250	1,919	278
133	1965	Water transportation	4422	2,472		2,472	581	23.5	[4]	[4]	75	2,397	506
134	1969	Aircraft parts	3729		1,446	1,446	231	16.0	51.4	81.6	50	1,396	181
135	1967	Testing	7397	1,550		1,550	356	23.0	327.2	644.6	175	1,375	181
136	1967	Aircraft parts	3729		1,331	1,331	331	24.9	55.1	78.4	135	1,196	196
137	1969	Coats	2311	5,447		5,447	1,118	20.5	66.7	91.0	425	5,022	693
138	1970	Repair shop	7699	1,677		1,677	252	15.0	62.4	125.4	40	1,637	212

Footnotes at end of table.

APPENDIX TABLE I.—EXCESSIVE PROFITS DETERMINATIONS, FISCAL 1972—Continued

[In thousands of dollars]

Determination No.	Contractor's fiscal year	Product or service	SIC No.	Before determination: Renegotiable sales: Prime	Sub-contracts	Total	Renegotiable profits	Profit (before determination) as percent of: Sales	Capital	Net worth	Excessive profits[1]	After determination renegotiable: Sales	Profits
139	1966	Trousers	2327	2,221		2,221	425	19.1	43.4	50.3	175	2,046	250
140	1968	Bombs	1929	8,074		8,073	1,065	13.2	23.8	36.6	150	7,923	915
141	1968	Aircraft servicing	4582	122		122	20	16.4	(4)	(4)	5	117	15
142	1969	do	4582	126		126	28	22.2	(4)	(4)	12	114	16
143	1968	do	4582	226		226	56	24.8	(4)	(4)	29	197	27
144	1969	do	4582	236		236	47	19.9	(4)	(4)	18	218	29
145	1968	do	4582	210		210	37	17.6	(4)	(4)	12	198	25
146	1969	do	4582	243		243	51	21.0	(4)	(4)	22	221	29
147	1970	do	4582	236		236	44	18.6	(4)	(4)	16	220	28
148	1968	do	4582	68		68	21	30.2	(4)	(4)	12	56	9
149	1969	do	4582	106		106	23	21.7	(4)	(4)	10	96	13
150	1968	do	4582	257		257	76	29.6	(4)	(4)	44	213	32
151	1969	do	4582	242		242	57	23.6	(4)	(4)	28	214	29
152	1970	do	4582	210		210	57	27.1	(4)	(4)	32	178	25
153	1968	do	4582	209		209	56	26.8	(4)	(4)	30	179	26
154	1969	do	4582	183		183	40	22.1	(4)	(4)	18	165	22
155	1970	do	4582	164		164	38	23.2	(4)	(4)	17	147	21
156	1968	do	4582	258		258	33	13.0	(4)	(4)	2	256	31
157	1969	do	4582	259		259	43	16.6	(4)	(4)	12	247	31
158	1970	do	4582	272		272	38	14.0	(4)	(4)	5	267	33
159	1968	do	4582	179		179	34	19.0	(4)	(4)	12	167	22
160	1969	do	4582	230		230	52	22.6	(4)	(4)	24	206	28
161	1968	do	4582	96		96	20	20.8	(4)	(4)	9	87	11
162	1969	do	4582	103		103	25	24.3	(4)	(4)	11	92	14
163	1970	do	4582	91		91	26	28.6	(4)	(4)	14	77	12
164	1968	do	4582	105		105	19	18.1	(4)	(4)	6	99	13
165	1969	do	4582	102		102	16	15.7	(4)	(4)	3	99	13
166	1970	do	4582	89		89	18	20.2	(4)	(4)	7	82	11
167	1970	do	4582	65		65	17	26.9	(4)	(4)	10	55	7
168	1969	Ship repair	3731	1,734		1,734	261	15.0	34.9	57.9	40	1,694	221
169	1968	do	3731	2,137		2,137	768	36.0	161.0	384.0	550	1,587	218
170	1969	Miscellaneous ordnance	1999	267	14,183	14,450	2,133	14.8	32.1	41.8	275	14,175	1,858
171	1968	Ammunition	1929	11,787	713	12,500	2,169	17.4	39.0	88.0	600	11,900	1,569
172	1968	Fasteners	3452	262	1,134	1,396	296	21.2	36.2	53.1	75	1,321	221
173	1967	Textile products	2231	1,825	3,556	5,381	1,033	19.2	37.1	61.5	325	5,056	708
174	1968	Forgings	3391		3,063	3,063	500	16.3	40.7	46.2	100	2,963	400
175	1968	Tank parts	3714	3,749		3,749	923	24.6	100.3	303.6	475	3,274	448
176	1967	Coats	2311	2,053		2,053	404	19.7	33.3	264.1	100	1,953	304
177	1968	Heavy construction	1621	8,172	234	8,406	1,120	13.3	(4)	(4)	150	8,256	970
178	1969	Fuses	1929	2,119	501	2,620	452	17.2	40.0	89.5	50	2,570	402

[1] Before adjustments for State income taxes.
[2] Commissions and fees.
[3] Ratios influenced by intercompany relationships.
[4] Not relevant, because of the nature of the contractor's business.
[5] Not relevant: Agent.
[6] Nominal capital and/or net worth deficit.

Determination No.	Contractor's fiscal year	SIC No.	Renegotiable cost of goods sold (in percentages): Material and subcontracting	Direct labor	Overhead	Ratio of net worth to longterm debt	Turnover rate (after determination): Capital[1]	Net worth[1]	Profit (after determination) as percent of: Sales[1]	Capital[1]	Net worth[1]
1	1970	3722	23.3	30.0	46.7	9.4	1.2	2.3	16.9	20.8	38.2
2	1965	3599	65.2	12.4	22.4	5.2	2.5	6.2	14.6	36.0	90.1
3	1968	3323	48.3	22.8	28.9	2.9	2.8	6.6	12.4	35.0	82.0
4	1968	5088	(4)	(4)	(4)		(4)	(4)	(4)	(4)	(4)
5	1967	2655	60.0	14.0	26.0	1.4	3.4	8.0	12.5	42.9	99.9
6	1968	1929	34.0	27.5	38.5	27.6	2.3	3.4	14.3	33.2	49.3
7	1967	2261	46.0	30.0	24.0		5.4	20.9	10.8	58.3	226.5
8	1968	1929	69.6	10.0	20.4	0.1	2.5	158.0	12.0	30.4	1,902.7
9	1967	3449	73.7	14.9	11.4	4.2	3.0	8.3	12.1	36.3	100.5
10	1967	3491	67.3	18.5	14.2	1.8	8.7	33.3	13.0	113.6	434.0
11	1967	3491	65.5	21.7	12.8	7.9	3.3	8.5	13.6	45.6	115.5
12	1965	5097	(4)	(4)	(4)		(4)	(4)	(4)	(4)	(4)
13	1966	5097	(4)	(4)	(4)		(4)	(4)	(4)	(4)	(4)
14	1967	5097	(4)	(4)	(4)		(4)	(4)	(4)	(4)	(4)
15	1968	3662	60.1	16.5	23.5	3.4	4.2	6.9	15.7	66.4	108.2
16	1967	2298	75.0	15.0	10.0		5.7	38.7	12.0	68.9	463.9
17	1967	3599	11.4	28.8	59.8	2.3	1.8	3.5	17.8	31.4	62.5
18	1968	2311	56.2	27.0	16.8		3.1	8.2	13.4	41.2	109.8
19	1968	2441	71.9	10.0	18.1	6.5	3.8	6.3	12.7	48.2	80.7
20	1968	1961	57.7	6.5	35.8	4.7	1.6	3.0	16.0	26.1	47.3
21	1967	3599	57.8	19.2	23.0	9.7	2.5	4.9	15.5	39.3	76.5
22	1967	3901	(3)	(3)	(3)		(3)	(3)	2.7	(3)	(3)
23	1967	2327	6.6	55.4	38.0		3.3	9.5	13.2	43.4	126.4
24	1962	4226	(3)	(3)	(3)		(3)	(3)	27.6	(3)	(3)
25	1963	4226	(3)	(3)	(3)		(3)	(3)	20.4	(3)	(3)
26	1964	4226	(3)	(3)	(3)		(3)	(3)	18.3	(3)	(3)
27	1967	3452	34.8	35.5	29.7		2.8	4.4	12.4	34.2	54.5
28	1967	3471	27.9	40.6	31.5		[2]17.0	[2]17.0	12.1	[2]200.0	[2]200.0
29	1996	2655	56.1	20.2	23.7	3.7	3.4	5.4	13.0	44.3	69.5
30	1969	2311	33.9	48.2	17.9		3.2	4.1	11.9	38.7	49.5
31	1967	3579	42.0	16.4	41.6	2.4	1.2	2.3	13.3	15.6	31.2
32	1966	3499	80.1	4.7	15.2	4.0	2.0	3.5	13.4	26.9	46.9
33	1968	1961	41.2	33.1	25.7	3.6	2.8	5.7	14.2	40.2	80.5
34	1968	3599	49.9	20.7	29.4		5.9	20.0	12.5	73.2	248.8
35	1968	3599	54.0	11.8	34.2	0.6	5.2	26.2	11.1	58.1	292.1
36	1968	2327	9.8	67.1	23.1		2.7	6.8	12.3	33.2	835
37	1968	5033	99.2		0.8		3.0	8.3	5.4	15.9	44.5
38	1966	3531	56.7	15.2	28.1		2.4	2.9	14.2	33.4	40.7
39	1967	3662	55.9	22.3	21.8	21.4	4.0	7.5	14.3	56.5	107.3
40	1968	1999	65.4	11.4	23.2		1.9	2.5	15.9	29.7	40.2
41	1967	2311	15.3	59.0	25.7		1.9	2.3	15.3	28.9	35.4
42	1969	3599	61.9	14.7	23.4		2.2	3.5	14.7	32.6	51.2
43	1968	3599	28.9	40.0	31.1	23.2	[2]0.6	[3]3.0	17.0	[2]10.0	[2]51.2
44	1967	3599	5.3	28.1	66.6		5.4	1.5	15.1	81.7	203.6
45	1968	3643	45.2	32.3	22.5	19.4	1.7	2.3	14.8	25.4	34.3
46	1966	3231	25.2	22.4	52.4		3.4	8.2	16.7	57.4	137.9

