sary" was fortunately approved for those portions of the Act where dollar authorizations are not specified. A title of the bill providing for the training of middle-aged and older workers was eliminated.

On the other hand, Title IX of the bill, providing for public service employment of a limited number of low-income older workers who would not otherwise be employed, was retained. Title IX broadens a proven pilot program—Operation Mainstream—which is designed to provide useful public service work at a minimum wage for low-income older workers who are ready, willing and able to work but are unable to compete in the regular job market. This program reflects the fact that there are many important community jobs that need to be done but which private industry, concerned with profits, will not do. It also emphasizes the fact that for many older workers, the government must be the "employer of last resort" if these older citizens are ever again to find gainful work.

Despite the Administration's vocal support of the "work ethic," it originally opposed this program on the grounds that it was "categorical." Had this opposition prevailed, many low-income older workers would have been consigned to permanent unemployment and possible dependence upon welfare assistance. It is clearly better to encourage the desire to be independent and self-supporting by the payment of a small wage for needed community service work rather than pursuing a policy which would lead to further dependency and Federal "hand-outs."

The new legislation has a number of other important goals. It would seek to:

Develop the role of the AoA as a focal point of Federal action on aging and to upgrade its status within HEW.

Create a Federal Council on Aging with broad powers to advise the President on matters affecting older Americans. The council would have authority to study interrelationships of Federal, state and local benefit programs, to study the impact of taxes on the elderly, and to examine the effects of allotment formulae for area planning and social service programs.

Strengthen state and area agencies on aging to enable them to provide comprehensive coordinated services for the elderly at local levels.

Create a long-needed national information and resource clearinghouse for the aging to make possible the spread of knowledge and techniques developed by research.

Expand research, demonstration and training programs.

Expand volunteer service programs for the elderly—Foster Grandparent and Retired Senior Volunteer Programs.

Provide for special demonstration projects in areas of transportation, housing, education, employment and pre-retirement.

Amend various Acts to provide greater opportunities for continuing education for older people.

Provide community service jobs for low-income persons, 55 and older, in the fields of education, social services, recreation services, conservation, environmental restoration and economic development.

These amendments do not constitute a random "grab-bag" of services for the elderly. They are priority objectives selected from among the many recommendations of the White House Conference on Aging.

Participants in that historic conference were—and still are—seeking positive results. They remember the President's pledge that their recommendations would be acted upon and not allowed to "gather dust" on a shelf. They have been heartened by the recent increase in Social Security benefits, the provision for automatic cost-of-living increases in benefits, the increase in the amount which older persons may earn without loss of Social Security benefits, and the provision for a federally guaranteed minimum income for all older persons. These are important advances. Particularly in the field of services for the elderly, however, much remains to be done and the new amendments to the Older Americans Act represent a much-needed move in that direction.

The fact that an acceptable compromise between Congress and the Administration was reached in this matter is a credit to both and a happy ending to a most unproductive conflict.

MALCOLM X REMEMBERED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 4, 1973

Mr. RANGEL. Mr. Speaker, El Hajj Malik El Shabazz, known to most of us as Malcolm X, meant much to black America.

The deep and profound feelings for Malcolm were no more eloquently expressed than by Actor-Producer Ossie Davis at the time of Malcolm's death.

The following article appeared in the May 19 edition of the New York Amsterdam News, the community newspaper of Harlem. I commend it to the attention of my colleagues:

IN MEMORY OF MALCOLM X

This week marks the birthday anniversary of Malcolm X, known to many as El Hajj Malik El Shabazz.

We can think of no higher tribute to Malcolm X than to reprint a portion of the eloquent tribute paid him at his death by actor-producer Ossie Davis.

On that day, Ossie Davis said in part. . . .

"There are those who will consider it their duty, as friends of the Negro people, to tell us to revile him, to flee, even from the presence of his memory, to save ourselves by writing him out of the history of our turbulent times.

"Many will ask what Harlem finds to honor in this stormy, controversial and bold young captain—and we will smile.

"Many will say turn away! away from this man, for he is not a man but a demon, a monster, a subverter and an enemy of the Black man—and we will smile.

"They will say that he is of hate—a fanatic, a fascist—who can only bring evil to the cause for which you struggle!

"And we will answer and say unto them: Did you ever talk to Brother Malcolm? Did you ever touch him, or have him smile at you? Did you ever really listen to him? Did he ever do a mean thing? Was he ever himself associated with violence or any public disturbance? For if you did you would know him."

"And if you knew him you would know why we must honor him: Malcolm was our manhood, our living, Black manhood! This was his meaning to his people. And, in honoring him, we honor the best in ourselves.

"Last year, from Africa, he wrote these words to a friend: 'My journey' he says, 'is almost ended, and I have a much broader scope than when I started out, which I believe will add new life and dimension to our struggle for freedom and honor, and dignity in the States.'

" 'I'm writing these things so that you will know for a fact the tremendous sympathy and support we have among the African States for our Human Rights struggle.' "

UNITED FRONT

" 'The main thing is that we keep a United Front where-in our most valuable time and energy will not be wasted fighting each other.'

"However much we may have differed with him—or with each other about him and his value as a man, let his going from us serve only to bring us together, now. Consigning these mortal remains to earth, the common mother of all, secure in the knowledge that what we place in the ground is no more now a man—but a seed—which after the winter of our discontent—will come forth again to meet us. And we will know him then for what he was and is—a Prince our own Black shining Prince!—who didn't hesitate to die, because he loved us so."

SENATE—*Tuesday, June 5, 1973*

The Senate met at 11:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

Dr. Karl Bennet Justus, executive director, Military Chaplains Association, offered the following prayer:

Eternal God and Father of us all, whose word hath told us that Thou art "our refuge and strength, a very present help in trouble" extend Thy hand of benediction over this great land in the midst of turmoil and strife currently afflicting the Nation. Undergird us with Thine everlasting arms of strength; grant us wisdom and courage for the facing of these days so that we shall be free from fear "though the Earth be shaken and the mountains be cast into the midst of the sea."

Bless the President of our Nation and every member of our Government as they daily confront the myriad problems within and without our borders.

Thou hast said "The truth shall make you free." Help us to put a premium on truth and justice, integrity and honor, that we may be free, indeed. Renew and buttress the moral and spiritual foundations that made and hath kept America a great nation, never forgetting that "where there is no vision the people perish."

May we chart a course in which truth and righteousness shall prevail over innuendo and rumor. And from the depth of our souls we pray "God bless America—from sea to shining sea."

In Thy holy name, we pray. Amen.

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. 3801) to extend civil service Federal employees group life insurance and Federal employees health benefits coverage to U.S. nationals employed by the Federal Government, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 3801) to extend civil service Federal employees group life insurance and Federal employees health benefits coverage to U.S. nationals employed by the Federal Government, was read twice by its title and referred to the Committee on Post Office and Civil Service.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bill and joint resolution:

H.R. 6077. An act to permit immediate retirement of certain Federal employees; and

H.J. Res. 296. Joint resolution to authorize the President to proclaim the last week of June 1973, as "National Autistic Children's Week."

The enrolled bill and joint resolution were subsequently signed by the President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, June 4, 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.

RESOLUTION ON ECONOMIC STABILIZATION ADOPTED BY DEMOCRATIC CONFERENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a resolution proposed in the Democratic conference on yesterday by the Senator from Minnesota (Mr. MONDALE) and cosponsored by the Senator from Wisconsin (Mr. PROXMIRE), and agreed to unanimously by the Democratic conference, be inserted at this point in the RECORD.

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

RESOLUTION ON ECONOMIC STABILIZATION

Whereas, prices are now rising at the fastest rate in 22 years—wholesale prices at an annual rate of 21.1 percent in the first quarter, and consumer prices at an annual rate of 8.6 percent;

Whereas, corporate profits in the first quarter soared 25.9 percent above those in the comparable period last year;

Whereas, executive compensation rose by 13.5 percent in 1972;

Whereas, workers' real wages—after inflation and taxes—are lower now than they were six months ago;

Whereas, Phase III has been an unmitigated failure;

Whereas, the Administration has failed to take effective action to control runaway prices and profits;

Now therefore be it resolved by the Democratic Majority of the Senate that:

(1) An amendment imposing a 90-day freeze on prices, profits, rents, wages and salaries, and consumer interest rates should be attached to the first appropriate bill coming before the Senate.

(2) This amendment should direct the President to use the 90 days to establish—in consultation with Congress, labor, farmers, business, and consumers—a long-run program to control inflation that is firm, fair and equitable and takes into account the fact that workers' wages have fallen behind in the inflationary cycle.

ARMS AND ARROGANCE: THE UNITED STATES IN ASIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an editorial from the Los Angeles Times for January 5, 1973, entitled "Arms and Arrogance: the United States in Asia," be incorporated in the RECORD.

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

ARMS AND ARROGANCE: THE UNITED STATES IN ASIA

In a recent four-day encounter in Vietnam between Communist and South Vietnamese forces, the Communists fired 896 mortar rounds and 10 artillery shells, the South Vietnamese 6,074 artillery shells. And this was just one incident in a growing record of the disproportionate use of firepower by the Saigon forces.

So it is not surprising that reporters in South Vietnam now report a cutback of one-third in the flow of artillery and heavy weapons ammunition from the United States. First indications are that the cutback is producing a decline in the level of fighting.

The development makes two things clear: The cease-fire has not ended hostilities. And the level of hostilities remains directly proportional to the flow of arms and supplies from outside.

Whether the cease-fire is to work better may depend to a major degree on the renewed conversations in Paris Wednesday between Henry A. Kissinger and Le Duc Tho. But the experience with the ammunition supply suggests that supply restraint may be of equal importance. Some military officials now concede that a total cutoff of American military aid would make a major contribution to the diminution of battle without forcing defeat on Saigon.

The difficulty in controlling the American military on such matters has been illustrated, however, by the revelation of a new violation of the law in the Pentagon.

Fund transfer regulations were suspended by the Defense Department last November under provisions that require immediate notification of Congress. The notification came four months later, long after the funds had been spent on stepped-up military activities that included the massive bombing of North and South Vietnam by the Americans.

It was an "administrative oversight," the Pentagon said, while acknowledging that deficit spending is continuing in Southeast Asia.

It seems more likely to us that it was "administrative arrogance"—more of the same Pentagon-knows-best and President-knows-best business that has violated the constitutional limits on warmaking and prolonged the error of America's military intervention in Indochina.

Whatever it was, it makes all the more urgent approval by Congress of the strict congressional controls over all aspects of American military action in Indochina.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the acting minority leader desire recognition?

Mr. GRIFFIN. No, Mr. President.

The PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, I yield such time as he may desire to the Senator from Ohio (Mr. SAXBE).

THE ENERGY SHORTAGE

Mr. SAXBE. Mr. President, I take the floor at this time to comment on the pending legislation because there seems to be some misconception about what we hope to achieve by this proposal. The present bill is filled with good wishes for all concerned relating to the energy shortage.

It is a bill that I find has very little power to help those who are at present suffering from the energy shortage. I have had the experience in my State within the last few days of people coming in and saying, "We have taken care of the taxi fleet in Cleveland, and we have 2½ million gallons of gasoline for the farmers." In other words, we have no priorities in the present energy shortage. As a result, it would seem that out of the goodness of their hearts, the oil companies are taking care of some of the people who need the gasoline production in this country. At the same time, we have an unlimited supply of gasoline for recreational use—boats and pleasure vehicles—and for all kinds of activities of a frivolous nature. But the farmers are getting their supplies on a day-to-day basis, even though they are under considerable pressure to get their crops in.

What this points up to me is that the present bill, with its good wishes, is not going to do the job. Sooner or later we are going to have to come to grips with priorities for the use of gasoline during the present short supply of energy. It will come as a shock to many people. We cannot take care of many of the frivolous things during the present energy shortage. It seems to me the first thing we have to do is insure that those who are producing wealth in this country have the first access. I do not mean just the farmers, because if we get into an argument as to who is entitled to the most gasoline, whether it be industry or whether it be the farmer, the debate will be pointless.

What I mean to say is that there is a large percentage of gasoline that is wasted in this country. But there are people who need not only gasoline but diesel fuel and the lubricants that are necessary if we are going to continue in the business of producing wealth and to stay in competition with the rest of the world, because the balance of payments depends on our production of wealth in this country.

Also, it is rather disconcerting to me to find people talking about increasing the tax on gasoline as a method of holding down the consumption of gasoline. That is a nonproductive type of thing. It seems to me we are loading it onto the

working man who needs his car to get to work. We are loading it onto people who are transporting the products of manufacture. But we are not recognizing the fact that that is not going to deter those who can afford to spend as high as 50 cents a gallon to run their boats and to do the things which are not directly connected to the production of wealth to keep our business enterprise in our country going.

So while we pass the bill today with the good wishes of Congress to demonstrate that we are interested, it will be just a prelude to what must come in the form of establishing priorities.

POLLUTION OF LAKE SUPERIOR BY RESERVE MINING CO.

Mr. GRIFFIN. Mr. President, along with others in positions of public responsibility. I have been vigorously pressing for action to stop the Reserve Mining Co. of Silver Bay, Minn., from polluting Lake Superior—the greatest of the Great Lakes.

Each day the Reserve Mining Co. dumps 67,000 tons of finely ground iron ore wastes, known as taconite tailings, into Lake Superior. In terms of volume, that is roughly equivalent to dumping 50,000 junk cars each day into the world's largest fresh water lake.

In 1971, responding to repeated complaints by the Governor of Michigan, as well as other Governors and Members of Congress representing Great Lakes States, the Environmental Protection Agency served a 180-day notice upon the Reserve Mining Co. This notice was a necessary procedural step before court action can be initiated.

Since then, the Department of Justice has filed a law suit in Federal district court—a case which will be heard, I understand, in Duluth or Minneapolis beginning in July.

As part of the pleadings in the case, the Justice Department prepared and recently filed a document entitled, "Specification of Scientific Charges" against Reserve Mining Co. Some of the facts alleged are particularly shocking. For example:

The Justice Department says that the taconite tailings being dumped by Reserve Mining into Lake Superior contain 35 chemical materials, including arsenic, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, selenium, and thallium—all toxic materials.

In addition to the taconite tailings, Reserve also discharges approximately 750 million gallons of fluid each day, which adds an average of more than 60,000 pounds of dissolved solids to the lake. This discharge solids contains 39 chemical elements, many of them also toxic.

Because of its taconite waste discharges, Reserve Mining has reduced the clarity of the Lake Superior water by 25 percent or more over an area greater than 600 square miles, according to the Justice Department. In addition, its pollutants are spread over several thousand square miles of Lake Superior, at all depths, and have even spread into lakes other than Superior.

In its specification, the Justice Department alleges that the discharge of taconite tailings by Reserve Mining Co. is the cause of what has become known as "the green water phenomenon." The suspension of tailings in the water reflects a murky or muddy shade of green which damages the esthetic value of the lake.

I believe the Justice Department and the Environmental Protection Agency are to be commended for the careful research that is apparent from a reading of this document. Needless to say, along with many millions of others, I fervently hope that the United States will be successful in the lawsuit so that this pollution of Lake Superior can finally be stopped.

Mr. President, I ask unanimous consent that the text of the pleading entitled "Specification of Scientific Charges" filed by the Department of Justice on behalf of the United States be printed in the RECORD.

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

[In the U.S. District Court for the District of Minnesota, Fifth Division]

SPECIFICATION OF SCIENTIFIC CHARGES

United States of America, et al., Plaintiffs, v. Reserve Mining Company, et al., Defendants. Filed May 2, 1973. Civil Action No. 5–72, Civil 1.

The Plaintiffs, United States of America, State of Michigan, State of Minnesota, State of Wisconsin and private environmental groups charge that the discharge of taconite tailings by Reserve Mining Company has the following physical, chemical and biological characteristics and effect upon Lake Superior:

1. Reserve Mining Company discharges taconite tailings into Lake Superior at an approximate rate of 67,000 tons daily on a continuous basis. The constituents of this material are primarily quartz and iron-magnesium silicates and more specifically are:

a. Aluminum
b. Arsenic
c. Barium
d. Beryllium
e. Boron
f. Cadmium
g. Calcium
h. Carbon
i. Chromium
j. Cobalt
k. Copper
l. Cummingtonite
m. Hydrogen
n. Iron.
o. Lead
p. Magnetite
q. Magnesium
r. Manganese
s. Mercury
t. Molybdenum
u. Nickel
v. Oxygen
w. Phosphorous
x. Potassium
f. Selenium
z. Silica
aa. Sodium
bb. Sulfur
cc. Suspended Solids
dd. Thallium
ee. Tin
ff. Titanium
gg. Turbidity
hh. Vanadium
ii. Zinc

2. In addition to the discharge of taconite tailings into Lake Superior, Reserve discharges approximately 750 million gallons of water each day which adds an average of more than 60,000 pounds of dissolved solids to the lake at point of discharge daily. The nature of these substances is:

a. Alkalinity
b. Ammonia
c. Arsenic
d. Bacteria, Fecal Streptococci
e. Bacteria, Fecal Coliform
f. Barium
g. Beryllium
h. Boron
i. BOD
j. Cadmium
k. Calcium
l. Chloride
m. Chromium
n. Cobalt
o. Copper
p. COD
q. Dissolved Solids
r. Iron
s. Kjeldahl Nitrogen
t. Lead
u. Magnesium
v. Manganese
w. Mercury
x. Molybdenum
y. Nickel
z. Nitrate–N
aa. Nitrite–N
bb. pH increase
cc. Phosphorous
dd. Potassium
ee. Selenium
ff. Silica
gg. Sodium
hh. Sulfate
ii. Thallium
jj. Tin
kk. Titanium
ll. Zinc
mm. Hydrocarbons

3. Total dissolved solids exceeding 100,000 pounds daily are released from the tailings after discharge into Lake Superior. These substances include, but are not limited to, the following:

a. Silica
b. Calcium
c. Copper
d. Magnesium
e. Manganese
f. Mercury
g. Potassium
h. Sodium

4. Materials leached from Reserve's tailings are contributed to the interstitial waters by tailings in measurable amounts. These substances move from the interstitial waters and go into the bulk waters of Lake Superior.

5. Although much of Reserve's discharge settles out within an area of several hundred square miles by reason of the operation of a turbidity current, small sized particles remain in suspension for long periods of time.

6. Tailings discharged by Reserve Mining Company reduce water clarity 25% or more over an area greater than 600 square miles adjacent to and down current of the discharge.

7. Tailings are spread over several thousand square miles of Lake Superior at all depths. This has been determined by the use of x-ray diffraction techniques which identify the presence of cummingtonite, cummingtonite being a unique tracer for Reserve's tailings.

8. Daily examination of the Duluth water supply and the National Water Quality Laboratory water supply shows that tailings are present each and every day, and fluctuate according to the time of year and weather.

9. Tailings discharged by Reserve are carried into the waters of Michigan.

10. Tailings discharged by Reserve are carried into Wisconsin waters and are deposited upon the bottom of Lake Superior in Wisconsin waters.

11. The manner in which small particles remain in suspension is fivefold: (1) Material is carried to the bottom of the lake by the operation of the turbidity current but thereafter accumulates in lenses several hundred feet thick and several hundred square miles in area and is swept slowly toward Duluth and other points in the lake and lifted into the surface layers at various times and places by upwellings and normal current patterns. (2) Material is sheared or stripped off at the thermocline and remains in suspension in the shallow waters of the lake, being swept toward Duluth and other points in the lake by the normal lake currents. (3) Seasonal turnovers of the top and bottom waters and upwellings caused by offshore wind-driven currents cause both a lifting of tailings in the lenses near the bottom of the lake, and shearing of tailings from the turbidity current at various depths. (4) The tailings delta is continually eroded by storms and currents creating a separate discharge of tailings not subject to any turbidity current. (5) Density variations which cause a turbidity current at certain times of the year, diminish at times when the plant's discharge water is warmer than the lake water into which it is discharged.

12. The mechanisms outlined in 11 above cause the green water phenomenon. Green water is caused by tailings in suspension at a depth and particle size which causes them to reflect a murky or muddy shade of green.

13. The green water caused by Reserve damages the aesthetic value of Lake Superior. It is also a positive sign that tailings remain in suspension and do not all settle to the bottom as claimed by Reserve.

14. Tailings increase the suspended solids concentrations of Lake Superior for an area of several thousand square miles.

15. The smaller a tailings particle the greater is its tendency to leach the chemicals and substances of which it is composed into Lake Superior.

16. It is probable that many of these very small tailings particles dissolve into the waters of the lake rather than settle to the bottom.

17. It is significant that tailings are carried in suspension throughout the lake because they are not inert and do have a chemical and biological effect.

18. Tailings prolong the life of viruses.

19. Tailings prolong the life of bacteria.

20. Tailings have been shown to stimulate algae in laboratory experiments.

21. Tailings stimulate the growth of periphyton on the north shore between the plant and Duluth.

22. The substances in tailings are available and taken up by the fish community.

23. Tailings have caused a decrease in pontoporiea, a vital link in the food chain, in the "effect" area of the tailings.

24. Tailings have caused a shift in the benthic populations in the "effect" area of the tailings.

25. Tailings have further affected the food chain in the vicinity of the discharge by altering the eating habits of the 4-horned sculpin and slimy sculpin. These fish are key organisms in judging the health of the lake.

26. Tailings exert chemical oxygen demand in the lake.

27. Tailings measurably alter the chemistry of the interstitial waters in "effect" areas.

28. Reserve's discharge is many times greater than that of all the streams which enter Lake Superior, in terms of sediment load.

29. These sediments leach substances into the lake more rapidly than do natural sediments.

30. Lake Superior barely holds its own against the natural forces of eutrophication, and is not at this time in equilibrium, even when Reserve's discharge is excluded.

31. Although one would not expect a single discharge to cause measurable changes in lake water chemistry in a lake the size of Superior, nevertheless, such changes caused by Reserve are apparent.

32. Although it appears that tailings have a negative effect on life in the area of the discharge it is probable that they have an additive effect in producing growth of algae in the lake when outside of the area of their greatest turbidity and when mixed with other nutrients added to the lake in Duluth.

33. Although Lake Superior is generally regarded as phosphorous limited in the growth of algae, there is evidence that it is also manganese limited. Reserve's tailings contain almost as much phosphorous as natural sediments, and leach into the lake significant quantities of manganese.

34. Lake water in contact with sediments discharged by Reserve contains measurable concentrations of dissolved chemicals in amounts which have been shown to be toxic to aquatic organisms.

35. Reserve's discharge, diluted to 1/10 of its original concentration, has been found to be lethal to Lake Trout sac fry and Rainbow Trout sac fry. Lake Trout spawn in the waters of the north shore.

36. Observations of mutant synedra indicate a viable hypothesis that such are the result of a persistent pollutant such as Reserve's discharge.

37. Reserve has also been discharging into Lake Superior significant quantities of acutely toxic amines and flocculants.

38. Reserve discharges each winter significant quantities of calcium chloride.

39. Reserve discharges various oils and hydrocarbons into Lake Superior in amounts measurable in its discharge.

40. The flushing rate of Lake Superior is very slow and it purges itself only once every 500 years. Because of this, changes and additions made by Reserve's discharge will be persistent.

41. Tailings contain large amounts of silica, which substance is necessary to diatoms as shell building material. To the extent that this substance is a limiting factor to growth of diatoms in Lake Superior, tailings remove this limitation.

42. Lake Superior, although presently under pollutional stress, is one of the few remaining major lakes in the world which still has the pure clear waters which characterize an oligotrophic state.

43. Lake Superior is entitled to special protection as a body of water because of its size, purity, aesthetic appeal and value to scientists studying bodies of water.

44. Lake Superior is presently undergoing changes such as those which preceded the visible damage to Lakes Erie, Ontario, and Michigan.

45. The first signs of eutrophication of a body of water appear at its arm and embayments.

46. Reserve's discharge, which contributes significant amounts of manganese and other nutrients, could constitute the difference between the lake remaining free of nuisance algal blooms, and experiencing them as does Lake Michigan.

47. Reserve Mining's discharge is accelerating the process which has damaged the other Great Lakes.

48. The States of Minnesota, Wisconsin and Michigan share a common Lake Superior water ecology because materials and waters are moved from State to State by lake currents, damage to one State thereby constituting damage to the others.

The above specification of scientific charges is in addition to those charges made in the report of Donald I. Mount, dated April 1973, entitled "A Summary of the Studies Regarding the Effect of the Reserve Mining Company Discharge on Lake Superior," and the scientific charges made in documents of the parties plaintiff filed and to be filed with the Central Record Depository.

UNITED STATES OF AMERICA,
By JOHN P. HILLS.
Attorney, Department of Justice.
WASHINGTON, D.C.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above Specification of Scientific Charges was served by mailing copies thereof to Edward T. Fride, Esquire, Attorney at Law, Sullivan, Hanft, Hastings, Fride and O'Brien, 1200 Alworth Building, Duluth, Minnesota 55802; Robert J. Sheran, Esquire, Attorney at Law, Lindquist and Vennum, 4200 IDS Building, Minneapolis, Minnesota 55402; John Kofron, Esquire, Assistant Attorney General, 114 East State Capitol, Madison, Wisconsin 53702; Francis J. Carrier, Esquire, 630 Seven Story Office Building, Lansing, Michigan 48913; Howard J. Vogel, Esquire, 814 Flour Exchange Building, Minneapolis, Minnesota 55415; Wayne G. Johnson, Esquire, Attorney at Law, Johnson & Thomas, Norshor Building, Silver Bay, Minnesota 55614; Jonathan H. Morgan, Esquire, Solicitor General, State of Minnesota, 160 State Office Building, St. Paul, Minnesota 55155; and Byron E. Starns, Esquire, Deputy Attorney General, Minnesota Pollution Control Agency, 717 Delaware Street, S.E., Minneapolis, Minnesota 55440 this —— day of May, 1973.

JOHN P. HILLS,
Attorney, Department of Justice.
WASHINGTON, DC.

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRIFFIN. Mr. President, has my time expired?

The PRESIDENT pro tempore. The Senator from Michigan has 4½ minutes remaining.

Mr. GRIFFIN. Mr. President, I yield to the Senator from Arizona.

PRIVILEGE OF THE FLOOR

Mr. FANNIN. Mr. President, I ask unanimous consent that Mr. Fred Craft and Mr. Harrison Loesch, minority staff members of the Committee on Interior and Insular Affairs be permitted the privilege of the floor during the debate and votes on S. 1570, the unfinished business.

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

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

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

Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

ORDER FOR RECOGNITION OF SENATORS JAVITS, GRIFFIN, AND ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from New York (Mr. JAVITS) be recognized for not to exceed 15 minutes, that he be followed by the distinguished assistant Republican leader (Mr. GRIFFIN) for not to exceed 15 minutes, and that he be followed by the junior Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 15 minutes.

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

TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that at the completion of the orders for recognition of Senators tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

ORDER FOR TAKING UP THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow, the Chair lay before the Senate the then unfinished business, which will be S. 1888, to extend and amend the Agricultural Act of 1970.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time for the quorum call be charged against the time allotted to me.

The PRESIDENT pro tempore. The clerk will call the roll.

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

ORDER FOR ADJOURNMENT UNTIL NOON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

(Later in the day, this order was changed to provide for the Senate to convene at 10:45 a.m. tomorrow.)

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

TRANSACTION OF ROUTINE MORNING BUSINESS

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 802. A bill for the relief of Ronald K. Downie (Rept. No. 93–193).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 71. A bill for the relief of Uhel D. Polly (Rept. No. 93–194).

By Mr. INOUYE, from the Committee on Commerce, with amendments:

S. 1747. A bill to amend the International Travel Act of 1961 with respect to fees and charges for travel exhibits and publication and authorizations of appropriations (Rept. No. 93–195).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment:

H.R. 6768. An act to provide for participation by the United States in the United Nations environment program (Rept. No. 93–196).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

James S. Coleman, of Maryland, and sundry other persons, to be members of the National Council on Educational Research;

David H. Stowe, of Maryland, to be a member of the National Mediation Board;

Robert L. DuPont, of Maryland, to be Director of the Special Action Office for Drug Abuse Prevention; and

Carmen Maymi, of the District of Columbia, to be Director of the Women's Bureau, Department of Labor.

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.

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, I report favorably sundry nominations in the National Oceanic and Atmospheric Administration and the Coast Guard 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 are as follows:

Philip C. Johnson, and sundry other persons, for permanent appointment in the National Oceanic and Atmospheric Administration; and

David E. Hagberg, and sundry other officers, from promotion in the Coast Guard.

RE-REFERRAL OF BILL TO COMMITTEE ON FINANCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a bill introduced yesterday by the Senator from Illinois (Mr. PERCY), S. 1936, the Federal Elective Office Campaign Act, which was referred to the Committee on Rules and Administration, be rereferred to the Committee on Finance, if and when it should be reported by the Committee on Rules and Administration, for its consideration of section 7, amending the Revenue Code relative to tax credit, a matter which falls within the jurisdiction of the Committee on Finance.

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

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. SPARKMAN:

S. 1944. A bill for the relief of Linda Da Silva. Referred to the Committee on the Judiciary.

By Mr. CHILES:

S. 1945. A bill to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion. Referred to the Committee on Agriculture and Forestry.

S. 1946. A bill to assist in the rehabilitation of certain individuals convicted of a Federal offense by removing certain disqualifications which serve only to impede such rehabilitation. Referred to the Committee on the Judiciary.

S. 1947. A bill to provide for the issuance of a commemorative postage stamp in honor of the veterans of the Spanish American War. Referred to the Committee on Post Office and Civil Service.

By Mr. INOUYE:

S. 1948. A bill for the relief of Mrs. Eufemia Clemente. Referred to the Committee on the Judiciary.

By Mr. TUNNEY (for himself, Mr. GRAVEL, Mr. PASTORE, Mr. MANSFIELD, Mr. INOUYE, Mr. PERCY, Mr. HUMPHREY, Mr. STEVENS, and Mr. HUGHES):

S. 1949. A bill to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to expand the definition of "developmental disability" to include autism. Referred to the Committee on Labor and Public Welfare.

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

S. 1950. A bill to provide for the licensing of motor vehicle repair shops and damage appraisers, and for other purposes. Referred to the Committee on Commerce.

By Mr. BAKER:

S.J. Res. 120. Joint resolution to designate June 5 as "World Environment Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHILES:

S. 1945. A bill to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion. Referred to the Committee on Agriculture and Forestry.

Mr. CHILES. Mr. President, I am introducing a bill today which passed the Senate last year, S. 1058. This measure would amend the Agricultural Adjustment Act to authorize grapefruit marketing orders.

It is a relatively simple proposal, enabling grapefruit growers who assess handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion. It would encourage handlers of Florida Indian River grapefruit to maintain or develop their own promotions, including paid advertising, by crediting a handler's assessment obligation with the amount of his direct promotion expenditures as authorized in the Indian River grapefruit marketing order.

This is a noncontroversial bill, wholeheartedly supported by the Indian River Citrus League, which represents the vast majority of Indian River citrus growers. The legislation is enabling only and it will be up to the Indian River grapefruit industry to accept or reject any specific program.

There are growers in this area who have market promotion programs featuring the words, "Indian River" predominantly, alongside their own brand name—such as "florigold," and under any industrywide market promotion program for Indian River grapefruit these individual shippers naturally want to receive some credit against their assessment for their own market promotion. To do this, however, the Marketing Agreement Act of 1937 needs to specifically permit such an assessment credit for Indian River grapefruit.

Put more directly, for promotion purposes the individual growers are assessed so much per box of fruit to promote Indian River fruit. But if individual growers in the promotion of their own brand also use the words, "Indian River," they ought to get some credit toward their assessment for promoting the fruit of the entire district. This legislation would allow them to do that.

I request permission at this point to have the entire text of the bill printed in the RECORD—as well as a copy of the letter, dated January 27, 1972, from the Department of Agriculture to Chairman TALMADGE recommending that the bill be passed.

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

S. 1946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8c(6)(I) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, is further amended by inserting in the first proviso "and Florida Indian River grapefruit" immediately after "with respect to almonds".

DEPARTMENT OF AGRICULTURE,
Washington, D.C., January 27, 1972.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request of March 5, 1971, for a report on S. 1058. This bill would amend the Agricultural Marketing Agreement Act of 1937, as amended, to permit the marketing order for Florida Indian River grapefruit to include provisions for crediting the assessment obligation of each handler, assessed under such order to finance a promotion program, with all or any portion of his direct expenditures for marketing promotion, including paid advertising, as may be authorized by the marketing order. Current provisions of the act permit marketing promotion, including paid advertising, for citrus fruits under marketing orders.

The Department recommends that S. 1058 be passed.

The proposed amendment would encourage handlers of Florida Indian River grapefruit to maintain or develop their own promotions, including paid advertising, by crediting a handler's assessment obligation with such of his direct promotion expenditures as are authorized in the Indian River grapefruit marketing order. This bill provides essentially the same authorization as that provided for almonds in P.L. 91-522, approved November 25, 1970.