Determination No.	Contractor's fiscal year	SIC No.	Renegotiable cost of goods sold (in percentages): Material and subcontracting	Direct labor	Overhead	Ratio of net worth to longterm debt	Turnover rate (after determination): Capital [1]	Net worth [1]	Profit (after determination) as percent of: Sales [1]	Capital [1]	Net worth [1]
47	1966	3229	34.1	33.8	32.1		1.6	2.6	35.7	56.9	95.1
48	1966	3229	43.5	30.5	26.0		1.5	2.1	35.2	53.2	73.2
49	1970	2441	71.3	21.3	7.4		3.3	5.0	12.0	39.4	60.1
50	1968	7399	[3]	[3]	[3]	[3]	[3]	[3]	3.4	[3]	[3]
51	1967	1929	42.8	10.5	46.7	9.8	2.9	6.2	11.5	33.0	70.8
52	1968	3531	49.6	23.6	26.8	3.3	2.0	4.1	12.6	26.8	52.3
53	1968	3352	28.9	19.4	51.7	0.1	1.3	29.3	15.1	20.3	442.2
54	1968	3599	74.5	13.1	12.4	6.4	3.6	8.3	14.9	53.7	124.0
55	1967	1929	57.9	16.3	25.8	0.9	1.5	5.0	14.9	22.4	74.4
56	1968	2311	21.6	51.3	27.1	1.0	6.6	45.9	12.8	84.6	589.3
57	1966	2231	74.9	13.2	11.9	3.3	1.8	2.9	11.2	20.8	32.4
58	1967	2394	50.7	32.5	16.8	21.2	4.2	8.2	12.5	52.0	102.6
59	1968	3361	26.0	57.7	16.3		1.7	2.9	18.1	31.0	52.4
60	1968	3499	81.9	7.1	11.0	1.1	2.0	7.0	13.7	27.1	95.6
61	1969	3494	39.2	23.3	37.5	9.9	1.7	2.3	14.8	25.4	34.9
62	1966	3732	67.0	15.2	17.8	6.3	4.3	11.6	18.7	79.8	217.0
63	1967	1929	71.6	8.1	20.3	3.1	1.8	3.4	11.9	21.2	40.5
64	1967	1941	67.8	21.5	10.7		2.8	22.7	11.3	31.2	255.4
65	1968	2394	52.1	20.4	27.5	3.5	2.5	9.2	15.5	38.9	142.3
66	1969	7534	50.9	19.1	30.0	0.7	4.7	27.9	15.7	72.8	435.4
67	1967	8911	[3]	[3]	[3]		[3]	[3]	18.7	[3]	[3]
68	1968	3564	54.2	17.4	28.4		0.9	1.1	21.0	19.1	23.8
69	1967	2262	17.6	43.7	38.7	1.7	2.1	7.2	13.6	29.0	96.9
70	1968	1929	32.8	48.5	18.7		4.6	4.6	12.0	55.4	55.4
71	1965	3674	16.3	33.6	50.1	0.5	3.5	14.7	16.2	56.3	237.9
72	1968	3498	77.1	10.3	22.6	2.4	2.2	4.6	16.3	35.6	74.7
73	1968	3599	27.8	28.0	44.2		1.6	2.2	15.9	25.9	35.0
74	1967	2441	55.0	39.4	5.6		[4]	[4]	10.1	[4]	[4]
75	1965	7349	[3]	[3]	[3]	[3]	[3]	[3]	5.1	[3]	[3]
76	1967	7349	[3]	[3]	[3]	[3]	[3]	[3]	6.8	[3]	[3]
77	1968	2399		80.0	20.0		[2] 0.4	[2] 0.6	12.9	[2] 5.2	[2] 7.8
78	1968	3599		84.0	16.0		[2] 0.3	[2] 0.4	12.9	[2] 4.6	[2] 4.8
79	1967	3679	78.9	5.6	15.5	0.9	5.8	25.3	8.3	48.1	210.2
80	1967	7392	[3]	[3]	[3]	[3]	[3]	[3]	7.0	[3]	[3]
81	1968	5033	98.7		1.3		2.0	6.4	8.8	17.8	55.6
82	1963	3611	14.7	35.9	49.4		2.3	3.3	16.6	37.6	55.1
83	1967	3531	66.3	13.2	20.5		2.0	2.6	14.9	29.8	38.2
84	1967	2311	13.8	40.5	45.7	3.3	1.8	4.6	13.8	25.1	63.3
85	1966	2385	4.1	95.9			10.0	[1] 10.0	12.2	[2] 121.1	[2] 121.1
86	1966	2385	56.7	36.9	6.4		4.8	11.0	9.5	45.4	104.6
87	1968	3429	69.5	20.8	9.7		1.8	3.8	13.1	23.0	49.3
88	1968	1929	57.8	17.3	24.9	1.1	1.6	4.8	15.0	23.7	72.4
89	1969	3323	41.5	26.7	31.8	2.1	2.2	5.5	13.7	30.7	74.6
90	1967	2892	68.4	11.6	20.0	0.5	5.9	58.5	9.9	53.7	579.7
91	1969	3722	24.5	33.6	41.9		2.2	3.4	16.3	35.7	54.8
92	1967	2899	78.5	6.4	15.1		3.0	6.2	10.9	32.7	68.0
93	1968	2899	74.5	7.1	18.4		2.3	3.8	11.3	26.3	42.7
94	1967	2327	5.6	66.4	28.0		4.6	9.7	12.8	58.7	123.7
95	1967	3079	64.9	18.0	17.1	2.0	6.3	15.8	14.4	90 9	226.4
96	1969	3662	58.0	19.0	23.0	85.3	2.4	4.7	14.8	35.5	69.3
97	1968	3451	45.7	20.1	34.2	2.7	3.8	10.6	13.0	50.0	137.3
98	1967	1961	37.2	24.9	37.9	2.5	3.6	14.1	14.7	52.8	206.1
99	1968	3729	47.6	21.5	30.9	3.9	2.0	3.8	16.5	33.4	63.2
100	1967	3562	57.3	14.0	28.7	2.2	3.6	9.7	12.5	44.8	120.8
101	1968	3561	58.7	10.7	30.6	7.7	1.4	2.9	16.3	23.2	46.9
102	1967	2394	100.0				2.3	96.8	9.1	20.8	872.2
103	1968	3599	57.5	16.1	26.4	7.7	2.0	3.9	15.0	30.5	58.3
104	1968	3599	4.8	53.1	42.1		3.6	8.8	15.9	57.4	140.0
105	1969	1929	41.7	13.8	44.5	15.8	1.9	2.2	13.6	25.7	30.3
106	1966	3357	62.6	14.2	23.2	1.2	2.5	6.0	15.1	37.0	91.0
107	1968	3662	70.4	18.3	11.3		3.3	5.4	15.5	50.4	83.7
108	1970	2441	82.5	8.6	8.9	25.8	3.2	4.5	7.3	23.1	32.9
109	1968	3729	24.5	34.2	41.3	0.7	2.7	16.0	15.4	41.1	244.3
110	1968	2033	79.1	12.1	8.8	4.1	1.8	7.6	12.6	22.2	95.3
111	1968	2311	17.6	43.5	38.9	[4]	5.7	[4]	10.9	62.0	[4]
112	1968	7394	[3]	[3]	[3]		[3]	[3]	[3]	[3]	[3]
113	1969	1929	58.0	16.7	25.3	0.6	1.4	6.1	14.9	21.5	91.5
114	1966	3451	40.5	31.4	28.1		1.6	2.2	15.4	24.5	33.8
115	1967	3451	34.4	30.1	35.5		1.5	2.0	13.9	20.4	27.6
116	1967	5063	98.5	0.9	0.6		4.3	12.1	9.0	39.1	109.6
117	1966	3694	75.4	15.4	9.2	6.0	4.3	18.7	12.7	55.0	237.1
118	1967	3694	72.0	15.2	12.8	22.2	3.9	11.2	12.3	48.5	137.0
119	1969	2327	52.8	30.1	17.1		6.7	7.7	8.4	56.3	64.5
120	1968	3599	29.1	22.6	48.3		4.1	7.6	16.2	66.5	122.6
121	1967	7394	[3]	[3]	[3]		[3]	[3]	[3]	[3]	[3]
122	1969	2328	31.3	58.5	10.2		3.9	17.9	12.0	46.4	214.6
123	1968	3729	58.1	10.1	31.8	16.4	3.2	9.8	14.1	45.7	138.4
124	1967	3731	48.7	30.8	20.5		2.6	6.8	17.4	44.8	119.2
125	1968	3499	63.6	21.6	14.8		2.7	4.0	14.4	39.3	58.1
126	1967	5099	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]
127	1968	5099	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]
128	1968	3642	43.9	19.3	36.8	38.0	1.4	1.8	12.3	16.9	22.2
129	1967	3642	35.2	28.7	36.1	2.0	1.8	9.1	14.9	26.5	135.0
130	1969	3662	72.2	13.5	14.3	1.0	1.4	3.0	15.2	21.6	46.5
131	1967	3729	13.8	32.0	54.2		[2] 4.9	[2] 8.5	17.7	[2] 86.4	[2] 163.4
132	1965	2655	42.6	21.0	36.4	1.9	2.9	5.4	14.5	42.2	78.1
133	1965	4422	[3]	[3]	[3]		[3]	[3]	21.1	[3]	[3]
134	1969	3729	49.7	42.1	8.2		3.1	4.9	13.0	40.3	64.0
135	1967	7397	86.2	6.5	7.3	4.5	12.6	25.0	13.2	166.1	329.1
136	1967	3729	63.4	14.5	22.1		2.0	2.8	16.4	32.6	46.4
137	1969	2311	49.9	31.3	18.8		3.0	4.1	13.8	41.3	56.4
138	1970	7699	63.7	36.3		9.6	4.1	8.1	12.9	52.5	105.5
139	1966	2327	74.2	15.5	10.3		2.1	2.4	12.2	25.5	29.6
140	1968	1929	73.4	9.1	17.5	4.9	1.8	2.7	11.6	20.5	31.5
141	1968	4582	[3]	[3]	[3]		[3]	[3]	12.6	[3]	[3]
142	1969	4582	[3]	[3]	[3]		[3]	[3]	14.0	[3]	[3]
143	1968	4582	[3]	[3]	[3]		[3]	[3]	13.6	[3]	[3]
144	1969	4582	[3]	[3]	[3]		[3]	[3]	13.3	[3]	[3]
145	1968	4582	[3]	[3]	[3]		[3]	[3]	12.9	[3]	[3]
146	1969	4582	[3]	[3]	[3]		[3]	[3]	13.3	[3]	[3]
147	1970	4582	[3]	[3]	[3]		[3]	[3]	12.9	[3]	[3]
148	1968	4582	[3]	[3]	[3]		[3]	[3]	15.3	[3]	[3]
149	1969	4582	[3]	[3]	[3]		[3]	[3]	13.3	[3]	[3]
150	1968	4582	[3]	[3]	[3]		[3]	[3]	15.1	[3]	[3]
151	1969	4582	[3]	[3]	[3]		[3]	[3]	13.8	[3]	[3]
152	1970	4582	[3]	[3]	[1]		[4]	[4]	14.1	[4]	[4]

Footnotes at end of table.

Determination No.	Contractor's fiscal year	SIC No.	Renegotiable cost of goods sold (in percentages): Material and subcontracting	Direct labor	Overhead	Ratio of net worth to longterm debt	Turnover rate (after determination): Capital [1]	Net worth [1]	Profit (after determination) as percent of: Sales [1]	Capital [1]	Net worth [1]
153	1968	4582	[3]	[3]	[3]		[3]	[3]	14.7	[3]	[3]
154	1969	4582	[3]	[3]	[3]		[3]	[3]	13.6	[3]	[3]
155	1970	4582	[3]	[3]	[3]		[3]	[3]	13.9	[3]	[3]
156	1968	4582	[3]	[3]	[3]		[3]	[3]	12.3	[3]	[3]
157	1969	4582	[3]	[3]	[3]		[3]	[3]	12.5	[3]	[3]
158	1970	4582	[3]	[3]	[3]		[3]	[3]	12.3	[3]	[3]
159	1968	4582	[3]	[3]	[3]		[3]	[3]	13.1	[3]	[3]
160	1969	4582	[3]	[3]	[3]		[3]	[3]	13.7	[3]	[3]
161	1968	4582	[3]	[3]	[3]		[3]	[3]	12.9	[3]	[3]
162	1969	4582	[3]	[3]	[3]		[3]	[3]	14.7	[3]	[3]
163	1970	4582	[3]	[3]	[3]		[3]	[3]	15.1	[3]	[3]
164	1968	4582	[3]	[3]	[3]		[3]	[3]	13.3	[3]	[3]
165	1969	4582	[3]	[3]	[3]		[3]	[3]	12.9	[3]	[3]
166	1970	4582	[3]	[3]	[3]		[3]	[3]	13.4	[3]	[3]
167	1970	4582	[3]	[3]	[3]		[3]	[3]	13.5	[3]	[3]
168	1969	3731	59.9	24.2	15.9		2.3	3.8	13.0	29.6	49.0
169	1968	3731	51.6	34.7	13.7		3.3	7.9	13.7	45.7	109.0
170	1969	1999	42.6	11.8	45.6		2.1	2.8	13.1	28.0	36.4
171	1968	1929	71.7	13.1	15.2	10.2	2.1	4.8	13.2	28.2	63.7
172	1968	3452	20.3	23.4	56.3	7.9	1.6	2.4	16.7	27.0	39.7
173	1967	2231	42.5	24.0	33.5	2.7	1.8	3.0	14.0	25.4	42.1
174	1968	3391	81.7	7.7	10.6		2.4	2.7	13.5	32.3	36.9
175	1968	3714	63.8	16.0	20.2		3.6	10.8	13.7	48.7	147.4
176	1967	2311	100.0			0.5	1.6	12.8	15.6	25.1	198.7
177	1968	1621	[4]	[4]	[4]		[4]	[4]	11.7	[4]	[4]
178	1969	1929	65.1	19.0	15.9	2.9	2.3	5.1	15.6	35.6	79.5

[1] Because of the presence or absence of factors, such as Government short- or long-term capital input, sole source or rated order procurement conditions, critical production or delivery requirements, etc., return rates on beginning capital and beginning net worth allocated to renegotiable business on a cost-of-goods sold basis are not always good indicators of comparative profitability. This is particularly true in case of smaller contractors with large increases in renegotiable business during the review year. Also, it is important to note that the ratios are the results of the Board's determinations and that, because of the small number of cases involved and the great variety in underlying conditions, these ratios are not amenable to statistical interpretation.

[2] Ratios influenced by intercompany relationships.
[3] Not relevant, because of the nature of the contractor's business.
[4] Not relevant: Agent.
[5] Nominal capital and/or net worth deficit.

Source: Renegotiation Board Annual Report, fiscal year 1972.

LOCATION OF EACH OF THE FIRMS

1. The Stalker Corporation, Essexville, Michigan.
2. Allen Elec. & Equip. Co., Sii to Crown Steel Products Co., Orrville, Ohio.
3. Rex Precision Products, Inc., Gardena, California.
4. George D. LaBarre, Hawthorne, New Jersey.
5. Clevepak Corporation, New York, New York.
6. Thomaston Special Products, Inc. Sii to Thomaston Special Tool, Thomaston, Connecticut.
7. Bradford Dyeing Assoc. (U.S.A.), Inc., Westerly, Rhode Island.
8. Eisen Brothers, Inc., Hoboken, New Jersey.
9. Pascoe Steel Corporation, Pomona, California.
10. Nu-Pak Company, Parkesburg, Pennsylvania.
11. Nu-Pak Company, Parkesburg, Pennsylvania.
12. Gillmore M. Perry, Washington, D.C.
13. Gillmore M. Perry, Washington, D.C.
14. Gillmore M. Perry, Washington, D.C.
15. United Telecontrol Electronics, Inc., Asbury Park, New Jersey.
16. Sandnes' Sons, Inc., New Cumberland, Pennsylvania.
17. CYJO Dissolution Company, San Diego, California.
18. Pembroke, Inc., Egg Harbor City, New Jersey.
19. Burns Manufacturing Company, Aitkin, Minnesota.
20. Dart Industries, Inc., Sii to The West Bend Company, West Bend, Wisconsin.
21. Calabrese & Sons, Mechanicsburg, Pennsylvania.
22. Federal Cartridge Corporation, Minneapolis, Minnesota.
23. Guy H. James Industries, Inc., Midwest City, Oklahoma.
24. Holly Corporation, Azusa, California.
25. Holly Corporation, Azusa, California.
26. Holly Corporation, Azusa, California.
27. Air Industries Corporation, Garden Grove, California.
28. Far West Industries, Inc., Phoenix, Arizona.
29. Penland Container, Inc., Hanover, Pennsylvania.
30. DeRossi & Son Company, Vineland, New Jersey.
31. Victor Comptometer Corp., Chicago, Illinois.
32. H. H. Robertson Company, Pittsburgh, Pennsylvania.
33. Galion Amco, Inc., Galion, Ohio.
34. Clymer Machine Co., Inc., Trumbaneraville, Pennsylvania.
35. Electronic Products & Engineering Co., Inc., Hialeah, Florida.
36. M. L. W. Corporation, Bayamon, Puerto Rico.
37. Tan-Tex Industries, Inc., New York, New York.
38. Portec, Inc., Oak Brook, Illinois.
39. Vega Precision Laboratories, Vienna, Virginia.
40. Cleveland Steel Prod. Corp., Cleveland, Ohio.
41. J. Schoeneman, Incorporated, Owings Mills, Maryland.
42. Chapman Machine Co., Inc., Darien, Connecticut.
43. Lee Realty Corporation, Milwaukee, Wisconsin.
44. Abbot Machine Company, Milwaukee, Wisconsin.
45. Continental Connector Corp., Woodside, New York.
46. Mosaic Fabrications, Inc., Southfield, Michigan.
47. Glass Designers, Inc., Southfield, Michigan.
48. Glass Designers, Inc., Southfield, Michigan.
49. Bilt-Rite Box Co., Inc., Decatur, Alabama.
50. Trans World Airlines, Inc., Kansas City, Missouri.
51. Morris Industries, Inc., Los Angeles, California.
52. Lake Shore, Inc., Iron Mountain, Maryland.
53. Texas Aluminum Company, Inc., Rockwell, Texas.
54. E. Walters & Co., Inc., Elk Grove, Illinois.
55. National Union Electric Corp., Greenwich, Connecticut.
56. Major Coat Company, Inc., Bridgeton, New Jersey.
57. Graniteville Company, Graniteville, South Carolina.
58. Camel Manufacturing Company, Knoxville, Tennessee.
59. Tools Products Company, Inc., Minneapolis, Minnesota.
60. Elliott Bros. Steel Co., New Castle, Pennsylvania.
61. Valcor Engineering Corp., Kenilworth, New Jersey.
62. Teledyne Inc., Sii to Sewart Seacraft, Inc., Berwick, Louisiana.
63. John Wood Company, Cleveland, Ohio.
64. Dynasciences Corporation, Blue Bell, Pennsylvania.
65. Kellwood Company, St. Louis, Missouri.
66. Air Treads of Atlanta, Inc., Forest Park, Georgia.
67. Adrian Wilson Associates, Los Angeles, California.
68. Hardie-Tynes Manufacturing Co., Birmingham, Alabama.
69. Putnam-Herzl Finishing Co., Inc., Putnam, Connecticut.
70. Thomaston Special Products, Inc. Sii to Precise Products Industries, Inc., Thomaston, Connecticut.
71. Standard Resources Corporation, Culver City, California.
72. The Tubular Products Co., West Hartford, Connecticut.
73. The United Tool & Die Co., West Hartford, Connecticut.
74. International Chair Corporation, Miami, Florida.
75 Aircraft Service International Janitorial, Inc., Miami, Florida.
76. Aircraft Service International Janitorial, Inc., Miami, Florida.
77. Flight Belt Corporation, Long Island City, New York.
78. Flight Manufacturing Corp., Long Island City, New York.
79. O'Brien Gear & Machine Co., Highland, Park, Illinois.
80. The Stanwick Corp., Arlington, Virginia.
81. Plaza Mills, Inc., New York, New York.
82. Computer Instruments Corp., Hempstead, New York.
83. Portec, Inc., Oak Brook, Illinois.
84. Michaels Stern & Co., Inc., Rochester, New York.
85. So-Sew Styles, Inc., Centre, Alabama.
86. Centre Manufacturing Co., Inc., Centre, Alabama.

87. Aerial Machine & Tool Corporation, Long Island City, New York.
88. National Union Electric Corp., Greenwich, Connecticut.
89. Rex Precision Products, Inc., Gardena, California.
90. Bermite Powder Company, Saugus, California.
91. The Stalker Corporation, Essexville, Michigan.
92. Kilgore Corporation, Toone, Tennessee.
93. Kilgore Corporation, Toone, Tennessee.
94. Glenn Manufacturing Co., Inc., Amory, Mississippi.
95. Ametek, Inc. Sii to Plymouth Industrial Products, Inc., New York, New York.
96. United Telecontrol Electronics, Inc., Overland, Missouri.
97. Model Screw Products, Inc., Overland, Missouri.
98. Wells Marine, Inc., Costa Mesa, California.
99. Shinn Engineering, Inc., Santa Ana, California.
100. Superior Steel Ball Co., New Britain, Connecticut.
101. Warren Pumps, Inc., Warren, Mass.
102. M. Sloane Manufacturing Co., Hollywood, Florida.
103. American Technical Industries, Mount Vernon, New York.
104. American Technical Industries Sii to Lem Products Corporation, Mount Vernon, New York.
105. Neapco Products, Inc., Pottstown, Pennsylvania.
106. Carlisle Corp., Cincinnati, Ohio.
107. Sterling Electronics Corp. Sii to 872 Rockaway Corporation, Houston, Texas.
108. Milan Box Corporation, Milan, Tennessee.
109. Patty Precision Products Company, Sapulpa, Oklahoma.
110. Sun Garden Packing Company, San Jose, California.
111. Dale Fashions, Inc., Vineland, New Jersey.
112. American Sportswear Co., Inc., Vinland, New Jersey.
113. National Union Electric Corp., Greenwich, Connecticut.
114. The Dyson-Kissner Corp. Sii to Northwest Automatic Products Corp., New York, New York.
115. The Dyson-Kissner Corp. Sii to Northwest Automatic Products Corp., New York, New York.
116. Anixter Bros., Inc. Sii to Anixter-Normandy Skokie, Illinois.
117. AWA Corporation, Aurora, Illinois.
118. AWA Corporation, Aurora, Illinois.
119. M.L.W. Corporation, Bayamon, Puerto Rico.
120. Abbot Machine Company, Milwaukee, Wisconsin.
121. Lee Realty Corporation, Milwaukee, Wisconsin.
122. Landis Clothes, Inc., Vineland, New Jersey.
123. Kreisler Industrial Corp., North Bergen, New Jersey.
124. Metro Machine Corporation, Norfolk, Virginia.
125. Sterling Commercial Steel Ball Corp., Sterling, Illinois.
126. The Lawrence Jaros Co., Inc., Cleveland, Ohio.
127. The Lawrence Jaros Co., Inc., Cleveland, Ohio.
128. Oppenheimer Inc., Willow Grove, Pennsylvania.
129. Opacalite Incorporated, Santa Ana, California.
130. Rodale Electronics, Inc., Garden City, New York.
131. Macrodyne-Chatillon Corp., Sii to Consolidated Missile Co., Inc., Brea, California.
132. Hitco Sii to Hawley Products Company, Los Angeles, California.
133. Alaska-Puget-United Transportation Companies, Seattle, Washington.
134. Clearwater Die & Manufacturing Company, Inc., Paramount, California.
135. Hutt, Inc., Cliffwood, New Jersey.
136. The National Tool & Die Co., Hartford, Connecticut.
137. Pembroke, Inc., Egg Harbor City, New Jersey.
138. Border Machinery Company, Inc., El Paso, Texas.
139. Puritan Fashions Corporation, New York, New York.
140. John Wood Company, Cleveland, Ohio.
141. Dallathe Corporation, Corpus Christi, Texas.
142. Dallathe Corporation, Corpus Christi, Texas.
143. Beeville Corporation, Corpus Christi, Texas.
144. Beeville Corporation, Corpus Christi, Texas.
145. Corpus Mainbase Corporation, Corpus Christi, Texas.
146. Corpus Mainbase Corporation, Corpus Christi, Texas.
147. Corpus Mainbase Corporation, Corpus Christi, Texas.
148. Glynco Corporation, Corpus Christi, Texas.
149. Glynco Corporation, Corpus Christi, Texas.
150. Jaxs Corporation, Corpus Christi, Texas.
151. Jaxs Corporation, Corpus Christi, Texas.
152. Jaxs Corporation, Corpus Christi, Texas.
153. Key West Corporation, Corpus Christi, Texas.
154. Key West Corporation, Corpus Christi, Texas.
155. Key West Corporation, Corpus Christi, Texas.
156. Kingsville Corporation, Corpus Christi, Texas.
157. Kingsville Corporation, Corpus Christi, Texas.
158. Kingsville Corporation, Corpus Christi, Texas.
159. Medius Corporation, Corpus Christi, Texas.
160. Medius Corporation, Corpus Christi, Texas.
161. New York Corporation, Corpus Christi, Texas.
162. New York Corporation, Corpus Christi, Texas.
163. New York Corporation, Corpus Christi, Texas.
164. Olathe Corporation, Corpus Christi, Texas.
165. Olathe Corporation, Corpus Christi, Texas.
166. Olathe Corporation, Corpus Christi, Texas.
167. Bahia Dorado Corporation, Corpus Christi, Texas.
168. Metro Machine Corporation, Norfolk, Virginia.
169. Bromfield Corporation, East Boston, Mass.
170. Stanadyne, Inc., Windsor, Connecticut.
171. Lasko Metal Products, Inc., West Chester, Pennsylvania.
172. Kaynar Mfg. Co., Inc., Fullerton, California.
173. Cone Mills Corporation, Greensboro, North Carolina.
174. Jernberg Forgings Company, Chicago, Illinois.
175. Gibraltar Manufacturing Co., Port Huron, Michigan.
176. Jonathan Logan, Inc., N. Bergen, New Jersey.
177. Paramount Warrior, Inc., Paramount, California.
178. E. Walters & Co., Inc., Elk Grove Village, Illinois.

Source: Renegotiation Board.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

AMENDMENT OF LABOR-MANAGEMENT RELATIONS ACT 1947

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1423, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1423) to amend the Labor-Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

The PRESIDING OFFICER. Time on this bill is now under control, with time on each amendment in the first degree limited to 1 hour; time on each amendment in the second degree, debatable motion, or appeal limited to 30 minutes; and time on the bill limited to 3 hours.

PRIVILEGE OF THE FLOOR

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the following staff members of the Committee on Labor and Public Welfare be permitted the privilege of the floor during the consideration of S. 1423: Gerald Feder, Donald Elisburg, and Eugene Mittleman; and that Roger King, legislative assistant to Senator TAFT, be permitted the same floor privilege.

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

Mr. TOWER. Mr. President, I ask unanimous consent that a member of my legislative staff, Mr. Gary Lieber, be permitted on the floor during the consideration of the bill and my amendment thereto.

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

Mr. FANNIN. Mr. President, I ask unanimous consent that my legislative assistant, Tom Shroyer, be permitted on the floor during the consideration of the bill.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the staff people who have been mentioned here may be allowed to be on the floor during roll call votes, also.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. WILLIAMS. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WILLIAMS. Mr. President, one of the glaring injustices in America is that Americans of moderate means neither know when they need legal services, nor how to obtain them, nor are they able to finance those services.

During the past decade, several nongovernmental groups have begun to experiment with programs designed to ensure the availability of legal services.

Bar associations across the Nation are developing insurance programs to provide these services. Labor organizations, on their own and jointly with local bar associations, have begun to establish legal service programs. The insurance industry is developing and marketing plans for legal services.

Various other user groups, such as farm organizations, credit unions, and cooperatives, have been involved in similar experimentation.