Implementation of this legislation would be accomplished by amending the Indian River grapefruit marketing order. Any promotion projects carried out under the marketing order would be subject to continuing review by the Secretary to insure compliance with the statute and to protect the public interest.

Florida Indian River grapefruit are produced in the "Indian River District," which is defined in the marketing order. For purposes of advertising and promotion it is important to note that the product is easily distinguishable because individual fruits are commonly labeled (stamped) with the words "Indian River" at the packinghouse.

The potential marketing problems for fresh Indian River grapefruit are accentuated by the existence of a relatively large acreage of young, non-bearing trees. In 1969, the most recent year for which data are available, Indian River grapefruit acreage totaled 56,220. Of this total, 16,455 acres were non-bearing. Assuming that such acreage will produce an average per-acre yield equal to that of the acreage now bearing, the potential exists for average crops approximately one-third larger than those presently produced. Furthermore, fresh shipments of Indian River grapefruit have, except for annual fluctuations, remained practically unchanged.

The additional activity caused this Department by enactment of the proposed legislation would be absorbed within existing expenditures for marketing order programs except that the order amendment cost, if separate from other amendments, could approximate $7,500.

Enactment of S. 1058 would have no significant impact on the environment.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presentation of this report.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

By Mr. CHILES:

S. 1946. A bill to assist in the rehabilitation of certain individuals convicted of a Federal offense by removing certain disqualifications which serve only to impede such rehabilitation. Referred to the Committee on the Judiciary.

Mr. CHILES. Mr. President, we have long characterized our prisons as reformatories because the object of imprisoning our criminal offender is not only to punish him but also to rehabilitate him—to offer him an opportunity to reform his life and values so as to return to society as a useful, or at least, law-abiding citizen. While the tragic riots at Attica, demonstrations in the District of Columbia's jails, at Lorton and elsewhere, have shown that our prison system is greatly in need of reform, much of the problem lies beyond the prisons. An ex-convict may often return to a career of crime because of the barriers society places in his path when he seeks a second chance.

The concept of providing continuing civil penalties for persons convicted of crimes even after criminal penalties are completed, has its origins in the Roman heritage of English law. Fortunately, many of the harsher forms of punishments such at attainder, forfeiture of estates and corruption of blood have been eliminated, but the concept of "civil death," which stems from this same heritage, still remains in some States.

Barriers such as licensing or loss of right to serve on a jury or voting further remind the ex-convict of his second-class citizenship and prevent him from assuming his role in society as a responsible citizen. Such prohibitions may even create a danger for all society since they might lead to a lowering of the individual's respect for a society in which he has no part.

As our technology has increasingly demanded professional skills, the employment picture today is characterized by increasing requirements fo rlicensing; in California alone, more than 60 occupations require State licenses. While licensing procedure protects the public from unqualified or unskilled persons, it also provides a means by which a person's record can be scrutinized. An ex-convict, even though fully trained and qualified for a career in one of the licensed professions, may not even be able to apply for a license.

Today, in most States, a person convicted of a felony loses the right to vote, hold public office and may not serve on a jury. To restore any of his lost civil rights an individual must follow an involved procedure. In Florida, for example, he may apply to the State pardon board for restoration of his rights, even though his conviction may have been in Federal court. He may also apply for a Presidential pardon through the pardon attorney in the Department of Justice in Washington, D.C. For many persons, however, filling out the applications—whether

State or Federal—is a most difficult task due to their limited education.

This structure of statutory and regulatory disabilities adversely affects the rehabilitation of the offender both during his time in prison and, perhaps more cruelly, after his release. Our neglect in rehabilitating convicted offenders is especially evident today because many convicted criminals are young offenders being punished for their encounters with drugs, civil rights, or the military.

I am introducing a bill today to assist in the rehabilitation of certain individuals convicted of a Federal offense by removing certain disqualifications which serve only to impede that rehabilitation. My bill provides that anyone otherwise qualified to vote in a Federal election will be restored that right to vote if it had been denied him solely because he was once convicted of a Federal offense. That is, first offenders of Federal felonies would not be deprived of their right to vote, as well as their right to hold any office or honor, trust or profit under the United States, to serve as a juror on any Federal grand jury or in any Federal court, to appear and give testimony in any Federal court in connection with any other Federal proceeding, to obtain and utilize a license or other paper, document, or item necessary to operate a motor vehicle, to contract, or obtain and hold Federal employment if he has satisfied any fine, completed his period of imprisonment and successfully completed any probation or parole period attached to his conviction.

The President's Commission on Law Enforcement and the Administration of Justice has recognized that civil disabilities of the nature I have described are harmful to society at large when it declared:

> There has been little effort to evaluate the whole system of disabilities and disqualifications that has grown up. As a result, convicted persons are generally subjected to numerous disabilities which have little relation to the crime committed, the person committing it or, consequently, the protection of society. They are often harsh out of all proportion to the crime committed (Task Force Report: Corrections 88(1967).)

Mr. President we expect a person who has served his time to return to his community and continue his life as if he had only been away on a long trip, and yet our laws make it impossible for him to remove the scars of conviction. If we continue to treat the ex-convict as less than a citizen long after his debt to society has been paid, we can expect him to act accordingly and often return to a life of crime.

I ask unanimous consent that my bill be printed in the RECORD at this point in my remarks.

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

S. 1946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law (including the laws of any State), no citizen of the United States who is otherwise qualified to vote in a Federal election shall be denied the right to register and vote in any such election solely because he has been convicted of a Federal offense in any court of the United States, if he has, in connection with any sentence imposed on him by reason of such conviction, satisfied any fine, completed any period of incarceration, and successfully completed any probation or parole period, resulting therefrom, or has been pardoned with respect to such conviction.

(b) As used in this section, the term "Federal election" means a primary, general or special election held to vote for electors for President or Vice President, or both, Members of Congress, or Delegate or Resident Commissioner to the Congress.

SEC. 2. Notwithstanding any other provision of law (including the law of any State), no citizen of the United States who is otherwise qualified shall be denied the privilege or right to hold (whether by election or appointment) any Federal office of honor, trust or profit under the United States, to serve as a juror on any Federal grand jury or in any Federal court, to appear and give testimony in any Federal court or in connection with any other Federal proceeding, to obtain and utilize a license or other paper, document or item necesary to operate a motor vehicle, to contract or to obtain and hold Federal employment, solely because he has been convicted of a Federal offense in any court of the United States, if he has, in connection with any sentence imposed on him by reason of such conviction, satisfied any fine, completed any period of incarceration, and successfully completed any probation or parole period, resulting therefrom, or has been pardoned with respect to such conviction.

SEC. 3. As used in this Act, the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any political subdivision thereof.

SEC. 4. Whoever shall deprive or attempt to deprive any person of any right or privilege secured by this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

By Mr. CHILES:

S. 1947. A bill to provide for the issuance of a commemorative postage stamp in honor of the veterans of the Spanish-American War. Referred to the Committee on Post Office and Civil Service.

Mr. CHILES. Mr. President, today I am introducing a bill to provide for the issuance of a commemorative postage stamp in honor of the veterans of the Spanish-American War.

For many years the United Spanish War Veterans have been trying to get the Post Office Department to authorize a stamp for this purpose, and each time the Department has said that it would study the matter. Unfortunately, nothing further has developed.

It now appears that in order to get a stamp honoring the veterans of 1898, the only hope is to get legislation through the Congress to direct the Post Office Department to issue a Spanish War stamp.

I believe Senators will be interested in reading the article which appeared in the June 29, 1972, issue of the Stars and Stripes entitled, "VFW Resents Shabby Deal to Men of 1898," and I hope you will join me in supporting this bill to see that these veterans are honored by the issuance of this commemorative stamp. I ask unanimous consent that this article be printed in the RECORD at the completion of my remarks.

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

VFW RESENTS SHABBY DEAL TO MEN OF 1898

Apprised of the Post Office Departments apparent permanent unconcern with the pleas of Spanish War veterans for a stamp in their memory, a strong arm of the Veterans of Foreign Wars recently moved to do something about the matter. The District of Columbia Department of the VFW, at its convention in Washington, recently passed a sharp resolution calling for a stamp honoring the dwindling band of veterans of 1898. The resolution will be carried to the National convention of the organization at Minneapolis in August.

Judging by the indignation shown by the District of Columbia Department over the shabby manner in which the Spanish War veterans have been treated on the subject, it is a safe bet that the National organization will approve the idea of taking steps to get action. The VFW is highly regarded by members of Congress generally, and has many close friends in key posts.

There are only about 2,700 men left of the volunteer army of some 400,000 men in 1898. In a few years they will all be gone, just as the Grand Army of the Republic vanished. Over recent years veterans of the Spanish War who have labored for the small item of an honoring stamp have received only stereotyped responses that the matter is under consideration. Nothing further happens. Yet, the Postal Service can turn out stamps on African elephants, crocodiles and miscellaneous subjects including the recently established Wolf Trap Farm theater of the Filene Center. But the men of 1898 get nothing but stalling letters. The committee that decides on stamps for the Postal Services apparently does not think the disappearing Spanish-American War veterans rate any such attention.

The VFW has other views. Also, we have good reason to believe that AMVETS and the American Legion among others will take up the subject at their 1972 conventions. Their demands for a bit of justice and recognition for the men of '98 would likely shift the thinking of the postage stamp creators.

The aging veterans who are asking for nothing except a postage stamp, in the opinion of Stars and Stripes-The National Tribune, have had a shameful deal.

By Mr. TUNNEY (for himself, Mr. GRAVEL, Mr. PASTORE, Mr. MANSFIELD, Mr. INOUYE, Mr. PERCY, Mr. HUMPHREY, Mr. STEVENS, and Mr. HUGHES):

S. 1949. A bill to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to expand the definition of "developmental disability" to include autism. Referred to the Committee on Labor and Public Welfare.

FEDERAL AID TO AUTISTIC CHILDREN

Mr. TUNNEY. Mr. President, today I am introducing legislation to provide Federal assistance to autistic children.

On January 14, 1973, a working definition of autistic children was adopted by the National Society for Autistic Children Board and approved by the NSAC Professional Advisory Board. I ask unanimous consent to insert the definition in the RECORD at this point.

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

WORKING DEFINITION* OF AUTISTIC CHILDREN AS ADOPTED BY THE NATIONAL SOCIETY FOR AUTISTIC CHILDREN BOARD AND APPROVED BY THE NSAC PROFESSIONAL ADVISORY BOARD, JANUARY 14, 1973

GENERAL DEFINITION

The term "autistic children" as used by the National Society for Autistic Children shall include persons, regardless of age, with severe disorders of communication and behavior whose disability became manifest during the early developmental stages of childhood. "Austistic children" includes, but is not limmited to, those afflicted with infantile autism (Kanner's syndrome), profound aphasia, childhood psychosis, or any other condition characterized by severe deficits in language ability and behavior and by the lack of ability to relate appropriately to others. The autistic child appears to suffer primarily from a pervasive impairment of his cognitive and/or perceptual functioning, the consequences of which are manifested by limited ability to understand, communicate, learn, and participate in social relationships.

SPECIFIC CHARACTERISTICS

Such children are typically multihandicapped in their abilities to receive and communicate information, resulting in behavior inappropriate to physical and social demands of their environment. As in aphasia, the dominant communication disorder or learning disability appears to result from the inability to use and to understand language appropriately. The difficulty is often accompanied by impairment in motor, visual, and auditory perception. The behavior of an autistic child is typically improved by the application of appropriate educational procedures. A combination of some or all of the following behaviors characterize the autistic child. These behaviors vary from child to child and time to time in severity and manner.

1. Severely impaired speech or complete lack of speech.

2. Impaired or complete lack of relatedness and social inaccessibility to children, parents, and adults.

3. Extreme distress for no discernible reason due to minor changes in the environment.

4. Lack of intellectual development or retardation in certain areas, sometimes accompanied by normal or superior abilities in other areas.

5. Repetitive and peculiar use of toys and objects in an inappropriate manner, and/or similar repetitive and peculiar body motions, such as incessant rocking.

6. Unusual reaction to perceptual stimuli, such as seeming not to hear certain sounds and over-reacting to others (e.g., holding hands over ears) or "looking-through" objects, poor eye contact, or unable to perform certain gross and/or fine motor activities (walking with peculiar gait, limpness in fingers, inability to hold a pencil appropriately).

7. Onset of disorder at birth or apparent normal early development followed by deterioration in functioning.

8. Hyperactivity or passivity.

9. Apparent insensitivity to pain.

Mr. TUNNEY. On June 23, 1972, I directed a letter to the Honorable Elliot L. Richardson, then Secretary of the Department of Health, Education, and Welfare, requesting that he include in the Developmental Disabilities Services and Facilities Construction Act of 1970, "autism," which, by definition, closely alines itself with the definition of "developmental disability" already established in this act. That definition is, for the purposes of the legislation, as follows:

A disability attributable to mental retardation, cerebral palsy, epilepsy, or another neurological condition of an individual found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals. The disability must have originated before the age of eighteen and have continued or be expected to continue indefinitely and must constitute a substantial handicap to the individual in question.

It was my understanding, at the time I approached Secretary Richardson, that during the 2 years since the enactment of this law, that no "other neurological condition" had been included in the coverage of this law despite the clear intent of the language that such inclusions be made. The definition of autism clearly coincides with the definition of "developmental disability" in the act. The autistic child is being excluded from the benefits provided for under this law despite their tremendous need for those benefits. The Secretary did not expand the legislation to include autism and it is because of that decision that I am introducing this legislation today.

There are 80,000 classic cases of autism in the United States. The plight of the autistic child is a history of tragic neglect by public authorities and I believe it is time something be done about this neglect. It is my intention in attempting to amend that act that the autistic child finally be given the full consideration he rightfully deserves as a developmentally disabled child. The National Society for Autistic Children supports me in this effort to amend the law. Hopefully, by including autism in the act, the autistic child will receive the advantages provided for under this law for research and eventual diagnosis of this disorder.

I ask unanimous consent to include in the RECORD at this time, an article written by Dr. Donald J. Cohen, M.D., of the department of pediatrics and psychiatry at Yale University School of Medicine and the Yale Child Study Center. The article, "Medical Care of Autistic Children," appeared in the journal Pediatrics—volume 51, No. 8, February 1973. Dr. Cohen, an expert in his field, has been a tremendous help to me in researching "autism."

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

THE MEDICAL CARE OF AUTISTIC CHILDREN

Childhood autism is the most overwhelming psychiatric disturbance of childhood. Announcing its presence during the first year or two of life, its natural history is often a profound, life-long developmental disability affecting every sphere of social, emotional, and intellectual functioning. Kanner's [1] classic description of children who have difficulty in relating to people and things from the beginning of life has been followed by an abundance of studies expanding our knowledge of the clinical features of autism. Children with autism have been found to present a variety of disturbances in language, perception, neurophysiological organization, and emotional and behavioral control.[2-5] Unfortunately, epidemiologic, genetic, and metabolic investigations are limited, as they are for all serious psychiatric disturbances in childhood. However, from the available evidence one is led to suspect that disturbances in central nervous system functioning, and perhaps specific metabolic abnormalities, underlie the vulnerability to this syndrome.[6-13]

In spite of three decades of clinical study, basic issues and controversies about the etiology, diagnosis, and treatment of childhood autism are far from resolution.[14-16] For most children with autism, judicious clinicians and parents are left with little choice but to try a combination of ameliorative approaches to care; thoughtful psychotherapy; special education; behavior modification; and, occasionally, tranquilizing medication.[17-19] In a very few, such management and—of particular importance—continued family support, offer the hope of at least some future independence. But, clearly, new biological knowledge will be needed to relieve the therapeutic doldrums, a fact repeatedly emphasized by the National Society for Autistic Children.

The medical care of autistic and other seriously handicapped children is of particular concern to pediatricians. Because of their severe language disabilities, fearfulness, limited social relations, and generally high anxiety, children with childhood autism are challenging patients. Any physician who has cared for an autistic child is aware of the trauma often inflicted on both child and family when there is need for even routine medical care, such as periodic examinations, immunization, and throat culture. Diagnostic lumbar punctures, X-rays, and other procedures frequently lead to battle, fought to a draw, between medical forces and the child. Because of such difficulties, the medical care of such children is often far from adequate; for example, many children suffer serious dental decay because of diets containing soft and odd foods and the problems involved in providing dental prophylaxis and treatment.

Preparation of psychologically healthy children for hospitalization and their care during confinement have received detailed and sensitive study. Surprisingly, child psychiatrists and other mental health professionals have appeared to focus less attention on the hospitalization experiences of their own patients. Yet, while going to the hospital is difficult for any child, it must be incomparably more difficult for a child suffering from profound disabilities who depends on stability in the outside world to maintain inner order and comfort.

Gabriel and Gluck's clinical presentation [20] adds to our knowledge about the surgical care of autistic children. They stress the importance of carefully planning for the child's hospitalization, including orientation visits before hospitalization, for the child and family and clear definition and preparation of the professional team which will be responsible for the child. During hospitalization, the goal is to provide the child with predictable and consistent experiences. This is achieved by explaining, as well as one can, what is occurring and what to expect and by keeping the child occupied in familiar activities. In addition, one of the most important and difficult aspects of optimal management is providing the child with *continuity of care* offered by a trustworthy professional team of a primary physician and one nurse for each shift. On an active surgical service, with a variety of technicians, aides, nurses, physicians, and students busily and episodically relating to a patient, this prescription for rational hospital care is not easy to fill.

Gabriel and Gluck's case raises its own particular questions—about the child's diagnosis, the timing of surgery, and the drugs used in his management, among others. It will require considerably more experience in such situations to evaluate the use of morphine and chlordiazepoxide (Librium) in the postsurgical management of severely disturbed children. Other experienced clinicians

See footnotes at end of article.

*It is anticipated that this working definition of autism will be changed and made more specific with new research knowledge.

might have made quite different choices, and even Gabriel and Gluck wonder if Librium was needed. The other aspects of their careful management seem much more powerful. Also, until there is more experience in this area, when it is planned to use psychopharmacological agents postoperatively, it might be worthwhile to conduct a brief drug trial before hospitalization to assess a child's response to the new medications and the possibility of any type of adverse reaction.

Physicians and nurses concerned with the general medical care of children with childhood autism will be interested in Dr. Wing's new guide for parents and professionals.[21] She correctly emphasizes that when an autistic child is hospitalized, his mother can play a vital role. In addition to providing support for the child, the mother is often the only person who can interpret the child's needs to the staff and the staff's intentions to the child. While Gabriel and Gluck's patient was capable of limited language use, the constant presence of his mother was no doubt of major importance in his smooth recovery. Thus, for autistic children in the hospital, as well as in other aspects of their care, physicians have come to recognize the need for parents as active collaborators. This is a cheering sign of progress.[22]

Donald J. Cohen, M.D., Departments of Pediatrics and Psychiatry, Yale University School of Medicine and The Yale Child Study Center, New Haven, Connecticut 06510.

FOOTNOTES

[1] Kanner, L.: Autistic disturbances of affective contact. Nervous Child, 2:217, 1943.

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

S. 1950. A bill to provide for the licensing of motor vehicle repair shops and damage appraisers, and for other purposes. Referred to the Committee on Commerce.

MOTOR VEHICLE REPAIR INDUSTRY LICENSING ACT

Mr. HARTKE. Mr. President, in recent years the motoring public has been expressing dissatisfaction with the quality of motor vehicle repairs. Over 80 million automobiles now operate on the streets and highways of the Nation. A motor vehicle is almost a necessity to meet the need of mobility, not only for business and industry but for modern family life. The Congress has, on many occasions, indicated its interest in advancing motor vehicle safety, in increasing the availability of transportation facilities and in reducing the economic cost of motor vehicle transportation. The National Traffic and Motor Vehicle Safety Act of 1966, and the Highway Safety Act of 1966 are two great landmarks of Federal legislation. Last year, Congress passed legislation regarding the design of motor vehicle standards in order to reduce economic loss which stems from motor vehicle collisions. Further, various committees of the Congress have been considering legislation regarding motor vehicle insurance in order to reduce costs and to speed payment of benefits to those who have suffered either personal bodily injury or motor vehicle damage.

Each of these pieces of legislation—those enacted and those now under consideration—meet certain specific needs of the motoring public.

There is also another basic area, however, which is in need of legislation and today I am introducing the Motor Vehicle Repair Industry Licensing Act. This bill will encourage each of the States to provide a procedure for the licensing of all motor vehicle repair shops and all individuals who are engaged in the business of appraising the extent of collision damage to motor vehicles. Therefore, we are involving not only the automotive repair industry, but the many insurance companies which sell insurance to the motoring public and who pay either the cost of repair of the insured's damaged vehicle or assume the liability that the insured may incur when his vehicle damages other property, especially other motor vehicles.

Over the years, there has been considerable controversy regarding procedures followed by the insurance companies settling claims for damage to motor vehicles. In hearings held in 1969 and 1970, before the Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee, representatives of the insurance industry set forth many charges regarding the rapid increase in the cost of repair of motor vehicles. At the same hearings, representatives of the independent garage industry have expressed their dissatisfaction with the insurance companies regarding the appraisal methods and techniques used for the determination of payments for the repair of motor vehicles. There is no need to recite the details of charge and countercharge because it is evident that the victims of these continued, unsettled controversies are the vehicle owners who have paid the insurance companies premiums for financial protection and must drive the vehicles after they have been repaired by motor vehicle repair shops. The bill I am introducing is designed to establish a greater responsibility not only for motor vehicle repair shops but also for appraisers who assess damages. The time is long past due for Congress to legislate in this area. Studies of problems in the auto repair industry have been conducted by the Federal Trade Commission and the Department of Justice, but no administrative or regulatory resolution by these agencies is in sight.

There are approximately 400,000 establishments in the United States which service and repair motor vehicles. These shops are classified in the following categories: franchised new car dealers, service stations, general garages, autobody shops, auto paint shops, and specialty shops.

LICENSING OF AUTO REPAIR SHOPS

The bill provides that each State require the licensing of any business entity which is engaged in business for profit in the repair of motor vehicles including repair as the result of collision or accident, major overhaul, repairs to drive train, brakes, steering and suspension systems, straightening frames, and similar work which is related to either safety or to the proper functioning of the engine and its exhaust systems.

Thus, the bill would require the licensing of all body repair shops, general garages, and many specialty shops including paint shops, transmission shops, exhaust and muffler shops, and brake shops. Auto service stations which go beyond ordinary maintenance and engage in such work as brake linings, front-end alinements, and similar safety related activities, would be licensed under this bill.

Congress has also enacted significant legislation regarding pollution by motor vehicles. Up to the present, most attention has centered on standards for new

cars requiring manufacturers of motor vehicles to certify that their products meet the requirements of the Environmental Protection Administration regarding the emission of visible smoke, nitrous oxides, carbon monoxide, and hydrocarbons. While motor vehicle manufacturers are required to warrant that their vehicles will meet such standards for a term of 5 years or 50,000 miles, whichever occurs the earliest, the motor vehicle owner is called upon to exercise proper maintenance. In addition, the States will be called upon to establish pollution-testing stations in order that those vehicles which, either through failure of design or through improper maintenance, are emitting pollutants above the level allowed, may be corrected. It is very important to the motorist to know that the correction of such defects can be made in shops that are licensed by the several States.

LICENSING OF MOTOR VEHICLE DAMAGE APPRAISERS

Despite all efforts to reduce the number of collisions on our streets and highways, there is still a vast number of collisions every day. The repair of most damaged motor vehicles is paid for through insurance. Upon having an accident, the policy holder calls his insurance company and arrangements are made for the damage of the vehicle to be appraised. Some insurance companies employ their own appraisers, while others use the services of individual appraisers or appraisal companies. Most often, arrangements are made for personal inspection of the automobile, but some appraisals are made through photographs and other methods not involving personal inspection of the damaged vehicle. Some insurance companies operate "drive-ins" where the vehicle, if in operating condition, is driven to a business location of the insurance company, where the appraisal is made, a check is given to the insured, and the insured in turn signs a release relieving the insurance company of any further liability regarding the damaged property. These appraisals are made, and these payments are given without any reference to any garage as to whether the vehicle can be repaired for the amount given to the insured. When such payments are inadequate, the insured is required to accept either incomplete repairs or pay the difference out of his own pocket.

The garage industry itself has long claimed that three or four insurance companies dominate vehicle insurance in each geographical area of the country. They have also asserted that these few dominant companies, which may control as much as 80 to 90 percent of the autobody repair work in a particular locality, are arbitrary in establishing the cost of repair and do not permit true competition among members of the industry in order to establish rates. The garagemen report that the insurance companies place their charges on a take-it-or-leave-it basis. On the other hand, the insurance companies have complained that some members of the garage industry have been engaged in efforts which restrain competition and increase prices.

In my view, there are three parties of interest in the repair of a damaged motor vehicle which is covered by insurance and all three parties deserve to be treated fairly and squarely. First, there is the motorist who has paid his premiums as established by State insurance commissioners or boards, who deserves as a result of his payments to have his vehicle restored to the condition which existed prior to the collision. Second, there is the insurance company, which has the responsibility for paying for the damages and such payments should be fair and just. Third, there is the motor vehicle repair shop, usually a body repair shop or a franchised dealer repair shop, which must perform the repair work for the insured motorist but which is paid for by the insurance company. A high level of competence is required to restore the motor vehicle to safe operating condition. Further, the repair garages should not be returning cars to the road until they have been restored to a safe operating condition. They, too, must have their standards of competence and of safety.

Therefore, I view the motor vehicle damage appraiser in the role of impartial umpire and, as such, he has responsibilities to the three parties of interest in the dispute. At the present time, several States have licensed motor vehicle damage appraisers. They are: Connecticut, Delaware, Massachusetts, South Carolina, Minnesota, and Pennsylvania. Some of these States' laws require an appraiser to give a copy of his appraisal to the repair shop which makes the repairs, and to the insured. This appraisal must give an outline listing all of the damages and specify those parts to be replaced or repaired. The Delaware law states:

Because an appraiser is charged with a high degree of regard for the public safety, the operational safety of the vehicle shall be paramount in considering the specification of new parts. This consideration is vitally important where the parts involved pertain to the drive train, steering gear, suspension units, brake systems, or tires.

The Connecticut law, enacted in 1970, requires that—

Each appraiser shall (1) conduct this in such a manner as to inspire public confidence by fair and honorable dealings, (2) approach the appraisal of damaged property without prejudice against or favoritism toward any party involved, in order to make an impartial appraisal, (3) disregard any efforts on the part of others to influence his judgment in the interest of the parties involved, (4) prepare an independent appraisal of damage.

My bill defines a motor vehicle damage appraiser as "any person who appraises damaged motor vehicles or estimates damages to motor vehicles and who is in business for profit." Under the licensing system each State would require motor vehicle damage appraisers to furnish to the State agency or authority his name, address, educational background or training, the number of years of experience as a motor vehicle damage appraiser, and any commercial relationship with any motor vehicle repair shop. Further, it would require the damage appraisers to provide a written estimate of cost and services to any person to whom they furnish services.

It is my hope that this bill will establish new standards of responsibility for motor vehicle damage appraisers. While each State regulates insurance, there is relatively little regulation of claim settlements. The motoring public needs the very valuable services of the insurance companies and of the motor vehicle repair shops. Congressional establishment of the concept of public service of damage appraisers will go a long way to remove the misunderstanding between the insurance industry and the repair industry—misunderstandings which only hurt the motorist in the final analysis.

Mr. President, a recent study indicating that during a driving lifetime the average motorist will have at least one accident. If this be the case, the Motor Vehicle Repair Industry Licensing Act is designed to assure that the motorist has his car repaired by a reputable shop, that he pays a fair price, and that the repairs are performed in a safe and proper manner. It seeks to insure the maintenance of high industry standards, thus promoting greater public trust. It strives to put an end to the disreputable appraisal practices of some insurance companies. Above all, this legislation will mean the savings of tens of millions of dollars which are now being misspent, because of faulty repairs or inaccurate appraisals.

Mr. President, 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. 1950

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 "Motor Vehicle Repair Industry Licensing Act".

SEC. 2. It is the purpose of this Act to encourage the States to provide a procedure for the licensing of shops which are involved in the repair of motor vehicles and of individuals who are engaged in the business of appraising the extent of damage to motor vehicles.

SEC. 3. (a) As used in this Act—

(1) The term "motor vehicle repair shop" means any business entity which is engaged in business for profit in maintaining or repairing motor vehicles, including repairs as a result of a collision or accident, major motor overhaul, repairs to drive train, straightening frames and similar work.

(2) The term "motor vehicle repair shop" includes the business of doing repair work or the adding of parts thereto for compensation; except that tire changing, tire repairing, lamp globe changing, fan belt changing, the changing or charging of batteries, changing or installing of ornamental accessories and lubricating motor vehicles and such activity as is incident to the business of selling motor fuel or ornamental accessories shall not be deemed to be engaging in the motor vehicle repair shop business.

(3) the term "motor vehicle damage appraiser" means any person who appraises damaged motor vehicles or estimates damages to motor vehicles and who is in business for profit;

(4) the term "Secretary" means the Secretary of Transportation; and

(5) the term "State" means the several States of the United States and the District of Columbia.

(b) Nothing in this Act applies to—

(1) any individual who is an employee of a motor vehicle repair shop;

(2) any person who is engaged in the busi-

ness of maintaining or repairing the motor vehicles of a single commercial or governmental entity or two or more such entities which are related by common ownership, affiliation, control, or otherwise.

SEC. 4. The Secretary is authorized to furnish financial assistance to any State if he determines that such State has adopted and is carrying out a program for the licensing of motor vehicle repair shops and motor vehicle damage appraisers which meets the requirements of section 5 of this Act. Upon the approval of any application by the Secretary, the Secretary may pay to the State an amount not to exceed 80 per centum of the cost, as determined by him, of such State in any fiscal year in carrying out the program. Payments under this section may be in advance or by way of reimbursement.

SEC. 5. To be eligible for assistance under this Act, a State shall adopt a program which—

(1) establishes a State agency or authority responsible for the licensing of motor vehicle repair shops and motor vehicle damage appraisers, for annual renewals of licenses, and for the investigation and processing of complaints concerning the performance of activities subject to the program by persons licensed;

(2) requires each motor vehicle repair shop doing business in that State to furnish annually to the State agency or authority the name and address of the owner of the shop, the address of each location at which the repair shop does business, the number of employees, and the type and volume of work performed at each location during the preceding year;

(3) requires each motor vehicle damage appraiser doing business in that State to furnish the State agency or authority with his name, address, educational background or training, number of years experience as a motor vehicle damage appraiser, and any commercial relationship with any motor vehicle repair shop;

(4) requires motor vehicle repair shops and motor vehicle damage appraisers to provide a written estimate cost of services to any person to whom they furnish services;

(5) requires each motor vehicle repair shop to secure written authorization for the performance of all repairs or maintenance if the estimated cost of such repairs or maintenance exceeds $25;

(6) requires each motor vehicle repair shop to prepare and maintain at the place of business, records of every motor vehicle repair job. Such records shall be available for inspection by authorized persons for a minimum period of one year and shall include such information as the Secretary shall require; and

(7) provides for appropriate sanctions and penalties, including license suspension or revocation, for any person who fails to comply with the requirements of the program.

SEC. 6. (a) The Secretary shall prescribe regulations to carry out the provisions of this Act not later than January 1, 1975.

(b) On July 1, 1976, the Secretary of Transportation shall reduce by 10 percent the amount available for expenditure from the Highway Trust Fund for highway construction in any State which has not adopted a program which meets the requirements of section 5 of this Act. Any reduction under this subsection shall be in addition to any other reduction or limitation provided for by law.

SEC. 7. The Secretary, after consultation with the Secretary of Labor, is authorized to furnish technical and other assistance to encourage the States to establish and conduct manpower training programs for persons engaged in activities subject to this Act, and notwithstanding section 4(b)(1), for the employees of such persons, in order to assure the availability of qualified personnel to facilitate the application of advanced technology to the motor vehicle repair industry.

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. BAKER:

Senate Joint Resolution 120. Joint resolution to designate June 5 as "World Environment Day." Referred to the Committee on the Judiciary.

Mr. BAKER. Mr. President, 1 year ago today, delegates from 113 nations met in Stockholm, Sweden, to begin the United Nations Conference on the Human Environment. That gathering represented the first major international attempt to come to grips with the very basic question of human survival in a common environment.

Despite the commonality of the problem, however, there were vast differences in perspective which led many of the less developed countries to threaten a boycott of the conference. But under the very able and conciliatory leadership of Mr. Maurice Strong, the Secretary-General of the conference, the fears of the developing nations were quickly dispelled, and an "action" agenda was formulated prior to the opening of the conference. That agenda included recommendations in six basic areas. Those areas included:

First. Planning and management of human settlements for environmental quality;

Second. Environmental aspects of natural resource management;

Third. Control of pollutants of broad international significance;

Fourth. Educational, informational, social, and cultural aspects of environmental issues;

Fifth. Development and the environment; and

Sixth. Institutional arrangements.