One major obstacle to the experimentation with and creation of such programs is section 302(c) of the Labor-Management Relations Act, which prohibits labor and management from jointly administering trust funds established to provide such legal services to employees, their families, and dependents.

Section 302 of the Labor-Management Relations Act, 1947, as amended, prohibits payments by employers of money or other thing of value to employee representatives.

This broad prohibition was enacted to prevent bribery, extortion, shakedowns, and other corrupt practices.

However, section 302(c), as originally enacted, enumerated five exceptions to the general prohibition in section 302, thus permitting employer contributions to jointly administered labor-management trust funds to finance medical care programs, retirement pension plans, and other specific programs.

By enacting a general prohibition on employer payments and then setting forth specific exceptions, Congress impliedly prohibited payments for any purpose not specifically excepted.

It is clear, from the history of section 302, that Congress intended only to prohibit abuses of welfare funds to the detriment of union members, and that the funds excepted from the prohibition were those types of benefit funds then in existence.

Legal service plans were not mentioned in any of the deliberations leading to the enactment of section 302.

The failure to contemplate such plans is undoubtedly attributable to the fact that they are of relatively recent vintage.

Indeed, only in 1971 was the last legal barrier to unilateral funds removed, when the Supreme Court in United Transportation Union against Michigan, ruled that a labor organization had a 1st and 14th amendment right to engage in group activity to enable its members to meet the costs of legal representation. This was the right to participate in a unilateral fund.

Since 1947, Congress has recognized the legitimacy of trust funds being established for other purposes on two occasions.

Thus, in 1959, jointly administered trust funds for purposes of "pooled vacation, holiday, severance, or similar benefits or defraying costs of apprenticeship or other training programs," were excepted from the prohibition.

In 1969, Congress further amended that section to authorize such funds for the purpose of "scholarships for the benefit of employees, their families and dependents for study at educational institutions, and child care centers for preschool and school age dependents of employees."

Today, management is free to provide such services for their employees and labor can establish such funds for their members, but employers are barred from making contributions to any fund for legal services jointly administered with a labor organization or one which is unilaterally administered by such labor organization, even though in many industries jointly trusteed plans would be the only vehicle by which legal services could be effectively provided.

S. 1423 would add an eighth exception to section 302(c) to authorize employer contributions to jointly administered trust funds for the purposes of defraying the costs of legal services for employees, their families and their dependents.

This legislation is necessary because of the growing recognition that existing methods of delivery of legal services to middle and working class citizens are inadequate.

The establishment of legal service programs through collective bargaining, in a manner similar to the way health benefit programs have been established, would be an important step toward alleviating this problem.

American workers today live in an increasingly complex society; yet under our system they are often effectively denied access to proper legal representation.

Permitting employees access to prepaid legal services can often be in the direct interest of the employers.

For example, we learned at the hearings of a pilot program undertaken unilaterally by an employer during World War II to provide legal services to its employees.

The employer actually employed attorneys on a salary to aid with the personal legal problems of its employees.

The primary purpose of the program was to save man-hours by keeping employees on the job during the vital years of the war effort.

The records of the program reflect a saving of over 15,000 man-hours, including those hours saved to the employer by virtue of 61 employees being excused from jury service.

As noted in the September 1964 Journal of the State bar of California—

> The company was attempting to minimize the adverse effects that a legal problem might have upon an employee, both in time lost from the job and attitude on the job.

It is clear to me that providing legal services for employees will have the effect of improving productivity, reducing lost time, and effectively improving employee morale.

This legislation is to authorize the availability of private funds to employees, their families, and their dependents for all legal and related services.

During the hearings on this legislation my distinguished colleage from Ohio (Mr. TAFT) brought out the preventive law aspects of this legislation most forcefully.

As he noted, and I fully agree, it is vitally important that in matters involving marital relations, for example, that the funds be available not only for litigation but for efforts at reconciling the parties, such as marriage counseling.

Another example is perhaps best demonstrated by a program adopted by a unilaterally administered union plan in Columbus, Ohio, where the plan provides for legal services on tax matters, including assistance to the members of the plan in preparation of tax returns.

It is important to note that this bill will not direct the establishment of such programs.

It will not dictate the terms and conditions of such programs, and it will not interfere in any way with the operations of such programs. It will not finance such programs.

Rather, it will bring such joint programs within the scope of collective bargaining by removing an unwarranted and unintended Federal road block to the establishment of such programs by the private sector with private funding.

This measure will not replace national, State, or local bar association procedures with Federal procedures.

It will not subvert State control over the practice of law with Federal control.

It will neither require nor prohibit open panels or closed panels, and it will neither require nor prohibit the establishment of such programs.

It will not require labor or management to agree to any such program, and, within the limits provided herein, the parties will be free to determine the types of benefits and the manner in which legal services will be provided.

Nothing in this measure will affect the traditional relationship between lawyers and their clients nor the duty of lawyers to fully represent their clients.

There is no reason for the Federal Government to be the major obstacle to private arrangements to insure the availability of legal services to the millions of moderate income Americans. This bill will remove that obstacle.

During consideration of this legislation an amendment, offered by Senator TAFT, was adopted to bar the use of such funds in suits against contributing employers, except in workmen's compensation cases, suits against participating la-

bor organizations, and in any suit against any employer or labor organization where the matter in question arises under the National Labor Relations Act or the Labor-Management Relations Act.

This amendment reflects a judgment that there is too great a potential for abuse if such trust funds are involved in litigation involving the employee-employer relationships.

The amendment does not have the effect of prohibiting such lawsuits, but merely bars the use of the legal services provided for under this bill in such lawsuits against employers, labor organizations, their officers and agents.

Another amendment that was adopted in committee would bar the use of such funds where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959.

The purpose of that amendment was to prohibit these funds from becoming involved in internal union controversies.

Mr. President, it is gratifying to me that this legislation is truly bipartisan.

It has been cosponsored by the entire membership of the Committee on Labor and Public Welfare, as well as my distinguished colleagues, the Senator from Florida (Mr. GURNEY), and the Senator from Alabama, (Mr. SPARKMAN).

This legislation has the support of the administration, organized labor, the bar, the insurance industry, and consumer groups.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to me from the Secretary of Labor, Peter J. Brennan, expressing the administration's support of this legislation. It suggests certain changes in the bill that was first introduced. The changes that were suggested by the administration were adopted and are part of the committee amendment pending before the Senate.

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

U.S. DEPARTMENT OF LABOR,
Washington, D.C., May 2, 1973.

Hon. HARRISON A. WILLIAMS, JR.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of March 31, 1973, you asked for my views on S. 1423, a bill to amend the Labor Management Relations Act to permit employer contributions to jointly administered trust funds that are utilized in providing legal services for employees. The bill would amend section 302(c) of the LMRA by adding a new clause (8) authorizing the establishment of such programs.

As legal services are critical to all of us at various times in our lives, I support in principle the inclusion of such authority. Any such provision, however, should bar the use of legal service trust funds to pay for the defense of union officers facing criminal charges for misfeasance in office. It should also bar use of trust funds in suits by employees against their own employers (except when the employee is seeking to obtain workmen's compensation) and by union members against their own unions.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PETER J. BRENNAN,
Secretary of Labor.

Mr. WILLIAMS. Mr. President, one of the most helpful examples of what can be a salutory beneficial effect of unions providing legal services for their members was an example given to us from the State of Louisiana.

I ask unanimous consent to have printed in the RECORD certain selective portions of the testimony describing the plan and what it has meant to the members who are part of that group legal service plan.

The PRESIDING OFFICER. If the Senator will yield, the Chair states that that program is extremely important. Without objection, the portions of testimony will be printed in the RECORD.

Portions of the testimony follows:

STATEMENT OF ROBERT J. CONNERTON, GENERAL COUNSEL, LABORERS' INTERNATIONAL UNION OF NORTH AMERICA; STEPHEN I. SCHLOSSBERG, GENERAL COUNSEL, INTERNATIONAL UNION UNITED AUTOMOBILE, AEROSPACE, AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW); MAX ZIMNY, GENERAL COUNSEL, INTERNATIONAL LADIES' GARMENT WORKERS UNION; JOYCE D. MILLER, DIRECTOR, DEPARTMENT OF SOCIAL SERVICES, AMALGAMATED CLOTHING WORKERS OF AMERICA; COMPRISING A PANEL

Mr. CONNERTON. Mr. Chairman, for your benefit and Senator Taft's benefit, Mr. Zimny is on my extreme left, Mr. Schlossberg joins me, and of course our fine lady Joyce Miller is on my right.

My name is Robert J. Connerton, and I am general counsel of the Laborers' International Union. I am accompanied here this morning by Jack Curran, our legislative director.

Mr. Chairman, I have had an opportunity as general counsel to assist in the development of the prepaid legal services plans for Laborers' affiliates in Shreveport, La., Columbus, Ohio, Birmingham, Ala., and Philadelphia, Pa., and am presently engaged in helping set up prepaid legal services plans covering approximately 10,000 laborers in Washington, D.C., Virginia, and Maryland, and approximately 20,000 union laborers in the State of Massachusetts. I also have served as a member of the prepaid legal services committee of the American Bar Association, since its inception in 1970, which has helped formulate the response of the organized bar to the challenge of providing legal services for moderate-income Americans. I also served as chairman of a steering committee which led to the recent establishment of the National Consumer Center for Legal Services.

I understand Mr. Duffy, the staff director of the center, is scheduled to testify at a later time.

From these three vantage points, I have been fortunate to watch and also to participate in the unfolding of the movement of making legal services freely available to all Americans. I think as both you and Senator Taft have indicated, there was not any deliberate attempt to stifle the growth of legal service plans. Actually section 302 was drafted in 1947 and was drafted in terms of the general prohibition with specific exceptions, so that as new programs developed from 1947, it has been necessary to come here and petition the Congress to amend section 302 to exclude these programs from the statutory prohibition.

So we have a long history in this connection. For example, back in 1959 you will recall the Congress excepted pooled vacations and holidays and severance plans and apprenticeship and other training programs from prohibitions, and 10 years later it added another exception for day care centers and scholarship programs.

Your bill would simply add one more specific exception to section 302 in order to correct the legislative draftsmanship oversight.

Last year in connection with the preparation for testifying in the House in support of this proposal, we did make a careful study of the legislative history of section 302. It was not based upon any consideration of public policy. Legal service programs were not then in existence and there is a good reason for it. Let me describe it to you.

For many years State bar associations took action against groups which were trying to provide legal services for their members. For example, today we still have outstanding injunctions against the American Automobile Association in many States of the country for providing legal services for their members. So we have had almost insuperable barriers built up until very recently on the representation by attorney to members of the group, by referral of the group.

In three relatively recent Supreme Court decisions, two involving trade unions and another involving a civil rights group, the Supreme Court held that the 1st and 14th amendments protected user groups in retaining attorneys or making any other legal arrangements to assist their members in asserting their legal rights. Still there were those in certain State bar associations who felt that these cases were limited to their facts, that they continue to take action against groups, and it was only 2 years ago in April 1971, that the Supreme Court in the *UTU* v. *State of Michigan* case delivered the definitive opinion which rejected any attempt to limit the earlier cases to their particular facts.

The Court made clear in that case that its holdings in previous cases did not turn upon any set of particular facts, but that the right was an unrestricted right protected by the 1st and 14th amendments and such right could not be abridged or restricted.

Now we are really only talking about a period of 2 years, in which it has become clear that consumer groups of all types have a right to make arrangements to provide legal services for their members.

Now during that period of time the Court was also acting upon the right of Americans to be provided with competent counsel, and the Supreme Court, you will recall, has steadily expanded its notion that the Constitution requires that indigent defendants in criminal cases be provided with representation. Again it was only about 7 months ago in the *Argersinger* case where the Supreme Court ruled unanimously that counsel must be provided in criminal prosecution where there is even a possibility of incarceration, whether a misdemeanor case or otherwise.

Then we can also see this situation unfolding in another area. We found that during the 1960's the Congress of the United States provided for indigents in civil cases their neighborhood legal services, the right to counsel and although there has been some question raised now in the conversion of the service to a public corporation, I am sure these minor questions will be settled, and it seems clear that this service will continue to provide free legal services for approximately 40 million poverty level Americans who are eligible for benefits.

I would like to take you back to the Senate bill on this score 2 years ago which contains a little noticed provision which was subsequently deleted in conference, which would have permitted these Federal poverty law programs to expand their scope to serve

the people of moderate income through a device of charging small fees to represent the citizens.

Now the matter was I gather stricken in conference without debate. Without imposing too much on you or Senator Taft, I think it is eminently clear that adequate counsel is still beyond the means of over 150 million Americans in this country. We thought that provision marked the handwriting on the wall. I do not think you can expect moderate income Americans living in an increasingly complicated society, having the same needs for adequate legal counsel as the poor, in the same general area, landlord, tenant, veteran, consumer cases and so forth, to continue and support free legal services for the poor while their own legal needs remain unfulfilled.