As the conference progressed, 109 such recommendations were agreed to by a majority of the delegates and by the end of the 10-day affair, the stage was set for an ambitious effort to restore, preserve, and protect the world's environment.

Moreover, in the year since Stockholm, a number of developments have taken place which further illustrate global willingness to confront this awesome challenge. The United Nations Environmental Secretariat, headed by Mr. Strong, has been set up in Nairobi, Kenya, to administer and coordinate the U.N. environmental program. The United Nations General Assembly overwhelmingly adopted the recommendations agreed to at Stockholm.

An Ocean Dumping Convention to ban all further dumping of toxic wastes, except by permit, has been signed and implemented. An international agreement to create a World Heritage Trust has been signed as well as one to regulate the trading of certain species of wild fauna and flora. And the U.N. Environmental Secretariat has prepared a document entitled, "Action Plan for the Human Environment: Programme Development and Priorities" which it circulated to governments for comments and consideration at the first meeting of the 58-Nation Governing Council for Environment Programs, to begin shortly in Geneva.

Mr. President, in view of the significance of the Stockholm conference and the developments which have taken place since then, I introduce a joint resolution to hereafter celebrate June 5 as "World Environment Day."

The President has already designated today as "World Environment Day" by proclamation; but in order to commemorate June 5 annually, I recommend adoption of my joint resolution.

I request unanimous consent that a copy of that resolution be printed in the RECORD at the end of my remarks.

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

S.J. RES. 120

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the peoples of the world have from time immemorial sought to improve their general well-being to the common detriment of the environment;

Whereas this degradation of the environment has resulted in deteriorating air and water and depleted natural resources;

Whereas the lack of collective action on the behalf of the environment has resulted in a challenge to all nations for human survival;

Whereas the nations of the world accepted that challenge and convened the United Nations Conference on the Human Environment in Stockholm, Sweden, June 5, 1972;

Whereas that historic gathering was a landmark in achievement and shall be commemorated annually by nations of the world; and

Whereas the President proclaimed June 5, 1973, "World Environment Day": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That June 5 shall be designated hereafter as "World Environment Day" and that the President shall declare such fact by proclamation.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 433

At the request of the Senator from Washington (Mr. MAGNUSON), the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 433, to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes.

S. 520

At the request of Mr. CRANSTON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 520, to establish Capitol Hill as an historic district.

S. 817 AND S. 818

At the request of Mr. GURNEY, the Senator from Kansas (Mr. DOLE) was added as cosponsor to S. 817, a bill to remove the limitation upon the amount of outside income which an individual may earn while receiving social security benefits; and S. 818, to provide that, in the case of an individual who after attainment of age 65 is entitled to widow's or widower's benefits under social security, no reduction in such benefits shall be made because such individual had received such benefits prior to attaining such age.

S. 821

At the request of Mr. BAYH, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 821, a bill to improve the quality of juvenile justice

in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

S. 907

At the request of Mr. STEVENS, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 907, to assist in financing the arctic winter games to be held in the State of Alaska in 1974.

S. 991

At the request of Mr. GRIFFIN, the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Maryland (Mr. BEALL) were added as cosponsors of S. 991, to amend the Federal Meat Inspection Act.

S. 1146

At the request of Mr. WEICKER, the Senator from Missouri (Mr. EAGLETON), the Senator from Washington (Mr. MAGNUSON), the Senator from Kansas (Mr. DOLE), and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 1146, a bill to provide for repayment of certain sums advanced to providers of services under title XVIII of the Social Security Act.

S. 1252

At the request of Mr. BAYH, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1252, a bill to amend the Controlled Substances Act to establish effective controls, including production quotas, stricter distribution and storage security, and more stringent import and export standards, against diversion and abuse of methaqualone, by placing his depressant substance on schedule II of such act.

S. 1535

At the request of Mr. BELLMON, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 1535, to amend the Internal Revenue Code of 1954 to provide for the recovery of reasonable attorneys' fees, as a part of court costs, in civil cases involving the internal revenue laws.

S. 1570

Mr. HOLLINGS. Mr. President, I understood that I was a cosponsor of S. 1570, a bill to authorize the President to deal with emergency shortages of petroleum products.

I ask unanimous consent that my name in fact be added as a cosponsor to S. 1570.

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

S. 1812

At the request of Mr. MCINTYRE, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from New York (Mr. JAVITS), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Georgia (Mr. NUNN), and the Senator from Rhode Island (Mr. PASTORE) were added as cosponsors of S. 1812, a bill to improve the coordination of Federal reporting services.

S. 1818

At the request of Mr. GURNEY, the Senator from Idaho (Mr. MCCLURE), and the Senator from Nevada (Mr. BIBLE), were added as cosponsors of S. 1818, to amend the Land and Water Conservation Fund Act of 1965, to authorize the Secretary of the Interior to issue a "Meritorious Service Passport" to our Nation's returning prisoners of war so as to permit them free access and use to this Nation's National Park System and all of our national recreation areas.

S. 1845

At the request of Mr. BAYH, the Senator from North Dakota (Mr. YOUNG), the Senator from Wyoming (Mr. MCGEE), the Senator from Rhode Island (Mr. PASTORE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Jersey (Mr. CASE), the Senator from Utah (Mr. MOSS), the Senator from Minnesota (Mr. MONDALE), the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. HART), the Senator from Maine (Mr. HATHAWAY), and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 1845, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes.

S. 1865

At the request of Mr. BELLMON, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1865, the Environmental Centers Act.

SENATE JOINT RESOLUTION 54

At the request of Mr. HATFIELD, the Senator from Iowa (Mr. HUGHES), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of Senate Joint Resolution 54, to repeal the Military Selective Service Act.

EXTENSION OF AGRICULTURAL ACT OF 1970—AMENDMENT

AMENDMENT NO. 186

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

Mr. DOLE submitted an amendment, intended to be proposed by him, to the bill (S. 1888) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices.

AMENDMENT NO. 187

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

Mr. TOWER. Mr. President, the amendment which I offer to S. 1888, the Agriculture and Consumer Protection Act of 1973 will simply add a representative of the beef industry to the National Agricultural Transportation Committee which is authorized by this bill.

Livestock is responsible for approximately 25 percent of the agriculture income in the United States. Texas leads the Nation in beef production and is a tremendous boost to the entire economy. Livestock production from the live animal through the processed carcass ready for consumption, relies heavily on transportation of all types for movement of their product. Livestock interests are found in and are important to all of our 50 States.

All segments of agriculture should be represented on this committee and as the bill is written, the livestock industry which plays a most important role in agriculture, definitely should have representation on such an important committee—important to the transportation industry, important to the consumer, and important to the livestock industry. I urge my colleagues to support this amendment.

AMENDMENT NO. 188

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

Mr. BUCKLEY submitted amendments, intended to be proposed by him, to Senate bill 1888, supra.

AMENDMENT NO. 189

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

Mr. BELLMON submitted amendments, intended to be proposed by him, to Senate bill 1888, supra.

AMENDMENTS NOS. 190 THROUGH 192

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

Mr. PERCY submitted three amendments, intended to be proposed by him, to Senate bill 1888, supra.

AMENDMENT NO. 193

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

Mr. SCHWEIKER submitted an amendment, intended to be proposed by him, to Senate bill 1888, supra.

AMENDMENTS NOS. 194 AND 195

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

Mr. SAXBE submitted two amendments, intended to be proposed by him, to Senate bill 1888, supra.

AMENDMENT NO. 196

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

Mr. HUMPHREY. Mr. President, I am today introducing on behalf of myself, Senators KENNEDY, CASE, and MCGOVERN an amendment to S. 1888 to guarantee the nutritional integrity of the Federal surplus commodity program.

In recent years, Mr. President, the food stamp program has continued to grow at a rapid rate, and is today clearly the major family food program in this country. Perhaps for this reason, all too little attention has been directed toward the commodity distribution program. Yet there are today over 2.5 million Americans who still rely upon this program as their only source of food. When this program was initiated, its sole goal was to provide outlets for farm production. Throughout the course of years it seems clear that the goal has at least become twofold: to provide outlets for farm surpluses, but also to provide the recipients of commodities the tools necessary for a nutritionally adequate diet.

Although the commodity distribution program has succeeded in its first goal, it has failed miserably in its second. The list of approved commodities is long but the list of commodities actually being delivered is growing shorter by the day.

In the last 18 months, many commodity programs have been unable to deliver vegetables, juices, fortified macaroni, and other foods. Senate hearings have revealed the unavailability of those commodities necessary to provide a nutritionally adequate diet. It is obvious that something needs to be done to guarantee the availability of these foods to persons dependent on them for their sole source of nutrition.

For that reason, I am introducing this legislation, which authorizes the Secretary of Agriculture to purchase commodities in the private market and make them available, along with existing commodities, to eligible recipients. The Secretary shall make such purchases when sufficient surpluses do not exist to guarantee the recipients of the program a nutritionally adequate diet. This bill attempts to expand and improve the present commodity distribution program so that it is of sufficient quantity and variety to constitute a nutritionally adequate diet as prepared and served.

Mr. President, I ask unanimous consent to have the text of the amendment printed at this point in my remarks.

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

AMENDMENT No. 196

On page 46, between lines 17 and 18 insert the following:

"SEC. 818. The Secretary of Agriculture shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), section 709 of the Food and Agriculture Act of 1965, to purchase in the private market those commodities unavailable to the federal commodity distribution program under such section 32, section 416 of the Agricultural Act of 1949 and similar labor which are necessary to provide recipient households with 125 per centum of their daily nutritional requirements as established by the recommended daily allowances of the Food and Nutrition Board, National Academy of Sciences—National Research Council.

AMENDMENT NO. 197

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

VEGETATIVE COVER FOR MULTIYEAR SET-ASIDE ACREAGE

Mr. HUMPHREY. Mr. President, I am today submitting an amendment to S. 1888, on behalf of myself and the following additional Senators: Senators EASTLAND, CURTIS, MCGOVERN, YOUNG, ALLEN, DOLE, HUDDLESTON, BELLMON, CLARK, HELMS, ABOUREZK, MONDALE, and NELSON. This amendment to the proposed Agriculture and Consumer Protection Act of 1973 would provide for protective vegetative cover to be planted on set-aside acreage under multiyear contracts to prevent severe soil losses, water sedimentation and loss of wildlife. Under this amendment the Secretary of Agriculture would be authorized to initiate multiyear contracts relating to acreage set-aside or diverted to conserving uses under the wheat feed grain and cotton programs. Whenever the Secretary initiates such a program he would be required to cost-share with producers desiring to participate as it relates to the cost of purchasing and planting perennial vegetative cover.

This subject was a matter of much discussion in our public hearings on this legislation. However, the language finally approved by the committee which is now contained in S. 1888 simply does not meet the basic objectives that many of us had in mind in addressing this subject. However, the amendment that I am introducing today for myself and the other Senators that I have mentioned does.

Mr. President, I ask unanimous consent that the text of our amendment be printed at this point in the RECORD followed by the testimony presented in our hearings by Mr. Maynard Nelson of the Minnesota Department of Natural Resources and Mr. Chester A. McConnell on behalf of the Tennessee Game and Fish Commission.

Their views are shared by most State Departments of Natural Resources and Conservation throughout the country along with the National Wildlife Federation and others.

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

AMENDMENT NO. 197

On page 15, beginning with line 23, strike out all down through line 3 on page 16.

On page 27, line 22, strike out the comma after "(g)" and insert in lieu thereof a period.

On page 27, beginning with line 23, strike out all down through line 3 on page 28.

On page 31, line 18, strike out the semicolon and insert in lieu thereof a period.

On page 31, strike out lines 19 through 24.

On page 46, line 17, strike out the double quotation marks.

On page 46, between lines 17 and 18, insert the following:

"Sec. 818. (a) The Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') may enter into multi-year set-aside contracts for a period not to extend beyond the 1978 crop. Such contracts may be entered into only as a part of the programs in effect for wheat, feed grains, and cotton for the years 1974 through 1978, and producers participating in one or more of such programs shall be eligible to contract with the Secretary under this section. Any producer entering into a multi-year set-aside agreement shall be required to devote specified acreage on the farm to a vegetative cover that is capable of maintaining itself throughout the contract period and providing soil protection, water quality enhancement, wildlife production, and natural beauty.

"(b) The Secretary shall provide cost-sharing incentives to farm operators for such cover establishment on all or a portion of the set-aside base whenever a multi-year contract is entered into as provided in subsection (a).

"(c) (1) The Secretary shall appoint an advisory board in each State to advise the State committee of that State (established under section 8(b) of the Soil Conservation and Domestic Allotment Act) regarding the types of conservation measures that should be approved for purposes of subsections (a) and (b). The Secretary shall appoint at least six individuals to the advisory board of each State who are especially qualified by reason of education, training, and experience in the fields of agriculture, soil, water, wildlife, fish, and forest management. The advisory board appointed for any State shall meet at least once each calendar year.

"(2) The Secretary, through the establishment of a National Advisory Board to be named by him in consultation with the Secretary of Interior, shall seek the advice and assistance of the appropriate officials of the several States in developing the wildlife phases of the program provided for under this subsection, especially in developing guidelines for (A) providing technical assistance for wildlife habitat improvement practices, (B) evaluating effects on surrounding areas, (C) considering aesthetic values, (D) checking compliance by cooperators, and (E) carrying out programs of wildlife management on the acreage set aside.

"(d) The eighteenth sentence of section 8(b) of the Soil Conservation and Domestic Allotment Act is amended to read as follows: 'The State director of the Agricultural Extension Service and the State Director of Wildlife Resources (or comparable officer), or his designee, shall be ex officio members of such State Committee.'"

THE IMPACT OF CROPLAND DIVERSION ON SOIL AND WILDLIFE RESOURCES

(By Maynard M. Nelson)

ABSTRACT

Forty to 60 million acres have been diverted each year since 1961 under the USDA's cropland diversion programs. About 55 percent of this has been in the midwest. A lack of protective cover on over half of the diverted acres has caused severe soil losses and water sedimentation in many areas of the midwest. In addition, pheasants and other farm wildlife have declined by about 70 percent since the early 1940's because of habitat losses. Protective cover could be provided on diverted cropland at little or no added cost. This minor change would provide substantial public benefits, thereby broadening the base of public support for essential farm programs.

In the next few moments, I want to share with you some of my experiences during the past 20 years as they relate to cropland diversion programs.

From 1954 to 1966 I conducted detailed studies of farm wildlife on private farmland in southern Minnesota emphasizing the effects of agricultural land use upon the pheasant. Since that time, I have served as supervisor of wildlife research in the central office of our Minnesota Department of Natural Resources. Throughout this time, and particularly during the past seven years, I have worked closely with the Minnesota state and county ASCS offices in coordinating programs of mutual interest.

As part of these activities, I have supervised and assisted in the gathering of detailed field data on cover management on diverted acres in Minnesota. During 1972, I have also worked closely with 12 other north central states in compiling similar information. These states are Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, Pennsylvania and Wisconsin. They have joined together in a group called the Farm Programs Committee to: (1) document the history and impact of federal land retirement programs on our natural resources and (2) use this information to maximize public benefits from these programs.

About 55 percent of the nation's 438 million acres of cropland lie in these 13 states, as does 55 percent of the cropland diverted from production. In 1972, wildlife biologists checked approximately 121,000 acres of diverted cropland on 3,543 farms in the 13 states. Field checks were conducted in both June and July to evaluate cover conditions during the growing season, and in November or December to determine the amount and quality of cover carried over winter.

Data for the 13 states showed distinct similarities to findings in Minnesota during previous years. Fifty-seven (57) percent of the acreage surveyed was unseeded, most of which was summer fallowed. (The percentage unseeded in individual states ranged from 5 percent unseeded in Iowa to 95 percent in North Dakota.) Of the 43 percent in

seeded cover, 20 percent was newly seeded; often with small grains. The remaining 23 percent was in established grass-legume mixtures or grasses from previous growing seasons.

Unfortunately, cover was eliminated by mowing and/or plowing at a rapid rate on those acreages having new or established seedings. Over 25 percent was destroyed by July 15th, and by December 1 the acreage destroyed rose to 85 percent. Thus, retired acres were conspicuous by their barren appearance. Most of them received inadequate protection from the elements and were subjected to wind and water erosion—the majority for the entire year, and the rest for at least nine months.

Consequently, these acres typically provided very poor cover for wildlife, even during the growing season. The exception was the 23 percent in established seedings, which afforded good to excellent cover.

While this situation has existed, populations of pheasants in the midwest have declined to fewer than one-third the number there were 30 years ago. I use the pheasant to illustrate my point primarily because it is a species for which we have accurate census data: It is also a species whose future as a game bird is in serious jeopardy in several states due to the loss of habitat. But, waterfowl, rabbits, prairie grouse, quail and numerous other game and non-game species of wildlife have suffered a similar fate.

The adverse environmental effects of wind and water erosion on diverted lands continue today, even though the Soil Conservation Service has identified soil erosion as the most pressing soil conservation problem on the nation's cropland. Equally relevant is the fact that the SCS has indicated that protective cover crops, terracing, and water diversions are needed to prevent soil erosion on 64 percent of our nation's cropland and to retard sedimentation which is filling lakes and streams. Add to this the fact that the diverted acres typically are of little or no value to wildlife and they detract from the aesthetics of the rural landscape, and it becomes apparent that changes are in order.

While annual diversion programs typically result in poor cover conditions, the costs of these programs are high. In fact, payments to farm operators for cropland diversion are astronomical compared to the budgets of wildlife agencies. For example, in 1970, farm operators received $3.4 billion for diverting 57 million acres of cropland. During the same year, the nation's game and fish agencies had available to them only $114 million for programs to manage wildlife.

Congress, in its wisdom, has a unique opportunity in the new farm program, not only to reduce crop surpluses, but also to protect our basic resource—the land. The logical means of accomplishing this is through the use of protective cover crops.

The opportunity now exists to develop a new program which will embrace the best features of past programs which emphasized either long-term retirement of whole farms or annual retirement of parts of farms. The best choice would appear to be a combination of the two—emphasizing long-term retirement of partial farms. Such a program should incorporate the following features:

1. *Perennial cover should be provided on most retired acres for a minimum of three but, preferably, five years.* Alfalfa or clover in combination with perennial grasses are favored by midwestern farmers. Fortunately, such plantings are less costly to maintain than seedings of annuals, and they provide excellent soil protection and habitat for wildlife.

2. *Annual cover crops should be planted on lands which must be retired under one year contracts to provide for year to year changes in crop production, in the market places, and in the weather.* It would not be practical to seed perennial cover on these acres. Here an annual cover crop, such as oats or rye, should be required unless the farm operator has cover from the previous year on cropland which he elects to enroll in the program.

3. *Contracts for 10 or more years should be available to landowners so that scattered tracts up to 10 acres in size could be developed for wildlife protection and the preservation of natural beauty.* Several such tracts might be provided in each township of the midwest. Incentives should be provided for long-term cover improvement, including (a) the establishment of trees and shrubs and (b) water impoundments and developments. The establishment of single or multiple-row windbreaks and water impoundments on former cropland should qualify under this provision for continuing participation in cropland diversion programs, unlike the present situation wherein such lands no longer qualify as cropland under land diversion programs.

4. *An advisory committee similar to that which has functioned under the Rural Environmental Assistance Program (REAP) and the Waterback Program should be established in each state.* Its primary purpose should be to provide recommendations to the state ASCS Committee for cover management on the diverted cropland. Such a committee would be representative of agricultural, soil and water conservation, wildlife, and forestry interests.

STATEMENT OF CHESTER A. MCCONNELL ON BEHALF OF THE TENNESSEE GAME AND FISH COMMISSION AND THE FARM GAME COMMITTEE

Mr. Chairman and members of the committee, I am pleased to have the opportunity to discuss our views concerning agriculture programs and their effect on the farmer, the land and on wildlife. I am a Wildlife Biologist with the Tennessee Game and Fish Commission and Chairman of the Farm Game Committee. The Farm Game Committee jointly serves the Southeastern Section of the Wildlife Society and the Southeastern Association of Game and Fish Commissioners. The committee is composed of wildlife biologists from sixteen southeastern states.

This nation's agricultural system has been governed by farm programs developed by Congress and administered by the U.S. Department of Agriculture for many years. The programs have generally served their intended purpose well. Each new Agricultural Act which has been developed has been modified in an attempt to better serve the national needs, the needs of the farmer and to coincide with the ever changing farming system. The citizens of the nation and the individual farmers have fared well under the various Agriculture Acts. This nation now has a tremendous amount of experience in farm programs and another Agriculture Act is being prepared. We trust that this Congress will use its wisdom and past experiences to prepare the best Agriculture Act in history. We sincerely hope that the new act will be broad and consider the total needs of agriculture and the agricultural community.

One very important part of the agriculture community that has received very little meaningful attention in past farm programs is our farm wildlife. This is one renewable natural resource that has an increasing demand while the supply is declining. The vast majority of our farm wildlife populations are produced on private lands. During the past two decades, there has been an almost continual declining trend of farm wildlife. Both quail and rabbit populations annually number an estimated 8 to 12 million individuals less than they did 20 years previously in the southeast. This decline has been caused primarily by a loss of quality and quantity of wildlife habitat. The habitat loss is primarily due to changing land use and modern agriculture practices. Much of the habitat loss can be redeveloped with modifications in the new farm bill. The most promising approach to wildlife management is to provide and maintain the proper environment for wildlife to express its own reproductive potential. Farm pattern manipulation and food and cover establishments are the most important management techniques in providing proper environment.

The drastic decline in farm wildlife evidenced in the past could have been avoided. We can easily have an abundance of wildlife and agriculture production on the same lands. Farm wildlife and good agricultural practices are compatible. The decline in farm wildlife has caused tremendous concern to sportsmen, wildlife agencies and many businesses which receive much of their income from hunting activities.

The tremendous economic value of wildlife is unknown to many. In 1970 hunters spent over $2 billion on their sport. About half of this sum was spent by small game hunters who hunted primarily on private farm lands.

Approximately 12 million small game hunters spent an average of $81 each and enjoyed over 124 million recreation days afield. This does not include monies spent or recreation enjoyed by approximately 40 million bird watchers, wildlife photographers and other nature enthusiasts. Expenditures made by sportsmen and others were primarily for hunting equipment, transportation, food, lodging and auxiliary equipment such as binoculars, tents and hunting clothes. There is no way to accurately measure the most important values of our farm wildlife which include aesthetic values and the role they play in the balance of nature. These values alone, if measurable, would probably be worth billions of dollars.

Indeed, we are also concerned with the loss of a basic resource, our soil. The adverse effects to our wildlife and soil can be reversed if some of our agricultural programs are modified. We feel that soil and wildlife needs should be considered in all farm programs. Soil is a resource which is only slowly replaced and farm wildlife is primarily a by-product of agriculture. The land retirement programs have a tremendous potential for soil and wildlife conservation purposes and these benefits could be extended to consider both urban and rural people at little or no added cost. We hope that both these valuable resources will receive every consideration in future program development.

The primary agricultural programs and practices causing adverse effects on our farm wildlife and soil are listed:

1. Short term land diversion or set-aside programs. Farmers are unable to plan ahead under annual programs. In many cases they improperly manage their set-aside acreage and millions of acres are subject to wind and water erosion. This lack of proper management depletes the soil as well as making this acreage totally useless and harmful to wildlife. The eroded soil also fills wetlands, lakes, creeks and rivers with sediment, thereby degrading the quality of our environment and damaging or destroying aquatic life. Erosion has also been a primary cause for the necessity of some of the drainage projects to prevent flooding of farm lands.

2. Clearing and drainage practices funded by federal programs. Upland wildlife habitat destroyed and wetlands drained under these practices have eliminated millions of acres of prime farm wildlife and waterfowl habitat. Additional surplus farm land was also created by many of these projects. These practices may benefit farmers but are detrimental to wildlife.

3. Planting non-subsidy crops on set-aside acreage. Crops planted and harvested on set-aside acreage often leave the acreage devoid of vegetative cover. The value of wildlife habitat decreases when the crops are harvested and the land is left bare. Often the cultivation and harvest practices on the set-aside acreage is also damaging to wildlife habitat.

4. Regulations requiring clipping of native grasses, weeds and shrubs. These regulations have caused considerable damage to wildlife populations primarily by destroying nest and young animals in addition to damaging valuable food and cover. These clipping requirements are harmful to wildlife; and it is doubtful that they serve their intended purpose.

5. Livestock grazing on set-aside acreage. In many cases destruction of wildlife food and cover and resulting decline of wildlife population has been caused by grazing on set-aside acreage. The practice may be useful to the landowner but often proves havoc to wildlife.

6. Destruction of brushy vegetative cover. Many thousands of acres of valuable brush cover have been destroyed by landowners as direct or indirect results of farm programs and practices. Some farm programs have actually paid landowners to destroy brushy cover. Agricultural employees have also encouraged removal of brushy cover for so-called beautification and insect control projects. Enlargement of farms and the need for larger fields for economic reasons have caused destruction of thousands of miles of valuable fence rows. The destruction of this brushy cover has been especially harmful to wildlife habitat and wildlife populations although in some cases it may have made farming operations more practical.

We would agree that some of these factors which have been so detrimental to wildlife may have been necessary for our modern agricultural systems. Needless to say, many of the harmful effects could have been avoided with more adequate planning by persons knowledgeable and interested in multiple uses of our agricultural lands.

We have prepared four proposals which we feel would have tremendously beneficial effects on our farm wildlife if they are included as amendments to the Agricultural Act of 1973. These proposals are broad so as to be applicable on a nation-wide basis. These proposals which would benefit our soil resource as well as the wildlife resource are listed:

1. The Secretary of Agriculture, after consultation with the Secretary of the Interior, will appoint an Advisory Board consisting of citizens knowledgeable in the fields of agriculture and wildlife. Within the several states, the State ASCS Committee will establish an Advisory Board consisting of citizens, state agriculture and wildlife agencies, and conservation organizations knowledgeable in agriculture and wildlife. The various agencies and organizations will appoint members to serve on the board. The State Advisory Board shall determine the guidelines for land use on set-aside acreages.

2. The Secretary of Agriculture will administer a land retirement program which requires vegetative cover to be established on most retired acreage. Such retired land will be retired by the Secretary by entering into 5-year contracts with landowners and/or operators. The land use of such lands shall be determined by the State Advisory Board; but in every case will (1) be devoted to a vegetative cover crop capable of maintaining itself for the length of the contract and (2) not be hayed, grazed, or otherwise harvested.

3. The Secretary of Agriculture may enter into annual contracts with landowners and/or operators to set-aside additional acreages of wheat, feed grains and cotton if he determines that the total supply of such commodities will, in the absence of such set-aside, be excessive; taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Such set-aside acreage shall be devoted to an approved conserving use as determined by the State Advisory Board.

4. The Secretary of Agriculture shall make available to landowners and/or operators optional 10 year contracts on tracts of land up to 10 acres in size or up to two percent of the landowner and/or operator's domestic wheat allotment, feed grain base, or cotton base acreage allotment, whichever is larger, for wildlife production and natural beauty. Such tracts shall (1) be approved as to size, shape, distribution, and rates of cost-sharing by the State Advisory Board (2) be restricted to water developments and vegetative cover, and (3) included as a part of the acreage as specified in amendment 2. Such lands will not be deleted from the landowner's wheat, feed grain or cotton base acreages.

Much study and thought has gone into these four proposals as a cooperative effort by wildlife biologist and agricultural workers from 29 states. As we pointed out earlier, these proposals would benefit the soil, the farmer and urban residents in addition to creating improved conditions for the wildlife resource.

The actual needs of farm wildlife are minimal. Due to the biological characteristics of several major species, these animals will not tolerate crowded conditions. Many acres of space are required but only small amounts of wildlife food and cover are necessary. The real need is for small amounts of habitat development on thousands of farms. This could easily be accomplished by emphasizing long-term retirement of partial farms and minimal habitat development projects.

I thank you for the opportunity to explain our views. We request that you allow us to assist you when programs effecting wildlife are being developed.

AMENDMENT NO. 198

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

Mr. CURTIS (for himself, Mr. DOLE, Mr. CLARK, Mr. BELLMON, Mr. AIKEN, Mr. YOUNG, and Mr. HUMPHREY) submitted amendments, intended to be proposed by them, jointly, to Senate bill 1888, supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 155

At the request of Mr. WEICKER, the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Vermont (Mr. STAFFORD), were added as cosponsors of Amendment No. 155, intended to be proposed by Mr. WEICKER and the Senator from Indiana (Mr. BAYH) to S. 1888, the Agriculture and Consumer Protection Act of 1973.

AMENDMENT NO. 178 TO S. 1888

At the request of Mr. MONDALE, the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Iowa (Mr. CLARK) were added as cosponsors of Amendment No. 178, to S. 1888, the Agriculture and Consumer Protection Act of 1973.

NOTICE OF HEARINGS ON FOREIGN ECONOMIC ASSISTANCE LEGISLATION

Mr. FULBRIGHT. Mr. President, the Committee on Foreign Relations will hold hearings on foreign economic assistance legislation on June 26 and 27 at 10 a.m. and 2:30 p.m. each day in room 4221 of the Dirksen Office Building.

Anyone wishing to testify on the above should contact the chief clerk of the committee.

NOTICE OF HEARINGS ON NATIONAL MUSEUMS ACT

Mr. PELL. Mr. President, on the 18th and 19th of July, in room 4232 of the New Senate Office Building, the Subcommittee on the Smithsonian of the Senate Committee on Rules and Administration and the Special Subcommittee on Arts and Humanities of the Senate Committee on Labor and Public Welfare will conduct hearings on various pieces of legislation touching upon the National Museums Act and a proposed museum services bill, with particular emphasis being given to the conservation of art and artifacts. Those individuals or organizations who wish to file statements for the hearing record should contact Mr. Livingston Biddle at 225–4642.

SUBCOMMITTEE ON OCEANS AND INTERNATIONAL ENVIRONMENT, NOTICE OF HEARINGS ON EXECUTIVES C, D, F, H, AND I

Mr. PELL. Mr. President, I wish to announce that on June 13, 1973, the Subcommittee on Oceans and International Environment will conduct public hearings on the following arrangements: The Convention on the Prevention of Marine Pollution by Dumping of Wastes (Executive C, 93–1); the Amendments to the International Convention on Load Lines (Executive D, 93–1); the Convention Concerning the Protection of the World Cultural and Natural Heritage (Executive F, 93–1); the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Executive H, 93–1); and Six Amendments to the Convention for the Safety of Life at Sea, 1960 Executive I, 93–1).

The hearings will be held in room 4221, in the Dirksen Senate Office Building, beginning at 10 a.m. At that time, the subcommittee expects to hear executive branch witnesses and other interested individuals.

Persons wishing to testify should immediately notify the subcommittee.

ADDITIONAL STATEMENTS

RETIREMENT OF COLONEL DALFERES

Mr. MANSFIELD. Mr. President, in 1965, several Members of the Senate joined me in a study mission to Southeast Asia for President Johnson. Our military escort included Col. George L. J. Dalferes of the Air Force. During

that mission, Colonel Dalferes served with dedication, deftness and diplomacy. His alertness to the needs of the situations which confronted us abroad was outstanding and his reactions were sharp and usually tinged with a gentle sense of humor. I came to know him and regard him very highly in consequence of that experience.

Over the years since 1965, my admiration for Colonel Dalferes' competence and character have increased. For much of that time, he has been a Deputy Assistant Secretary of Defense for Legislative Affairs. May I say that he knows the Defense Department and he knows the Hill. He has served both with honesty, integrity and with a devotion to duty which is in the best tradition of the military service of the United States.

I want to take the occasion of his retirement to wish the best to Col. George Dalferes. He has served with distinction and deserves the gratitude of his Government.

WATERGATE AND NATIONAL SECURITY

Mr. GOLDWATER. Mr. President, more and more in the discussion of the Watergate affair and related matters, we find disturbing references to the term "national security" and some suggestion that no such thing ever existed. The downgrading of the term as well as the concept of national security seems to hinge almost entirely upon President Nixon's statement that many of the actions in the Watergate affair were dictated by a concern for national security.

My fear, Mr. President, is that in the haste which some segments of the media are exhibiting in their efforts to belittle the President much more than the prestige and credibility of the Chief Executive might be lost.

While this is in no way meant to be a defense or a justification for unlawful acts committed in the Watergate affair and the Ellsberg security trial, it is a very determined attempt to safeguard the idea and the concept of confidentiality in the operation of the Government.