I am not suggesting that they will turn against neighborhood legal services programs, but I am suggesting unless we can provide through our free enterprise system the private mechanisms for the delivery of these services, it is inevitable that the Federal Government will be called upon to meet this growing demand.

Now across the country today the problem of providing legal services for this mass market of moderate income Americans is being attacked by a great variety of groups. The American Bar Association is active, American trial lawyers, insurance companies are interested in the field, universities, the consultants, Blue Cross-Blue Shield, all types of farm groups, cooperatives, trade unions, credit unions, religious groups, and civil rights organizations.

Now let me turn quite briefly to review just two plans in which my organization happens to be involved. The first was a cooperative effort between our local union in Shreveport with the American Bar Association and the Ford Foundation. This covers a group of approximately 600 laborers. It has been in existence for 2 years. It is financed by a 2-cent-per-hour union dues payment deducted by employers pursuant to voluntary checkoff. All members of the Shreveport Bar Association participate in these arrangements. Again it was necessary to do it that way because of the present strictures of section 302. Coverage is provided just like a Blue Cross-Blue Shield medical plan pursuant to a schedule of benefits. The plan prohibits any suits against the unions. It prohibits suits against employers and prohibits suits between members.

Now after 2 years we can tell you that Shreveport is alive and well. It has not undermined the stability of the collective-bargaining relationship in any way. There has been no mad rush to either the lawyers or the courthouse—we were concerned we might have some legal hypochondriacs in our group, and we have not had any yet. There have been no harassing lawsuits involved. There has been no attempt made on the part of anyone to tear down the system.

We have put the emphasis up on the front end, up in the area of preventive law. It has paid 93 percent of the total legal billings. I was just down in Shreveport over the weekend for a meeting on the plan with the bar association reviewing its second year of activity and we found something very, very interesting that a certain kind of case involving very, very sharp practices in the consumer area has all of a sudden seemed to dry up. Whereas the union used to receive 8, or 9, or 10 calls a week from certain sharp operators looking for members, they are not receiving calls anymore. It is more in the nature of preventive law.

In fact, it has diminished from the number of cases going on the court's docket rather than adding to it, and this is simply what the union is seeking to carry out. There have been unemployment compensation cases, domestic relations, automobile cases, real property—somebody buys a house, drafts a will—and there have been retail credit and other consumer problems. This is the type of case we have had there.

The CHAIRMAN. What is the point there? Were the sharp operators promoting unwarranted litigation?

Mr. CONNERTON. Yes, Senator. And we have, as I say, any number of specific instances we will be delighted to furnish the committee. For example, they would be doing such things as going in the morning to a man's house and asking him to help him take out his furniture and put it in the truck, simply because he had signed a note for someone else maybe a year or two before. Obviously, under those circumstances if you are provided with legal representation, then this type of thing just simply does not happen, because it is illegal for them to do so in the first place.

We have found many, many cases in the consumer area where a poor person rather than spend $300 or $400 to go to a lawyer and defend himself, would rather sit by and let the person do something even though he knows it is illegal for them to do so.

Now, turning quickly to another plan that we have—and this is out in Columbus, Ohio, and it is more in the nature of a group health kind of plan, rather than following the analogy of Blue Cross, Blue Shield. Well, it covers 3,000 members and their dependents. Again it is financed through a working dues arrangement. It functions through a legal center staffed by attorneys, much like the group health clinic.

The usage there has been extremely high. It has been over 50 percent in the first year.

Again, this plan prohibits suits against employers or unions or between members. The union conducts an intensive educational program with mailings to its members so they can recognize consumer problems. It has a WATTS line where any of its members living in an outlying area can simply pick up the phone and get free advice and consultation from the legal center. It covers virtually every single type of case that is manageable except exclusions I mentioned earlier.

We found that in most of these cases that we develop a different type of practice, where there is practice in the law office, rather than practice in the courts. Most of these cases have been adjusted without the necessity of either litigation or trial. There is simply no evidence that the center is adding to the backlog of the courts.

Again we have had no frivolous actions.

Attorneys retain rights to reject any nonmeritorious claims. The plan is now in the process of being expanded to encompass other labor groups in Ohio. We are plugging in the Ohio State University Law School as a backup center. We have established an advisory board in which the bar and all other community groups participate. All of the information there is available to the committee or any other group that is interested.

I think I am imposing too much on everyone else's time. I would say in conclusion, Mr. Chairman, that we deem the request for providing legal services to moderate-income Americans simply to be entitled to the same equality of treatment as that afforded medical, dental, pension, day-care centers, or other permissible fringe benefits.

Passage of S. 1423 will be an important first step in this direction.

I want to thank you and Senator Taft for the opportunity of appearing here this morning.

I would like permission, Mr. Chairman, to submit my statement and other materials for the record.

The CHAIRMAN. Yes, that will be included in full.

Mr. WILLIAMS. Mr. President, the Presiding Officer is familiar with this situation and knows, as I know indirectly, how much it has meant to the people who need legal services and who might otherwise have difficulty in meeting their legal needs.

Mr. President, I urge very strongly that the legal service program become a reality by the passage of S. 1423, which amounts to including another opportunity for jointly administering the funds in section 302(c).

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

Mr. TAFT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. TAFT. Mr. President, I endorse S. 1423 and am hopeful that the Senate will approve this measure this afternoon.

The concept of providing greater access to the legal system in this country is an excellent objective, and I believe that every reasonable effort must be made to provide legal counsel for individuals in all income ranges. The objective of permitting the establishment of joint management-labor trust funds for prepaid legal services is a positive step in this direction, as America's working men and women will have greater access to legal counsel by passage of S. 1423. Certain safeguards, however, must be adopted to prevent abuse of this concept in the labor-management context. Such funds should not be furnished for any proceeding, formal or informal, directed against an employer and a labor organization administering such a fund, or against any other employer or labor organization in any matter arising under The National Labor Management Act, as amended.

Specifically, such funds should not only be prohibited from use for litigation, but also from counseling and legal advice with respect to disputes or proceedings in the labor-management context. To do otherwise would be counterproductive to achieving the very real benefits possible from such legislation.

Further, I strongly feel that such funds should not be available for legal defense funds for labor representative officers or officials. Such disputes, which are basically internal labor organization matters, should not be financed by such funds.

Therefore, I offered an amendment in the Senate Labor Subcommittee to insulate such funds from labor-management proceedings, formal and informal. The amendment further provided adequate safeguards with respect to use of such funds in internal labor organization disputes. This amendment was worked out with cooperation from labor and management organizations and accepted by the committee without dissent.

I would also like to further emphasize that the prohibitions for use of such trust funds contained in the limiting amendment are not meant to be all inclusive; they should in no way be construed as restricting the imposition of further requirements or prohibitions by labor and management representatives on the use of such funds.

I understand that an amendment is likely to be offered this afternoon by the Senator from Texas (Mr. TOWER) and the Senator from Arizona (Mr. FANNIN) which would have the effect of stating that such funds should not be a subject of mandatory collective bargaining.

I do not expect to support that amendment, since I feel—as the Senator from New Jersey has mentioned—that the Senate should not make a judgment on on whether such jointly administered funds should be subject to mandatory collective bargaining. Rather I feel, to be consistent with the provisions of the Taft-Hartley Act, that the question of what constitutes a mandatory subject of bargaining should be resolved on a case-by-case basis, depending upon the specific facts before the National Labor Relations Board or the courts.

Mr. President, during the consideration of the Labor Management Relations Act of 1947, the issue of mandatory collective bargaining arose. As a matter of fact, the House passed a bill containing an enumeration of that issue. The text of the bill passed in the Senate had no such definition. The bill provided that the parties could bargain in good faith with respect to wages, hours, and other terms and conditions of employment, leaving in basic terms the issue of whether or not the matter would mandatorily be subject to bargaining to be determined on a case-by-case basis.

The conferees on the bill, which became known as the Taft-Hartley Act, agreed that the circumstances having to do with whether a particular situation called for the mandatory or nonmandatory provision of bargaining may vary widely depending on the type of contract that is being proposed by either labor or management.

I agree with this approach as the question as to whether a matter should be subject to mandatory bargaining may very well depend upon the past history of a contract. The situation might occur where a labor-management contract that has been in existence for a number of years and there has been an on-going bargaining over the question of the legal services precedent. It seems likely under those circumstances that the courts or the Board would be inclined in the direction of saying that prepaid legal services trust funds would be a subject of mandatory bargaining.

On the other hand, in the circumstances when no such trust fund had been set up before, and the proposed trust fund would be limited to personal injury cases or benefits for dependents of employees, the Board or the court might properly determine that such funds would not be a subject of mandatory bargaining.

In any event, realistically I think we can recognize that what is and what is not compliance with mandatory collective bargaining requirement is perhaps very theoretical in a general sense. When parties get to the bargaining stage and they have a situation that theoretically does not require them to bargain on an issue, I think that as a practical matter bargaining still goes on. The mere fact that a subject is not determined to be subject to bargaining, I think, realistically means very little.

I think that if we adopt the bill it will be a step forward toward providing legal services for workers all over the country. I urge the legislation be approved without the adoption of the Tower-Fannin amendment.

Mr. TOWER. Mr. President, I call up my amendment——

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. Would it be appropriate to adopt the committee amendment before other amendments are offered?

The PRESIDING OFFICER (Mr. JOHNSTON). Unless the amendment of the Senator from Texas is to the committee amendment, it would be in order first to consider the pending amendment. Is all time yielded back on the committee amendment?

Mr. TAFT. I yield back the time on this side on the committee amendment.

Mr. WILLIAMS. How much time remains on the committee amendment?

The PRESIDING OFFICER. Forty minutes remain.

Mr. WILLIAMS. We yield back the remainder of our time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

AMENDMENT 128

Mr. TOWER. Mr. President, I call up my amendment No. 128, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 3, after the colon, insert the following: *"Provided,* That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice:".

On page 2, line 3, after *"Provided"* delete the comma and add *"further,"*.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. I yield myself 10 minutes.

Mr. President, the legislation before us amends the Taft-Hartley Act by permitting the establishment of employer-employee trust funds to defray the costs of legal services. The major limitation on these trust funds is that they could not be used by an employer to sue a union, or a union or employee to sue an employer, with the exception of workmen's compensation cases.

From the outset, I would like to make it clear that I am not particularly opposed to this concept. However, as the bill is drafted, the bargaining over the possible establishment of such trust funds would become a mandatory subject of collective bargaining, thereby requiring an employer to give it equal consideration with such other issues as wages or face the possibility of being charged with an unfair labor practice.

I do not believe this requirement is in the public interest, particularly with respect to the stated goals of the Taft-Hartley Act. Congress passed the Taft-Hartley Act upon coming to the realization that the national interest would no longer be best served through the encouragement of certain union activity—the stated purpose of the Wagner Act of 1935.

Instead, Taft-Hartley represented a basic policy change in the direction of neutrality between employer, employees, and unions. Unfortunately, due to the decisions, rulings and basic approach of the National Labor Relations Board, such a policy of neutrality in labor-management relations does not now exist. Instead of so-called "laboratory conditions" our national labor law policy has reverted to one where union activity is encouraged to the disadvantage of employers, individual employees, small unions, and also to the general public.

It is because of this longstanding trend that I feel compelled to offer this amendment which I might add is also sponsored by Senator FANNIN. At a time when there exists such an imbalance in labor-management relations, I cannot see the wisdom in further expanding the subjects that fall under the category of mandatory subjects of collective bargaining.

The committee report on S. 1423 tends to leave the impression that the bill takes no position on whether the legal services provision will be either mandatory or permissive. I quote from page 5 of the report:

> During the course of the hearings on this legislation, the committee was urged to include a provision which would have provided that no labor organization or employer shall be required to bargain on the establishment of any such trust funds and refusal to do so shall not constitute an unfair labor practice. The committee, in not including such a provision, intends to leave the law to mandatory subjects of bargaining where it finds it.

This statement is, in my mind both misleading and unwise. It is misleading in the sense that the National Labor Relations Board, when given the opportunity, has in almost every instance decided that particular fringe benefits and other related subjects that at one time were either management prerogatives or permissible subjects of bargaining are to be henceforth mandatory subjects of collective bargaining. The Board has accomplished this by giving the broadest possible interpretation to the phrase "other terms and conditions of employment" which is found in section 8(d), the "duty to bargain" section of the Taft-Hartley Act.

Examples of Board decisionmaking as to this expansion of mandatory subjects of collective bargaining include:

First. Individual merit increases in J. H. Allison & Co.

Second. Piece rates or other incentive pay rates in East Texas Steel.

Third. Wage changes made to maintain existing differentials when changes in the minimum wage laws require increases at the bottom end of the wage scale in Standard Candy.

Fourth. Health and accident insurance plans in Cross & Co.

Fifth. Profit-sharing retirement plans in Black-Clawson Co.

Sixth. Stock purchase plans provided for employer contributions in Richfield Oil.

Seventh. A unilateral change in insurance carriers in Wisconsin Southern Gas.

Eighth. Discounts on company products in Central Illinois Public Services.

Ninth. Christmas bonuses in Sullivan Dry Dock.

Tenth. Rent on company houses in American Smelting and Refining.

Eleventh. Rules on absenteeism and tardiness in Murphy Diesel Co.

Twelfth. Institution of aptitude tests in American Gilsonite.

Thirteenth. Super seniority for union representatives in Marine & Shipbuilders.

Fourteenth. Subcontracting out of work in the well-noted Fireboard case.

These represent only a portion of subject topics which the NLRB has recognized as falling within the phrase "other terms and conditions of employment." In my opinion, perhaps a reasonable argument can be put forth to substantiate some of these decisions. Nevertheless, taken together as a group, the Board has disregarded the neutrality principle and has opted instead to follow the underlying principles set out in the Wagner Act of 1935—principles that no longer represent the enunciated position of Congress.

The committee report's treatment of this matter is therefore unwise, because it gives an independent agency even more power to broadly interpret the will of Congress.

Stated otherwise, S. 1423 as reported by the Senate Labor and Public Welfare Committee represents congressional abrogation of responsibilities to the executive branch at a time when we hear a great deal of rhetoric about the need for Congress to freely legislate without being restrained by administrative action.

Mr. President, in 1969, Congress amended section 302(c) of the Taft-Hartley Act to permit employer contributions to jointly administered trust funds for the purpose of scholarships for the benefit of employees, their families, and dependents and for child care services for preschool and school aged dependents of employees. However, Congress, in its wisdom, added the following proviso:

> That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice.

My amendment to S. 1423 is identical to this proviso. I am not persuaded at all as to why bargaining for legal services should be mandatory while bargaining for scholarships and child care should be permissive. Furthermore, I can perceive of no concrete explanation as to why legal services can be translated into "other conditions of employment" and scholarships and day care services are not.

The failure to include the language I have suggested will most likely give the Board an excuse to make prepaid legal services mandatory since the language of my amendment would appear in the scholarship-day care section within section 302(c) but would then not appear in the proposed section immediately following concerning legal services.

Mr. President, no doubt an argument will be presented that in practice it does not matter whether subjects are mandatory or permissive. I do not believe this to be the case. For example, the employer of a moderately sized business is at a distinct disadvantage in negotiating with a strong union. It may become apparent to him that even though he is not theoretically forced into negotiating a legal services fund or some other type of fringe benefit, due to economic factors he will be forced into agreeing to some of these topics that are somewhat outside the confines of traditional demands—wages and hours. While this might not affect General Motors' bargaining position, it does place great pressure on a smaller general contractor, for example, who must negotiate with a fairly strong labor organization.

It has been my feeling for some time that Congress must move to revamp the National Labor Relations Board so as to effectuate a balanced labor-management policy within the framework of the Taft-Hartley Act. Therefore, I have introduced legislation to remove unfair labor practices from the jurisdiction of the National Labor Relations Board and place them in U.S. district courts. As an alternative to this legislation, Congress can and should clarify the National Labor Relations Act with respect to the provisions, for example, relating to subjects of collective bargaining and secondary boycotts. The legislation now before us offers an excellent vehicle for Congress to reassert itself in labor-management policymaking and thereby limit the discretionary authority of the independent regulatory agency in question.

I, for one, have long felt that Congress is equipped to consider legislation that would not allow the NLRB wide discretionary latitude. Labor law has always been a subject grounded in policy questions, rather than in technical questions. In a statement to the Senate Subcommittee on Separation of Powers during its 1968 hearings on congressional oversight of the NLRB, Judge Friendly of the U.S. court of appeals made the following statement:

> Today NLRB cases do not seem to require a good deal of expertise that a good judge cannot easily acquire. Many of the cases turn on the substantiality of evidence and do not weigh great questions of the moment.

I believe that this also applies with respect to Congress as well as the judiciary and, therefore, I have introduced this amendment so as to allow the Congress itself to set labor law policy, thereby fulfilling its constitutional responsibility as the legislative branch of the Government.

I again want to emphasize that I am not strictly opposed to the concept of prepaid legal services as being a permitted item in the collective bargaining process. The committee report makes note of the fact that some unions in many parts of the country have established pilot programs for prepaid legal services. I agree that this should not be discouraged and I am convinced that my amendment which will make prepaid legal services a permissible subject of bargaining will not stifle this trend.

Even if Congress failed to approve this legislation, the larger unions in the country that seem most interested in prepaid legal services would be able to continue and expand upon their activities on a unilateral basis.

Nevertheless, this trend, if it is one, does not necessitate it being made mandatory at a time when there is a clear imbalance in labor-management relations.

The fact is that the NLRB would, I think, based on past experience, seize on this as an authorization, if my amendment is not passed, to make legal services a mandatory item in the collective bargaining inventory.

In these days, Mr. President, organized labor more than any other segment of the American economy operates behind virtually an impenetrable statutory wall of protection and can demand and get wage increases not tied to increases for productivity, that have no relationship to the marketplace or to the laws of supply and demand. It possesses the greatest power of any other segment of the economy and can regularly thumb its nose at the general citizenry of this country. I do not believe that we should expand its power on matters that it insists are part of the collective bargaining process.

It is high time that we in Congress had the guts to stand up to the great political power of labor and pass some realistic labor legislation.

Mr. FANNIN. Mr. President, will the Senator from Texas yield me 5 minutes?

Mr. TOWER. I yield to the Senator from Arizona whatever time he finds necesary.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. FANNIN. I thank the Senator from Texas.

Mr. President, the amendment offered by Senator TOWER and me is a simple one in that it provides that bargaining over such employer contributions be permissive rather than mandatory.

In 1969, Congress amended section 302 (c) of the law to permit bargaining for scholarships for the benefit of employees and their families and for child care centers for employees' preschool and school age dependents (subsection 7). However, Congress added the proviso:

> That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice.

Our amendment makes the exact same proviso applicable to bargaining upon legal services. There is just no reason why bargaining for employer contributions for scholarships and child care centers should be permissive and bargaining for employer contributions for legal services should be mandatory.

During the past 25 years, fringe benefit programs have become a major issue in negotiating collective-bargaining agreements. The committee heard testimony that in some instances the combined contributions to such funds, excluding wages, exceed $4 for each manhour worked—Council of Construction Employers. To add yet another issue to be bargained and paid for by the employer will further inflate the cost of

production and is not in the public interest. Eventually, the public pays the entire cost, directly or indirectly.

If the bill passes, we may expect a proliferation of funds for legal services. Unions will be compelled by considerations of competition and prestige to negotiate them and employers will be obliged to contribute money to them There will be increases in product costs and undoubtedly labor strikes.

Mr. President, it is our hope that our amendment will reduce in some part those increased costs and strikes.

If this bill passes without amendment, what new subjects for bargaining can we expect? Employee car insurance? Employee's wearing apparel? Employer paid hair grooming—massage rooms, gasoline for employees' cars used to drive to the employers' plant, free food in the cafeteria, and so forth.

Provision for expenses such as employing legal counsel, and other personal expenses, is and should continue to be the responsibility of the individual. Employers are not legal guardians of their employees.

The workers should retain full responsibility and authority over how much of their wages to spend and how much to set aside for emergencies. I believe most Americans wish to retain these rights and responsibilities and Congress should not through its action transfer these responsibilities to the public through employers.

The Senator from Texas has listed just a few of the fringe benefits which the NLRB and the courts have held to be mandatory subjects for bargaining. They illustrate the ingenuity of unions in bringing up new subjects for bargaining. They also illustrate the strength of unions in being able to obtain these things for their members. Unions do not need the help of Congress in adding to these costly fringe benefits.

If such a legal service plan is indeed desirable, it can be established under existing law by any group of employees that want one through the simple expedient of the interested individuals funding it themselves. Programs of this nature are currently in existence in several sections of the country.

Mr. President, at a time when we are becoming less and less competitive in the world market for our manufactured goods, it seems highly inappropriate that we should move at this time to increase our costs of production. Every day we learn more and more about what is happening in other parts of the world where they are producing at far less costs than we are.

When we consider that, excluding wages, the cost of contributions to such funds in some instances exceed $4 for each man hour at work, we realize the seriousness of this matter.

I, therefore, urge adoption of the amendment by the distinguished Senator from Texas (Mr. TOWER).

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield to me.

Mr. WILLIAMS. I yield to the Senator from New York whatever time he may require within the time available.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, this is a serious matter we are discussing, as it represents a new area for action between labor and management. The fact is that the idea of prepaid legal services has developed considerable currency and that both the American Bar Association and my own bar association in New York, according to the report which I have, look with favor on this development. In my view, Congress ought to do all it can to encourage the establishment of these prepaid legal service funds through collective bargaining. That is why I fully support this bill, and hope very much the Senate will approve it as reported by the committee.

The question which is now submitted to us is a very narrow one; namely, shall or shall not employers be required to bargain with unions on this subject if the employer does not wish to do so?

The Senator from Texas (Mr. TOWER) negates the proposition. We do not negate or affirm it but leave it to be determined by the NLRB and the courts on a case-by-case basis.

The argument on the part of the proponents of the amendment naturally proceeds on the theory that if there is a right to bargain, or a mandatory obligation to bargain, that means that the workers get it. But that really is not so. Unions demand many things in collective bargaining; who can say that they get any or all of their wage demands or their fringe benefits?

The mere fact that bargaining is mandatory simply means that it needs to be discussed in a serious and good faith way.

It has been said, and very properly so, that even if this amendment were adopted any experienced labor negotiator could handle that without running afoul of the law, even if the employer or employers do not wish to discuss the matter. I want to emphasize that the issue here is not whether employers should or should not agree to make payments to these funds. The issue is whether they should even talk about it, provided the NLRB holds that the particular legal services plan which is brought up is a legal services plan which falls within the definition of wage, hours, and conditions of employment.

Mr. TOWER. Mr. President, will the Senator yield so that we may ask for the yeas and nays?

Mr. JAVITS. I yield.

Mr. TOWER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JAVITS. For example, the Board may very well make a distinction between a legal services program which deals with suits on workmen's compensation, as the subject for a trust fund such as the one we are discussing, and a legal services program which may deal with the generality of obligations of the individual for perhaps opposing a department store bill or a suit against some retailer for misrepresentation or fraud or a personal injury suit in an accident case.

I believe, Mr. President, that as the whole concept of the employer-employee relationship is developing under the labor laws, these issues need to be developed with it. We should not put shackles on it.

I think the people on our side of the argument have made a very good case for cranking into the law a requirement that bargaining on legal services trust funds should be mandatory. Had we written it into the law, that would have been that. We chose to leave the law where we found it and to deal with the substantive elements of the case. The proponents of the amendment would have us negative that proposition and, by terms of the law, exclude it from the collective bargaining process. I do not believe that should be so.

I emphasize again—and I think it is the crucial point for Senators in determining how they will vote—that the fact that it is a subject for bargaining, a mandatory subject for bargaining, even if it were in the whole generality of legal services trust funds, would still not compel the employer to agree.

So I believe that the committee should be sustained and that the amendment should be rejected.

Mr. WILLIAMS. Mr. President, I yield to the Senator from Ohio such time as he requires.

Mr. TAFT. I thank the chairman of the committee.

I really have little to add to the argument on this amendment.

As I said in my opening remarks, I feel it is somewhat of a tempest in a teapot; because, as a practical matter, the differentiation between mandatory and nonmandatory subjects in collective bargaining is certainly not a very clear one in most circumstances.

In that regard, I invite the attention of the Senate to the statement of Harry P. Taylor, president of the Council of Construction Employers, Inc., who testified before the Labor Committee, along with a panel representing employers in the contracting and construction business. I read from the committee hearing record in that connection, on page 242:

The CHAIRMAN. In this legislation—I might have missed what you said there—but if you are dealing with any suggestion that this legislation makes this a mandatory issue, it does not.

Mr. TAYLOR. Sir, if I may speak to it as one who did negotiate, representing management, with the building trades unions, if I had a choice between it being mandatory or permissive——

The CHAIRMAN. You would rather have it mandatory?

Mr. TAYLOR. No, sir, but only for those few cases—and, they are rare—where the negotiator for the union is not astute enough to inflate his demand for mandatory bargaining issues.

This is the situation where they say, now you just give a little more on this permissive issue, and I will get reasonable on the mandatory issue. The net effect in dealing with an astute negotiator—most of them are that I have met—from the union, it really makes very little difference. They will make it mandatory by the mere practice, even if it is just permissive.

I would rather have it permissive.

This is the testimony we received from an individual who has been involved in the very industry which the Senator from Texas has mentioned.

As I have said, I think it really is somewhat of a tempest in a teapot. It

seems to me to be questionable and argumentative at this point to try to put these services in a separate category aside from the other major fringe benefit issues. The National Labor Relations Board and the courts, as the case may be, should make the decision on a case-by-case basis as to whether or not prepaid legal services are subject to mandatory or nonmandatory bargaining.