Mr. President, I am justifiably concerned over the unlawful events which occurred in the Watergate bugging and in the Ellsberg case. But I am also deeply concerned over a growing tendency on the part of leftwing writers and Nixon critics to claim that there is absolutely no need for classifying any Government documents or activities. This, of course, is not a new theme. It is a theme raised repeatedly in the past by radicals and others whose activities have been the subject of security investigations. It should not be necessary to repeat here and now what we all know and what we have all known for many years—that it is a fine dream to hold that in a democracy all people should have a right to know all that goes on in their Government at all times. But it is a dream and that is all it is. Experience has taught us that giving lip service to this kind of an idea is both impractical and dangerous. As President Nixon has rightly stated, we must have secret communication in the conduct of the U.S. Government if those in charge of that Government are to meet their responsibilities and protect the national interest of the United States.

Mr. President, the whole idea that national security might have been compromised and endangered by the theft and publication of classified materials in the Ellsberg case was largely discounted by the individuals and publications who benefited from it in terms of increased circulation and the receipt of Pulitzer Prizes. And now we are told by the Washington Post that the Soviet Embassy in Washington obtained what Federal authorities believed to have been a complete set of the top secret Pentagon Papers during June of 1971. The newspaper did not seem much concerned about the fact that the secret papers were delivered to a foreign embassy by a man who used an alias and has been sought unsuccessfully for almost 2 years. Rather, the Post was most impressed with the fact that the Soviet Embassy was presented with the top secret papers at a time when the Justice Department was in court fighting to cut off newspaper publication of articles based on those documents.

I have no intention of defending the misconduct of Government officials in the burglarizing of the office of a doctor who had treated Daniel Ellsberg. I believe the action was stupid, ill-advised and thoroughly reprehensible. But that does not obscure or diminish my concern as an American citizen and a U.S. Senator that the classified information which Mr. Ellsberg was supplying to American newspapers happened to be delivered to the Embassy of a foreign government about the same time.

It would seem to me that the two activities—the distribution of classified information to American newspapers and the delivery of the same material to the Soviet Embassy—must have had some kind of a concerted motivation. In other words, I believe we need to know a lot more, about the Pentagon Papers case than we do at present. And if Government officials broke the law and engaged in questionable conduct in the name of national security, I say it in no way diminishes the need for continued vigilance. In other words, we might consider the circumstances—such as those in the Ellsberg case—which so alarmed officials in the executive branch that some of them erroneously felt they were drastic enough to warrant breaking the law.

Mr. President, I repeat, it is impossible to conduct the affairs of government in the window of Macy's Department Store. And it is a frightening thing to attend, as I did on one occasion, a meeting of top officials in the White House and read all about it in the morning paper the next day. I am not talking about just any meeting. I am talking about a meeting which I felt was confidential enough that I did not even discuss it with members of my staff. Yet, the next day I found a completely accurate account of that meeting printed in the newspaper. It was so accurate that even the words I spoke were correctly attributed.

Mr. President, you almost have to have it happen to you to understand the feeling such an experience gives you. I was sufficiently alarmed that I called the President and suggested that something would have to be done to seal off the leaks of information from the executive branch.

In this connection, Mr. President, and in the atmosphere which existed about the time the Pentagon Papers were being supplied to the New York Times, the Washington Post and Columnist Jack Anderson, the President may have been entirely justified in establishing an intelligence unit in his own office which he felt he could trust absolutely. Where the trouble came in, as I see it, was in the zeal and the lack of judgment and lack of respect for the law which members of the unit brought to the tasks assigned to them. There is no excuse for such actions, nor do I cite any.

Now, Mr. President, so long as we are discussing the national security and the President's contention that there is a need for secrecy at some times, it might be well to go back and examine the position taken by the major publications in the Pentagon Papers case in previous instances.

For example, I am reminded of a time when the New York Times and the Washington Post were suddenly scooped by the Saturday Evening Post in December of 1962 on a story related to the Russian missile crisis. To remind my colleagues, let me explain that the story in the Saturday Evening Post was written by Stewart Alsop and Charles Bartlett and it discussed what went on in a National Security Council meeting during the period of the crisis. Now, even though the magazine article contained no work from any NSC report or any other secret document—unlike the Pentagon Papers published by the Times and the Post—the Times waxed indignant. It ran an editorial entitled "Breach of Security" and declared that the "secrecy of one of the highest organs of the U.S. Government has been seriously breached."

The Times editorial went on to ask the following questions:

> How can advisors to the President expect to give advice freely and easily and at all times honestly and with complete integrity if they have to worry about what their arguments will look like in print a few weeks later?
>
> What kind of advice can the President expect to get under such circumstances? How can there be any real freedom of discussion or dissent; how can anyone be expected to advance positions that may be politically unpopular or unprofitable . . . ?

Then, of course, the Washington Post had entirely different ideas about secrecy when it involved Otto Otepka, a State Department security officer who furnished a Senate subcommittee with classified documents during a capitol investigation. The Post, when it was freely publishing the classified material supplied by Ellsberg, apparently did not remember that they labeled what Otepka did as "unlawful" and "unconscionable." The Post at that time—the year was 1963—had this to say about Otepka's action:

> He gave classified information to someone not authorized to receive it . . . he had no authority to give it . . . if any underling in the State Department were free at his own discretion to disclose confidential cables or

if any agent of the FBI could leak the content of secret files whenever he felt like it, the Executive Branch of the government would have no security at all.

One wonders why Ellsberg, who was not an employee of the Government and was not assisting a duly authorized Senate subcommittee was so blameless while Otepka was so lawless, in the opinion of the Post.

There seems little doubt that as far as the New York Times and the Washington Post are concerned there are different kinds of security leaks. Some security leaks appear to be good while other security leaks appear to be bad. Where the Times and the Post are concerned, it is a question of who is leaking what to whom.

A DELIGHTFUL AND REFRESHING MOTION PICTURE—"TOM SAWYER," A FINE FILM FOR THE WHOLE FAMILY

Mr. SYMINGTON. Mr. President, moviegoers, particularly those parents who have been frustrated by the scarcity of quality films suitable for a family visit to the local theater, now have an excellent reason to rejoice.

Thanks to the collaboration of Reader's Digest, United Artists Corp. and producer Arthur P. Jacobs, a new motion picture is now available for audiences from 8 to 80. It is a musical adaptation of "Tom Sawyer" based on the beloved Mark Twain classic of American boyhood.

As Members of the U.S. Senate from Missouri, Senator EAGLETON and I were cohosts Sunday at a Missouri-style picnic at L'Enfant Plaza followed by a special showing of the movie at L'Enfant theater. We were particularly gratified by this film.

Samuel Clemens, known throughout the world as Mark Twain, is one of Missouri's most distinguished native sons. Born at Florida, Mo., in Monroe County, his family lived at Hannibal on the Mississippi River during most of his boyhood.

Twain's "Adventures of Tom Sawyer" was written just about a century ago. It re-created the author's fondest childhood memories of life in Hannibal at a time when America was still thrilled by river boats and had not yet been changed by the industrial revolution, urbanization or the realization that our natural resources are not inexhaustible.

We were especially pleased that producer Jacobs filmed "Tom Sawyer" in Missouri in and near the equally historic Missouri River village of Arrow Rock, a village that he believes most closely resembles the Hannibal of Mark Twain's youth. In this way today's movie-goers are being given an opportunity to see what many river towns of the United States looked like 135 years ago. At least they can participate in America's heritage vicariously.

The cast gave superb performances: Johnny Whitaker is near perfect as Tom Sawyer; the incomparable Celeste Holm, one of our all time favorite actresses, delivers a memorable perfomance as Aunt Polly; and we of Missouri are especially proud of Jeff East, a lively teenager from Kansas City who makes his acting debut in the role of Huckleberry Finn, and Warren Oates, one of Hollywood's finest actors, is most entertaining as Muff Potter.

An important element in evoking the spirit of Tom Sawyer and his time is the delightful music—and lyrics—by Richard M. Sherman and Robert B. Sherman, who also wrote the screenplay. They are the same brother team who wrote the music for "Mary Poppins." In creating musical nostalgia the Shermans not only establish contact with the older generation of movie-goers, but also with the youth of today who are showing an increasing interest in the country music so closely associated with America's rural past.

We believe that "Tom Sawyer" will go a long way in bringing people back to the movies by demonstrating once again that Hollywood can provide excellent, wholesome entertainment for the entire family.

OUR GOVERNMENTAL SYSTEM DOES WORK

Mr. BEALL. Mr. President, one of the recurring myths we all hear is that our form of Government is unresponsive and ineffective at solving the problems which are facing our Nation. Granted, we do not have a perfect system, either, and I doubt that anyone would try to make that claim. It does function slowly at times, and especially when we are supporting a worthy cause, things like Government redtape can take on the appearance of insurmountable obstacles.

Our system can certainly stand improvements at all levels—Federal, State and local—to increase its efficiency and to eliminate duplicated, and sometimes conflicting efforts. But it is based on institutions that have proven to be strong enough to stand the test of time and meet the challenges of a changing world.

It is unfortunate, however, that many of our citizens—and especially the younger Americans—find it easier to give up on the system by accepting the myth of ineffectiveness. Some just turn their backs on everything, while others embrace a doctrine of violent change.

But our system does work, and I think we must demonstrate, especially to our young people, that it works best on reason and logic, not shouts and intimidation.

Recently, I received in the mail about 50 letters which were written by a fourth grade class of Mrs. Margaret Davis at Burning Tree Elementary School in Montgomery County, Md. The pupils were asking for help in saving a giant tree on Maryland's Eastern Shore. The 200-year-old tree, believed to be the largest and oldest swamp white oak in the United States, would perish if the State carried out its plan to flood the area as part of a park project.

The pupils asked if there wasn't some way to save the tree because of its significance and its value as a local landmark. They wondered why the tree could not be spared by relocating the dam on Tuckahoe Creek or by not flooding as much land. In short, they wanted their Government to know that they were concerned about what seemed to be a poorly thought out plan for a park.

I inquired about this situation with the appropriate State park and water resource officials in Maryland, and I was pleased to find out that, in fact, a decision had already been made to relocate the dam and save the tree. Since that time, there have also been stories in the newspapers about how the tree was saved because of opposition to the original plan.

I think there is a lesson here for us all, and especially for the pupils who took the time to write us. That lesson is that our system of government will respond when it hears the voice of the people, and our citizens must participate in our form of government to make it work.

I have written back to these fourth graders and told them that the tree will be saved because of efforts like theirs.

Mr. President, at this time I would like to insert a sampling of the letters I received in the RECORD, along with several newspaper reports of the decision to save the giant swamp oak of Tuckahoe Creek.

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

DEAR SENATOR BEALL: I think you should try to prevent the Swamp White Oak tree from dying. I think that it must be at least 200 years old and the people would rather see a tree than a pond I think it is a great tree and should stay there like it is.

Sincerely,

TED VASSALLO.

DEAR SENATOR GLENN BEALL: Please do not let them kill the Swamp White Oak tree. I do not think you will find a tree in Maryland like that again.

Sincerely,

WENDY FENTON.

DEAR SENATOR GLENN BEALL: I wish you could save that giant Swamp White Oak tree by preventing the dam where they are planing to put it. Maybe they could put the dam farther back than they are planning to put it. If it is the biggest Swamp White Oak tree, then I think you could plan to do something else than flood the tree.

Sincerely,

SALLY DAILEY.

DEAR SENATOR BEALL: I heard about the giant Swamp White Oak tree. I hope it lasts very long. Flooding it, it will start to die. Please help the tree.

Sincerely yours,

DENISE HANNAN.

DEAR SENATOR BEALL: I would like to save the Swamp White Oak in Tuckahoe Creek, Md. But, unfortunately, the state legislature wants to dam the creek up. If the creek is dammed, the tree will die and a refuge for wild animals will be ruined. The reason I want to save the tree is because it is the largest Swamp White Oak in the United States. It is 118 feet high, and five feet across at the base. Could you save this great and stately tree?

Sincerely,

DANIEL SHERER.

DEAR SENATOR BEALL: I think that the Tuckahoe dam should be built further away from the Swamp White Oak tree. Since this valuable Swamp White Oak tree is the larg-

est one in our state. I think it should be saved.

Sincerely yours,

VICKI DEJTER.

DEAR SENATOR BEALL: I would like to save the Giant Swamp White Oak of Maryland. The reason is because it's one of the biggest trees and they are going to kill it by putting the water five feet high. So would you help me save it, please?

Sincerely yours,

BIRGITTA DEPREE.

DEAR SENATOR GLENN BEALL: I would like you to save the giant Swamp White Oak. The tree is located in Tuckahoe State Park. Can you keep it the way it is? Please do not build a dam.

Thank you!

KAREN GLASOE.

DEAR SENATOR BEALL: Our class found out about the government putting a dam up near that giant Swamp White Oak. They say it's the largest of its kind in the country. If you put the dam where it is planned to be, you will kill it. I think it is too valuable to be killed, so I think the government should either move the dam back or forget the whole thing. Tell the government to get on the ball!

Yours truly,

JOHN YERRICK.

DEAR SENATOR BEALL: I'm concerned about the Swamp White Oak tree. Please move the dam back a little, because this is the biggest of its kind. So be kind and save our Swamp White Oak.

Yours truly,

BILLY HOFFMAN.

DEAR SENATOR GLENN BEALL: I have a suggestion about the big Swamp White Oak tree. Instead of damming it up so close, dam it up farther back or not at all.

I've read stories about how men let the big redwoods grow, and now they're some of the most famous trees in the world.

Since this tree is the largest one in the State, I think the tree should stay alive.

Please do what you can to save this tree.

Respectfully yours,

KRISTIN YUNG.

DEAR SENATOR BEALL: I think you should save the giant Swamp White Oak in Tuckahoe Creek, Maryland. You should try to move the dam back so that it might keep the water from coming so high.

Sincerely,

ROBERT KLUG.

DEAR SENATOR BEALL: Please help save a record tree, a record Swamp White Oak. The oak is 21 feet, 5 inches in diameter, and 118 feet high. They want to build a dam in Tuckahoe Creek. It will flood the tree up to 5 feet. At least, stop them from making the water 5 feet deep. The tree will still live with 3 feet of water.

Your admirer,

LORI R. MILSTEIN.

DEAR SENATOR BEALL: I want to tell you about the Giant Swamp White Oak tree. You shouldn't wreck it. It is the biggest tree in Maryland and its nature's creation. Please don't wreck it.

Yours truly,

JONATHAN EDENBAUM.

DEAR SENATOR BEALL: My opinion on the Giant Swamp White Oak is that it should be kept. It is the nation's largest Swamp White Oak.

If a dam is built, it should be small one.

Yours truly,

SANDY ISRAEL.

[From the Baltimore Sun, June 1, 1973]

REVISED TUCKAHOE FARK PLANS SPARE A GIANT OAK AND REVIVE A GRIST MILL

(By Mary Corddry)

HILLSBORO.—A giant swamp white oak here that recently was named a national champion of its species is no longer threatened by an impounded lake planned by the state for the new Tuckahoe State Park.

Herbert M. Sachs, chief of the state water resources administration, announced this week that his agency had issued a revised permit for construction of a dam on Tuckahoe Creek that would create a smaller lake than the one originallay planned for the park.

TO REVIVE GRIST MILL

The new lake, Mr. Sachs said, "will come nowhere near the giant swamp oak."

The revised plans for the Tuckahoe Lake will reduce its size from 360 acres to 120 acres but provide for deeper water than would have existed in the larger lake.

However, the most imaginative part of the new plan is the restoration of an old grist mill at the site of the new lake. The new plan would put back into operation the old horizontally moving grinding wheels of Crouse's Mill.

A lock is also planned to permit the passage of canoes from downriver and, in the spring of the year, anadromous fish on their way upstream to spawning grounds.

The larger lake originally planned by the state would have covered 360 acres of wooded swampland along Tuckahoe Creek. It was to have been the chief attraction in the new Tuckahoe State Park, with camp sites, boat launches and a beach on its edges.

This April a group of Caroline county individuals and statewide conservation organizations appealed the approval of the lake by the Water Resources Administration. The conservations argued in their appeal that the lake would destroy a valuable natural habitat for fish and wildlife and that its shallow depth would make it so warm and prone to pollution that it would not be the recreational asset its proponents believed.

However, as it turned out, the most effective argument of the conservationists was the threat of the lake to the Tuckahoe Oak, a giant standing 116 feet high with a circumference of 21 feet 5 inches at 4½ feet from the ground.

[From the Annapolis Evening Capital, May 30, 1973]

TUCKAHOE LAKE CUT BY STATE

Responding to a storm of criticism, the state has trimmed by two-thirds the size of a proposed lake in Tuckahoe State Park.