I think it would be a mistake to adopt the amendment. I can understand opposition to the bill, as expressed by the Senator from Arizona, and perhaps others are opposed to the bill as well.

If we accept this concept, however, it seems to me that it is desirable to try to encourage rather than discourage inclusion in labor contracts joint trust funds for legal services. I do not believe, as has been argued, that that is an inflationary move. Far from it. I think that anybody who has been involved in labor-management discussions and in negotiations recognizes that it is a question of the package you are willing to arrive at. Some of it is in pay and some of it in fringe benefits. Whether such funds are mandatory or permissive, they will be part of the fringe benefits negotiated by labor and management. Labor organizations may set up these trust funds, anyway; and it seems to me desirable, under the circumstances, to have a joint labor-management participation in establishing and controlling such funds.

Mr. WILLIAMS. I yield myself such time as I may require.

Mr. President, it might be helpful to go back and review for a moment what happened in 1947 during the deliberations on the Labor-Management Relations Act of that year. The issue of congressional definition of mandatory bargaining arose then. As a matter of fact, a bill passed in the House of Representatives contained an enumeration of those issues over which the parties would be required to bargain. However, the bills that passed the Senate contained no such definition. Rather, the bill merely defined collective bargaining as the conferring in good faith "with respect to wages, hours, and other terms and conditions of employment." It then left the specific determinations of what issues are mandatory subjects of bargaining to be determined, as the Senator from New York pointed out, on a case-by-case basis, by the judicial and quasi-judicial process.

The conferees on that act in 1947, the Taft-Hartley Act, agreed with the Senate provision, and that is where we are today. This would make a specific finding, as part of the definition, of what is mandatory and what is not. We leave that question unanswered, as the Taft-Hartley Act in many cases left it unanswered.

I suggest that in this situation, for all the reasons that have been advanced, we not legislate this definition of the Tower-Fannin amendment.

The bill will not direct the establishment of legal services programs, it will not dictate the terms and conditions of such programs, it will not require nor prohibit the establishment of such programs and it will not require labor or management to agree to any such programs.

The bill will simply permit management to contribute to such fringe benefit funds if management agrees with labor to the establishment of such a fringe benefit.

The amendment by Senators TOWER and FANNIN would permit an employer to refuse even to bargain over the establishment of a legal service program by designating legal services fringe benefits as a nonmandatory subject of bargaining.

During the hearings on this legislation, the committee heard some witnesses who urged that legal services be made a mandatory subject of bargaining.

Others urged an amendment similar to the Tower-Fannin amendment.

Although some members of the committee believe that a legal service fringe benefit should be treated like other fringe benefits such as health insurance and pensions, all mandatory subjects of bargaining, the committee decided not to resolve the issue on a basis of the generalized statements in our hearing record.

Rather, we chose to be consistent with the provisions of the Taft-Hartley Act under which the question of what constitutes a mandatory subject of bargaining is resolved on a case by case basis, depending upon the specific facts involved, by the National Labor Relations Board or the Courts.

The effect of the amendment is to grant to employers a statutory right to refuse to bargain with his employees about the establishment of a legal services program.

The whole purpose of S. 1423 could be thwarted by the proposed amendment. While we are trying to provide a vehicle for employees to protect themselves with legal services plans through the collective bargaining process, this amendment would allow any employer to thwart the whole process from the outset by simply saying "I refuse to discuss that subject."

This amendment in effect could give the employer the sole discretion of deciding whether or not a legal services plan would be established under the auspices of section 302.

We would be building in a tremendous inequality in bargaining power over a subject of great importance to employees, a subject which, as Secretary of Labor Brennan said in endorsing S. 1423, is "critical to all of us at various times in our lives."

It is a subject about which employers should also have a deep interest. Our committee report described the case of an employer which unilaterally undertook a legal services program for its employees during World War II. That program resulted in a savings of thousands of man-hours in time lost on the job in attempting to deal with personal legal problems. We concluded in our report that:

> It is clear to the committee that providing legal services for employees will have the effect of improving productivity, reducing lost time, and effectively improving employee morale.

Legal services to the average American is such an important national problem that many believe that employees should have an absolute right, through their unions, to demand that employers bargain over the establishment of such funds on a jointly administered basis. Some believe that these plans would bring such benefits to both the employer and his employees, that it should be spelled out in the law as a mandatory subject of bargaining.

Let me be certain here that my colleagues understand that making a subject of bargaining mandatory simply means that an employer must bargain in good faith about the subject. He by no means has to agree to the demand.

In any event, after we completed a review of the legislative history of the Taft-Hartley Act and the many court decisions dealing with the issue of which subjects of bargaining were permissive and which were mandatory, we concluded that it would not be appropriate to include any provision in the bill at all.

It is clear that this was intended by Congress in 1947 as a subject which was to be left to the National Labor Relations Board and the courts, to be decided on a case-by-case basis.

The act itself, of course, does not specify which subjects are mandatory and which are permissive. Let me briefly review how the law has been developed by the courts.

Section 8(d) of the Labor-Management Relations Act, 29 U.S.C. section 141, section 158(d) (1970), provides in pertinent part:

> To bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to *wages, hours, and other terms, and conditions of employment*, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party. . . . (Emphasis added.)

The distinction between mandatory and merely permissive bargaining subjects is crucial. In *N.L.R.B.* v. *Borg-Warner Corp.*, 356 U.S. 342 (1958), the Supreme Court held that lawful matters not within the scope of "wages, hours and other terms and conditions of employment" are permissives bargaining subjects.

The inventory of forms of compensation held to be mandatory bargaining subjects has been established on a case by case basis: individual merit raises, *N.L.R.B.* v. *J. H. Allison & Co.*, 165 F. 2d 766 (6th Cir. 1948); Pension, *Inland Steel Co.* v. *N.L.R.B.*, 170 F. 2d 247 (7th Cir. 1948), *cert. denied*, 336 U.S. 960 (1949); Christmas Bonuses, *N.L.R.B.* v. *Niles-Bement-Pond Co.*, 199 F. 2d 713 (2d Cir. 1952); Rentals for Company-Owned Housing, *N.L.R.B.* v. *Lehigh Portland Cement Co.*, 205 F. 2d 821 (4th Cir. 1953); Piece or Other Incentive Rates, *N.R.L.B.* v. *E. Texas Steel Castings Co.*, 211 F. 2d 813 (5th Cir. 1954); Profit-Sharing Plans, *N.L.R.B.* v. *Black-Clawson Co.*, 210 F. 2d 523 (6th Cir. 1954); Stock Purchase Plans, *Richfield Oil Corp.* v. *N.L.R.B.*, 231 F. 2d 717 (D.C. Cir. 1956),

cert. denied, 351 U.S. 909 (1956); Employee Discounts, *N.L.R.B.* v. *Central Ill. Pub. Serv. Co.*, 324 F. 2d 916 (7th Cir. 1963).

In developing the Mandatory versus Permissive Bargaining Concept, the NLRB and the courts have looked to bargaining practices as relevant, but not determinative. *Fibreboard Paper Products Corp.* v. NLRB, 379 U.S. 203, 211 (1964). It is well established that:

> Section 8(d) of the act—does not immutably fix a list of subjects for mandatory bargaining.

Chemical Workers, Local 1 v. *Pittsburgh Plate Glass*, 404 U.S. 157, 158 (1971) and that:

> Effective collective bargaining—include(s) the right—to bargain about the exceptional as well as the routine—"

Order of *Railroad Telegraphers* v. *Railway Express Agency*, 321 U.S. 342, 347 (1944).

Whether legal service plans would be found to be mandatory or permissive subjects of bargaining is an open question. There are those who argue that they should be treated in the same manner as group health plans, which are mandatory subjects of bargaining. Others argue that they should be a permissive subject of bargaining.

The point is that we should leave it to the NLRB and the courts to decide the qustion on the basis of traditional and well-established criteria. The question has not yet been presented in an actual case, and we should leave the law as we find it.

Mr. TOWER. I yield myself 1 minute.

Mr. President, I want to say that passing this bill without my amendment simply puts another plug in the hands of big unions which in many instances, most instances, are greater and more powerful than the business organizations they deal with. Remember, organized labor is the only segment of the American economy that does not have to pay attention to regulations in the marketplace or the law of supply and demand because of the statutory law of protection around them.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Iowa (Mr. HUGHES), the Senator from Delaware (Mr. BIDEN), and the Senator from Idaho (Mr. CHURCH) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), and the Senator from Iowa (Mr. HUGHES) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The Senator from New York (Mr. BUCKLEY) is detained on official business.

The Senator from Illinois (Mr. PERCY) is absent by leave of the Senate on official business.

The result was announced—yeas 26, nays 66, as follows:

[No. 142 Leg.]

YEAS—26

Baker	Curtis	Hruska
Bartlett	Domenici	McClellan
Bellmon	Dominick	McClure
Bennett	Eastland	Nunn
Brock	Ervin	Saxbe
Byrd, Harry F., Jr.	Fannin	Thurmond
	Griffin	Tower
Cook	Hansen	Weicker
Cotton	Helms	Young

NAYS—66

Abourezk	Hartke	Moss
Aiken	Haskell	Muskie
Allen	Hatfield	Nelson
Bayh	Hathaway	Packwood
Beall	Hollings	Pastore
Bentsen	Huddleston	Pearson
Bible	Humphrey	Pell
Brooke	Inouye	Proxmire
Burdick	Jackson	Randolph
Byrd, Robert C.	Javits	Ribicoff
Cannon	Johnston	Roth
Case	Kennedy	Schweiker
Chiles	Long	Scott, Pa.
Clark	Magnuson	Sparkman
Cranston	Mansfield	Stafford
Dole	Mathias	Stevens
Eagleton	McGee	Stevenson
Fong	McGovern	Symington
Fulbright	McIntyre	Taft
Gravel	Metcalf	Talmadge
Gurney	Mondale	Tunney
Hart	Montoya	Williams

NOT VOTING—8

Biden	Goldwater	Scott, Va.
Buckley	Hughes	Stennis
Church	Percy	

So the Fannin-Tower amendment was rejected.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I know of no further amendments. I am prepared to yield back the time remaining on the bill, if Senators controlling the time in opposition are also willing.

Mr. JAVITS. Who controls the time in opposition?

Mr. WILLIAMS. The Senator from New York himself does.

Mr. JAVITS. I am prepared to yield back the time under my control, as well, unless there are Senators who desire to speak on the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

Mr. JAVITS. Mr. President, I do not want to cut off any Senator. I think it is a little early compared with what Senators usually assume. On my time, I suggest the absence of a quorum before the third reading of the bill.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MONDALE. Mr. President, I urge speedy adoption of S. 1423 as unanimously reported from the Labor and Public Welfare Committee. As a cosponsor of this legislation, I regard the provision of high-quality prepaid legal services as being of the utmost importance. I wish to commend the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS) for their leadership in presenting and obtaining quick Senate action on this bill.

Over the past 2 years, the Senate has debated and twice passed legislation which I, joined by many others, have sponsored to create a National Legal Services Corporation. This legislation has been designed to aid the poor in receiving the legal assistance they need to insure equal justice for all under our Constitution. Within the near future, the Senate will again be debating the future of the legal services program.

The legislation under consideration today, however, is important in a different way. For not only the poor in our society often find quality legal services beyond their reach. Many middle-class Americans often experience difficulties in affording such services and the present means for delivering these services do not always prove adequate. For these Americans, the ability to establish joint labor-management trust funds to finance legal services is of real concern.

S. 1423, it should be noted, does nothing more than remove a presently existing legal barrier which prevent the formation of jointly administered labor-management trust funds to finance the provision of legal services. By authorizing employer contributions to such funds, this legislation will help provide legal services in many industries where such jointly administered funds may well be the only effective way of providing such services.

The bill does not finance or direct the establishment of such legal services programs. It allows for maximum flexibility in the nature, number, and particular provisions in plans for prepaid legal services.

In short, S. 1423 attempts to recognize the growing need for quality prepaid legal services among employees in many industries, and declares that the Federal Government will not stand in the way of unions and management jointly deciding to administer such funds. As such, it fills a definite need and will be a real contribution toward benefiting the welfare of millions of families across the Nation.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1423) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), and the Senator from Iowa (Mr. HUGHES) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

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

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The Senator from Illinois (Mr. PERCY) is absent by leave of the Senate on official business.

The result was announced—yeas 79, nays 15, as follows:

[No. 143 Leg.]

YEAS—79

Abourezk	Gravel	Moss
Aiken	Griffin	Muskie
Allen	Gurney	Nelson
Baker	Hart	Nunn
Bayh	Hartke	Packwood
Beall	Haskell	Pastore
Bellmon	Hatfield	Pearson
Bentsen	Hathaway	Pell
Bible	Hollings	Proxmire
Brock	Huddleston	Randolph
Brooke	Humphrey	Ribicoff
Buckley	Inouye	Roth
Burdick	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Pa.
Cannon	Johnston	Sparkman
Case	Kennedy	Stafford
Chiles	Long	Stevens
Church	Magnuson	Stevenson
Clark	Mansfield	Symington
Cook	Mathias	Taft
Cranston	McClure	Talmadge
Dole	McGee	Tunney
Domenici	McGovern	Weicker
Dominick	McIntyre	Williams
Eagleton	Metcalf	Young
Fong	Mondale	
Fulbright	Montoya	

NAYS—15

Bartlett	Eastland	McClellan
Bennett	Ervin	Saxbe
Byrd, Harry F., Jr.	Fannin	Thurmond
	Hansen	Tower
Cotton	Helms	
Curtis	Hruska	

NOT VOTING—6

Biden	Hughes	Scott, Va.
Goldwater	Percy	Stennis

So the bill (S. 1423) was passed, as follows:

S. 1423

An act to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302(c) of the Labor Management Relations Act 1947, is amended by striking out "or (7)" and inserting in lieu thereof "(7)" and by adding immediately before the period at the end thereof the following: "; or (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents: *Provided,* That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: *Provided further,* That no such legal services shall be furnished (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workmen's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act, and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959".

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make necessary clerical and technical corrections in the engrossment of the bill, and that the bill (S. 1423) be printed as passed by the Senate.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Clerk of the House had been directed to notify the Senate that Mr. ADAMS, of Washington, had been appointed as a manager on the part of the House at the conference on the bill (S. 38) to amend the Airport and Airways Development Act of 1970, as amended, to increase the United States share of allowable project costs under such act, to amend the Federal Aviation Act of 1958, as amended, to prohibit certain State taxation of persons in air commerce, and for other purposes, vice Mr. DINGELL, resigned.

LEAVE OF ABSENCE

Mr. SCOTT of Pennsylvania. Mr. President, I ask unanimous consent that the Senator from Illinois (Mr. PERCY) be granted leave of the Senate from today until Friday on official business.

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

LEGISLATIVE PROGRAM

Mr. SCOTT of Pennsylvania. Mr. President, I rise to ask the distinguished majority leader what the order of business will be for the rest of the day, the rest of the week and, if he is prepared to say, until the very brief recess before Memorial Day.

AMENDMENT OF THE SMALL BUSINESS ACT

Mr. MANSFIELD. Mr. President, in response to the query raised by the distinguished Republican leader, first, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 123, S. 1672, so that it may be made the pending business.

The PRESIDING OFFICER (Mr. DOMENICI). Under the previous order, the Chair lays before the Senate S. 1672, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1672) to amend the Small Business Act.

The PRESIDING OFFICER. Time on this bill is under control, with time on each amendment except one amendment to be offered by the Senator from Ohio (Mr. TAFT) limited to 30 minutes, time on the bill to be limited to 1 hour.

Mr. MANSFIELD. Mr. President, we will not take up the Small Business bill until tomorrow, sometime between the hour of 10:30 and 11 o'clock a.m. So there will be no time on the bill this evening.

LEGISLATIVE PROGRAM

Following the disposition of the pending business, it is anticipated that the Senate will turn to the consideration of Calendar Order No. 142, a bill (S. 355) to amend the National Traffic and Motor Vehicle Safety Act of 1966, and then hopefully, either Calendar No. 144 or Calendar No. 145. Some difficulties pertain to Calendar Nos. 143 and 141.

It is anticipated that on the calendar tomorrow will be the bills reported out by the Committee on Foreign Relations yesterday, or Monday, the State Department Authorization Act, the Foreign Building Act, the authorization for the USIA, and the authorization for the Peace Corps. In view of the difficulties which have developed concerning the taking up of the urgent supplemental appropriation bill, I would anticipate the same difficulty would accrue to the State Department authorization bill, but I will plead with the distinguished minority leader from time to time to see whether, out of the goodness of his heart and his wisdom of mind, he might not relent, but I am not holding out much hope.

Mr. SCOTT of Pennsylvania. The minority leader is filled with goodness of heart and enormous good will and a compulsive desire to please the distinguished majority leader in every way possible, and to the extent to which he and his colleagues can bring themselves to do so, we will try to do in bringing ourselves to do so.

Mr. MANSFIELD. May I say that I appreciate the candor of the distinguished minority leader. I would say that the situation which confronts us at the present time is the exception to the rule.

Mr. SCOTT of Pennsylvania. The distinguished majority leader is very kind—as always.

Mr. MANSFIELD. Mr. President, on Monday next, the Senate will proceed to the consideration of the nominations of Robert H. Morris, of California, and

William L. Springer, of Illinois, to be members of the Federal Power Commission.

At this time, as in executive session, I ask unanimous consent that there be 2 hours of debate on Monday next on the nomination of William L. Springer, of Illinois, the time to be equally divided between the distinguished Senator from Utah (Mr. Moss) and the equally distinguished Senator from New Hampshire (Mr. COTTON); and I also ask unanimous consent that it be in order to order the yeas and nays on that nomination at this time.

The PRESIDING OFFICER (Mr. DOMENICI). That is on the nomination of William L. Springer, of Illinois?

Mr. MANSFIELD. Yes.

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

Mr. MANSFIELD. I ask for the yeas and nays on this nomination at this time.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that it be in order to order the yeas and nays on the nomination of Robert H. Morris, of California, immediately after the disposal of the Springer nomination on Monday next, at this time.

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the nomination of Robert H. Morris, of California.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, other legislation will be reported from the various committees in the meantime. I will get together, as usual, with the distinguished Republican leader, trying to work out the mode of operation for these matters so that they can be considered by the Senate before we recess at the conclusion of business a week from tomorrow.

Mr. SCOTT of Pennsylvania. Has the distinguished majority leader, at this time, arrived at any decision regarding a session this coming Friday?

Mr. MANSFIELD. It would depend, I would say in reply, on what the Senate is able to accomplish on tomorrow.

Mr. SCOTT of Pennsylvania. In other words the carrot and the stick?

Mr. MANSFIELD. The stick and the carrot. [Laughter.]

The PRESIDING OFFICER. The Chair would inquire of the distinguished majority leader, does he want to ask unanimous consent that the time heretofore agreed upon on S. 1672 be deferred until tomorrow and start running tomorrow?

Mr. MANSFIELD. The distinguished Presiding Officer has stated the situation correctly.

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

Mr. MANSFIELD. Mr. President, may I say, in all candor, to my distinguished friend, the Republican leader, that it really is not the stick and the carrot or the carrot and the stick. It is just the way things work out. I do not know what is going to come upon the calendar.

Mr. SCOTT of Pennsylvania. I understand.

Mr. COTTON. Mr. President, if the distinguished majority leader will yield, I think that while 2 hours is ample for consideration of the Springer nomination, I would be very much surprised if we used more than half that time.

Mr. MANSFIELD. I would be disappointed if we did.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legslative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, the Senate will recall that I said we would get to a vote between the hour of 10:30 and 11 o'clock tomorrow on the bill to amend the Small Business Act.

I would like to make a further addendum and ask unanimous consent that the time begin running on the Springer nomination immediately after the close of morning business on Monday next.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT OF THE SMALL BUSINESS ACT

The Senate continued with the consideration of the bill (S. 1672) to amend the Small Business Act.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. S. 1672.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order for amendment No. 125 to be offered to the bill S. 1672. The amendment is by Mr. EAGLETON. I have cleared the matter with Mr. TOWER, who is the manager of the bill on the other side of the aisle; I have cleared it with the manager of the bill on this side of the aisle; and I have also cleared it with the leadership on the other side of the aisle.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS AND FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the assistant Republican leader, Mr. GRIFFIN, be recognized for not to exceed 15 minutes; that he be followed by the junior Senator from West Virginia, Mr. ROBERT C. BYRD, for not to exceed 15 minutes, at the conclusion of which there be a period for the transaction of routine morning business, of not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

ORDER FOR S. 1672 TO BE LAID BEFORE THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the transaction of routine morning business, the Chair lay before the Senate the unfinished business, S. 1672.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FEDERAL POWER COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I have been authorized by the distinguished majority leader to ask unanimous consent, as in executive session, that the previous order with respect to the consideration of Calendar No. 125, Message No. 29, the nomination of Robert H. Morris, be vacated.

The PRESIDING OFFICER. The order for the vote thereon?

Mr. ROBERT C. BYRD. That the previous order with respect to Mr. Robert H. Morris be vacated, with the exception of the yeas and nays which were ordered.

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

Mr. ROBERT C. BYRD. Mr. President, on Monday, after the transaction of routine morning business is completed, the Senate will go into executive session to consider the nomination of Mr. William L. Springer, of Illinois, to be a member of the Federal Power Commission for the remainder of the term expiring June 22, 1977. There is a time limitation of 2 hours on that nomination, the time to be equally divided between Mr. COTTON and Mr. Moss, at the conclusion of which a yea-and-nay vote, which has previously been ordered, will occur. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. At the conclusion of the vote, the Senate would not then proceed to vote on the nomination of Mr. Morris. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

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

Mr. ROBERT C. BYRD. I yield.

Mr. COTTON, At what time is it the intention for the Senate to meet on Monday?

Mr. ROBERT C. BYRD. At 12 noon.

Mr. COTTON. So that, in all probability, the debate on the nomination of Mr. Springer would hardly start before 1 p.m.

Mr. ROBERT C. BYRD. I doubt that it will.

Mr. COTTON. I am coming in by plane, and I plan to arrive here by 1 o'clock or within 10 minutes thereafter.

Mr. ROBERT C. BYRD. The Senator will be accommodated, because he is always most accommodating to his colleagues.

Mr. COTTON. I thank the Senator.

ORDER FOR CONVENING OF THE SENATE ON MONDAY, MAY 12, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate meets on Monday, it meet at the hour of 12 o'clock noon.

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

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday, and after the completion of any orders for the recognition of Senators which may have been entered prior thereto, there be a period for the transaction of routine morning business, of not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Senate go into executive session to begin its consideration of the nomination of Mr. William L. Springer.

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

Mr. ROBERT C. BYRD. This is in accordance with our colloquy, may I say to the distinguished Senator from New Hampshire.

Mr. COTTON. It will not happen before 1 p.m. or 1:30?

Mr. ROBERT C. BYRD. I assure the Senator of that.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the assistant Republican leader, Mr. GRIFFIN, will be recognized for not to exceed 15 minutes, after which the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, of not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of the period for the transaction of routine morning business, the Senate will resume its consideration of the unfinished business, S. 1672, a bill to amend the Small Business Act, under a time limitation. Yea-and-nay votes will occur on amendments thereto and possibly on the passage of the bill. There may be other matters called up tomorrow following the disposition of the unfinished business, and yea-and-nay votes may likewise occur thereon.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT TO 10 A.M.

Mr. HUDDLESTON. 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 10 a.m. tomorrow morning.

The motion was agreed to; and at 3:25 p.m. the Senate adjourned until tomorrow, Thursday, May 17, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 16, 1973:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be commander

Phillip C. Johnson	Karl W. Kieninger
James P. Brown, Jr.	

To be lieutenant commander

William L. Stubblefield	William D. Neff
	Michael Kawka
Ronald L. Crozier	Clarence W. Tignor
Melvyn C. Grunthal	Melvin N. Maki

To be lieutenant

Michael R. Johnson	Gary M. Adair
Max M. Ethridge	Alan P. Vonderohe
Gary L. Sundin	David B. McLean
Carl V. Ullman	David B. MacFarland
Keith G. Baldwin	Kurt J. Schnebele
Stephen L. Wood	Emerson G. Wood
Robert H. Qualset	

To be lieutenant (junior grade)

Carl S. Smyth	Michael F. Kolesar
James R. Hastings	Denis A. Redwine
James R. Faris	

U.S. AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962 title 10 of the United States Code:

To be lieutenant general

Lt. Gen. Gordon M. Graham, [redacted] R (major general, Regular Air Force) U.S. Air Force,

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Donavon F. Smith, [redacted] R (major general, Regular Air Force) U.S. Air Force,

FEDERAL RESERVE SYSTEM

Robert C. Holland, of Nebraska, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1964, vice James Louis Robertson, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 16, 1973:

DEPARTMENT OF LABOR

Richard F. Schubert, of Pennsylvania, to be Under Secretary of Labor.

Bernard E. DeLury, of New York, to be an Assistant Secretary of Labor.

ADMINISTRATION ON AGING

Arthur S. Flemming, of Virginia, to be Commissioner on Aging.

FEDERAL HIGHWAY ADMINISTRATION

Norbet T. Tiemann, of Nebraska, to be Administrator of the Federal Highway Administration.

NATIONAL COMMISSION ON MATERIALS POLICY

Frederick B. Dent, of South Carolina, to be a member of the National Commission on Materials Policy.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)