Herbert M. Sachs, chief of the Water Resources Administration, said today a revised permit will require building of a dam downstream from the original site.

As a result, the lake will cover 120 acres instead of 380 acres.

One side benefit will be protection of a giant swamp oak listed as the national champion of its kind by the American Forestry Association. The huge tree would have been flooded and killed if the dam had been built at the site proposed originally.

The lake has been under consideration for about four years, and the permit to build the dam was granted March 19.

But the decision was appealed by the Maryland Conservation Council and citizens groups in Queen Annes and Caroline counties, where the park is located.

Although the lake will be smaller than proposed, it will be deeper, Sachs said.

He said relocation also will make it possible to reconstruct an old grist mill and its unique mechanism of horizontally moving grinding wheels.

PRESERVATION OF YELLOWSTONE NATIONAL PARK

Mr. McGEE. Mr. President, one of the major tourist attractions in Wyoming is Yellowstone National Park, located in the northwest corner of the State. Yellowstone is the world's first national park—now in its 101st year—and is expected to attract a record number of 2.5 million visitors this year.

In order to preserve the integrity of the Yellowstone area, Park Superintendent Jack Anderson and his rangers have had to devise innovative means to minimize the tourist impact on this majestic area.

In Sunday, June 3, Washington Post, there appeared an article by George C. Wilson recording interviews with Anderson and other park rangers. The article deals with the National Park Service's efforts to control the influx of automobiles, campers, and trailers into the park while at the same time easing into a system which allows for a balance between tourism and need to maintain the environmental system of the park.

I believe the efforts by Superintendent Anderson and the Park Service employees under his command are very farsighted and commendable. Such efforts will guarantee that Yellowstone National Park and all its landmarks will be enjoyed by Americans for generations to come.

I ask unanimous consent that the article be printed in the RECORD.

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

YELLOWSTONE: HERE COME THE TOURISTS

(By George C. Wilson)

YELLOWSTONE PARK, WYO.—The bears have been taken off welfare, the cars have been segregated and some early-bird campers already are being turned away with the explanation that money is too short to open up enough campsites for them.

This is how the start of the vacation season finds the world's first national park—a park, like so many others, braced for the biggest visitor invasion of its history this summer.

The challenge facing Yellowstone in its 101st year—a challenge familiar to planners from Fairfax County to California—is how to control the explosion of growth before it ruins the land.

The bears, it turned out, were the easiest things of all to handle as Yellowstone authorities wrestled with the growth problems of the park.

Incorrigible panhandlers among the bear population—the ones which stood along the roads of Yellowstone and demanded handouts from human passersby day after day—were shipped out to the boondocks. If they kept coming back to beg from the tourists, they were killed. Stiff fines were imposed on people who fed the animals.

Finally the begging bears went back to work in the woods—making them less visible but also less bothersome.

This is bad news for tourists who hope to snap pictures of grizzlies from their cars, but it is good news for park wildlife managers determined to keep Yellowstone in its natural state. This philosophy also lies behind Yellowstone's refusal to stock its breathtakingly beautiful lakes and streams with hatchery fish. Instead, the native fish are preserved by regulating the human pressure on them—such as restricting a day's catch to two fish and periodically putting heavily fished areas off limits to fishermen.

ZONING OUT CARS

Cars have proved harder to handle than the bears, although Yellowstone authorities believe they have found some answers here which may be used with profit elsewhere in the country. Yellowstone has embarked on a containment strategy for wheeled vehicles—zoning them into areas away from the monuments people come to see.

"Roads for cars went where the stage coaches used to travel," says Yellowstone National Park superintendent Jack K. Anderson. In the early days, the government was trying to entice people into visiting the park, so it put the stage roads right next to such features as the Old Faithful geyser.

But once automobiles began streaming into the parks by the thousands, traffic jammed up the narrow roads leading into such sites as Old Faithful. Park authorities, starting in 1970, put more space between the monuments and the cars.

People have to walk rather than ride to the attractions. It is like parking cars at the far end of Washington's reflecting pool and requiring sightseers to walk to the Lincoln Memorial.

This simple strategy has worked wonders, according to Anderson.

"People can both see and hear Faithful now," he says. "We have taken away a lot of the noise pollution of motorcycles starting up and cars running. We're backing the cars away from the fragile zone. People get a walking experience. Most of them ask us why we didn't do this long ago.

"Before the bypass roads and walkways from parking lots," Anderson says, "it was an eyeball-out-of-a-windshield kind of thing. But people really do want to walk. They really don't want to stay in their cars.

"This is true of most of the old people, too. We've undersold our older generation. They want it quiet. They want to view the park on their terms. They want to walk."

NEXT: MASS TRANSIT

At Old Faithful, a group of overnight cabins was torn down to make room for a big parking lot. This signified a trend expected to accelerate over the next few years at Yellowstone and other parks as they cope with the people invasion.

The master plan, as described by rangers at Yellowstone, is to accept the fact that most Americans want to get a quick look at an attraction like Old Faithful and then leave. They do not want to spend the whole day and night contemplating such natural wonders. One answer, then, is to keep the flow of people moving smoothly with some kind of mass transit system.

Ironically, mass transit thus may supplant the family car in the wilderness, where the animals breathe most of the air, before it happens in the cities packed with people. The park-and-walk system is already operating at three tourist attractions in Yellowstone.

In the politically sensitive job of park superintendent, Anderson, 56, cannot comfortably talk about banning the private automobile from Yellowstone. He stresses that the private car is not on the verge of being banned here, that mass transit is still in the study phase.

But younger park rangers, especially those who previously served near the large cities, dare to talk about the day when cars and mobile trailers will have to be tightly controlled or banned outright to save the beauties that drew 2.35 million visitors to Yellowstone last year. About 2.5 million are expected this year.

Some of the rangers also believe the day is coming when overnight accommodations will have to be pushed outside the park to protect the natural life chain from being broken by pollution. And they think people would opt for this choice.

"When people have to make a little effort," said one of these young rangers, "like walking instead of riding, like camping on the ground instead of living inside their trailers, why, they get a sense of ownership about the parks. They are less likely to throw beer cans and bottles into the pools or write their names on the algae. Just since we pushed the roads back from Old Faithful area, there has been fabulous recovery in Morning Glory Pool."

Rolling into a campground in a just-like-home trailer—with heat, cooking and plumbing facilities right inside—is a relatively new form of people pressure hitting Yellowstone and other parks. The automotive industry has a vested interest in keeping the parks open to such vehicles.

"They've got a pretty good lobby," said one ranger. "It will be hard to keep them out of the national parks."

Yellowstone Park figures show that the number of trailers visiting here has nearly doubled—from 27,983 to 50,106—and the number of campers atop pickup trucks more than doubled—from 26,849 to 67,654—just between 1965 and 1970.

PEOPLE WANT PEOPLE

The biggest frustration of all for Yellowstone managers is the "togetherness in the wilderness" nesting instinct of the visitors.

"People want to be with people," superintendent Anderson asserts, declaring that 92 per cent of Yellowstone is wilderness little used. He tells of directing a group of visitors to a sparsely settled campsite in the hills one day only to have them come down a short time later, exclaiming: "Hey, that's wild up there, where's some people?"

Anderson and his colleagues hope to find a way to persuade more of Yellowstone's visitors to move off the well-worn paths and discover the wilderness. News stories focusing on the crowds at Yellowstone fail to note, he says, that there is plenty of elbow room in the 2,221,773-acre park—an area larger than Delaware, Rhode Island and the District of Columbia combined. But how do you disperse the visitors?

"We're dealing with a guy who comes off the blacktop—the urban environment," Anderson concedes. "The park is a totally foreign climate for most of the people who come in here from the cities." Acclimating these visitors gradually—perhaps by giving them some bird's-eye views by monorail or other mass transit—might be the way to start them out, he suggests. Thus emboldened, the visitors might push into the less populated areas of Yellowstone.

At a designated—and crowded—campsite at the park's Madison Junction, Wade Giuliana, a husky 25-year-old from San Diego, scoffs at the idea of venturing into the wild parts of Yellowstone: "No man, for that you've got to be in shape. Besides, if we left this campsite we'd miss a lot. It's such a groove here."

Giuliana came to Yellowstone for relief from the pressures of his job at a mental hospital. "When I get up on a mountain round here and look at the majesty and vastness, I get my head back together," he says. "I'll go back to my job after this and nothing will bother me."

His camping partner, John Larsen, a San Diego carpet layer, agrees: "People aren't made to live cooped up in cities. They'd blow up if there weren't places like this."

Some city problems do come into the park with the visitors. But Superintendent Anderson says the drug problem has all but disappeared since 1970, when one youth took his trip on LSD stark naked across the park's Fishing Bridge.

NOT ENOUGH CAMPSITES

Most of the people here say they came to Yellowstone so early in the season in hopes of beating the crowds. Bruce and Renee Winters, a young couple from Ann Arbor, Mich., are typical in their disappointment.

When they arrived at the Madison campsite, Winters said, they were told they would have to find a place to stay outside the park, even though half of the 292 sites at Madison were unoccupied. Rangers explained that Yellowstone had been cut back on funds, and there was not enough maintenance money to open up the remaining sites so early in the year.

"We were really bitter after driving all that way," says Winters, a folder in a bookbinding firm. "We had bought the Golden Eagle pass [a $10 ticket covering admission to all national parks] and had come early to beat the mob. Then they tell us we can't stay."

Because of the crowding, Yellowstone for the first time is allowing campers to reserve sites for periods of up to two weeks at the Madison and Bridge Bay campgrounds during the summer season that opens June 25. The reservations are being made through American Express and park officials say they're going fast.

Anderson says it's difficult to persuade the public that in a park as big as Yellowstone there are still just so many campsites to go around. "It's like a football stadium where once all the seats are sold, that's it."

Should more campgrounds be built even if it means cutting into primitive areas? So far, the official view has been negative—prompting commercial operators to open campgrounds outside the park as more and more Americans seek solace in the relatively unspoiled parts of the nation.

THE WOLF IS HERE

Mr. STEVENS. Mr. President, on May 13, in Hearst newspapers in a number of cities, Editor William Randolph Hearst, Jr., wrote an editorial entitled "The Wolf Is Here." This editorial was prompted by a visit to Mr. Hearst's staff by the Lieutenant Governor of Alaska, H. A. "Red" Boucher, and myself. Mr. Hearst had for several years strongly supported the trans-Alaska pipeline. It was our feeling that the present delays in the pipeline's construction necessitated a special urgency. As the summer progresses and fuel shortages become ever more acute, the urgency of the situation will only increase.

Mr. Hearst is correct. Further delay in building the trans-Alaska pipeline is unconscionable.

He is also right that the trans-Canada pipeline is, indeed, a "red hearing." If congressional approval for a trans-Alaska pipeline is denied, and if a trans-Canada route results, the outcome will only be further delayed.

Our entire economy will be adversely affected. The Nation cannot stop for want of fuel. Congress must not let this Nation grind to a halt because we have not developed our domestic fuel sources.

I ask unanimous consent that the editorial reprinted from pages 1 and 2 of the Baltimore News American of May 13, be printed in the RECORD.

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

EDITOR'S REPORT—THE WOLF IS HERE

(By William Randolph Hearst, Jr.)

NEW YORK.—Three long years ago—on June 25, 1970, to be exact—this column was

devoted to a call for urgent action on a matter whose importance was described as involving nothing less than "the well-being of the entire United States."

Those words, which struck some of my readers as exaggeration, were written in a report sent from Fairbanks, Alaska. It told how a group of conservation extremists and government indecision were blocking the 800-mile pipeline needed to tap the ocean of oil discovered in 1968 under Prudhoe Bay, off Alaska's ice-bound North Slope.

If the pipeline had been built as originally planned, two million gallons of American oil now would be flowing our fuel-hungry way today—every day—through the ice-free port of Valdez in southern Alaska.

Instead, significantly, the United States today is already being compelled to import far more than that amount from other countries—or about 32 per cent of our total supply—at increasingly great and dangerous detriment to our already sick balance of payments position.

Words fail me in describing the monumental stupidity of not pushing ahead with the original plans. Yet what is far worse is the fact that even to date not a single inch of the vitally needed trans-Alaskan pipeline has been built. And for the same reasons.

Readers who three years ago thought it necessary to declare that the nation's well-being was involved in the Alaskan oil impasse are invited to reconsider. They can best start by thinking of our now ominous general shortage of power—half of which comes from oil—and of the gasoline shortage which already is closing stations, raising prices and threatening drivers with nation-wide gas rationing.

Our whole national life-style is being menaced by America's lack of adequate domestic oil supplies. Yet we continue to keep in an Alaskan deep freeze what has been called "one of the largest petroleum accumulations known to the world today"—at least is and possibly 40 billion gallons of precious oil, plus over 25 trillion cubic feet of natural gas.

Other nations regard the situation as all but incredible, and so do I. Only I add stupid, inexcusable and downright tragic.

Thanks to the group of well-meaning but shortsighted and stubborn environmentalists, and thanks to government indecision and red tape, it now will be at least another three years before we can even start pumping out our vast treasure.

Even if the project got an official green light tomorrow, that's the length of lost time it would take to build the necessary pipeline.

What got me riled up on the subject all over again for the umpteenth time was a visit made to my office this week by two of Alaska's most distinguished citizens—Lieutenant Governor M. A. (Red) Boucher and U. S. Senator Ted Stevens, who came to talk about it with some of our editors and columnist Bob Considine.

Bob and I had first met Red Boucher in 1967 when he was mayor of Fairbanks, managing the local ball club from the dugout.

We saw him again three years ago when Bob, Joe Kingsbury-Smith and I stopped off to inspect the progress on the North Slope and, incidentally, to take in a baseball game played from 11 p.m. to 1 a.m. without the benefit of arc lights on the longest day of the year. It was Red who loaned us a plane so that we could see at firsthand the activities and development on the North Slope and get back the same long day.

The glow of renewing a warm relationship soon turned to the heat of impassioned concern as my two callers expounded at length on the basic theme of their visit—how important it is for the American public to realize and start adjusting to the unaccustomed belt-tightening they face in the years immediately ahead.

Here's how Red summed it up:

"If people only knew the tremendous reversal of attitudes and behavior that they and this nation will be forced to undergo starting right now, they never would have permitted the folly of our Alaskan pipeline delay.

"Today's energy crisis, with its power blackouts and all the rest, is only a foretaste of what is coming and has been coming ever since the late 1960s. That's when America suddenly ceased being self-sufficient in energy.

"It seems almost impossible for our people to grasp what this means. They think of their country as a land of boundless riches, which it never was, and think they can go right on living the good life of creature comforts made possible by their cars, air conditioners, adjustable heat, and all those gizmos from waffle irons to automatic tooth brushes.

"What made us a powerful super-state, with the highest living standard in the world, was the cheap domestic energy supply we have been squandering. Energy and the oil which gives most of it is the very life blood of our civilization. Now we are no longer self-sufficient and the price will be going up and up from now on.

"It is not exaggerating to say that the energy problem already has become the most difficult one now confronting our nation, and not only domestically but internationally as well. For the first time in our history the wolf is at our own door, and he won't go away."

The energy crisis is too complicated a subject to be explored here. As a sample, however, it is expected that the nation's gas and oil needs will be doubled by 1985. Even before that, by 1980, experts expect that 50 percent of such supplies will have to be bought from foreign sources.

Stewart L. Udall, former secretary of the interior, notes that many economists believe that only a few years from now we will be spending up to $30 billion a year for the imports—a situation which will lead to disastrous devaluation of the dollar."

This, of course, translates into widespread unemployment and a radical lowering of general living conditions at home. Internationally it will compel all sorts of diplomatic readjustments as we compete with others for basic needs.

The most obvious example of the latter is our all but vital need to assure continued supplies from Arab countries which resent our support for Israel. By 1980, it is estimated, we will be relying on such countries for 35 per cent of our oil—oil which would be denied us as it was briefly during the six-day Arab-Israel war of 1967.

Any way you look at it all, there is nothing but trouble ahead for us so far as our energy needs are concerned.

The bleak picture painted by Lt. Gov. Boucher and Sen. Stevens should give you a pretty good idea why further delay in building the trans-Alaskan pipeline is unconscionable. The oil it can provide us by no means will solve our problems, but getting at it is the most expedient step we can and must take.

At the moment, the pipeline is being delayed while Congress considers a bill to permit an essential broadening of right-of-way limits set by an outmoded 1926 law. Discussion of the measure is expected within two weeks. Favorable action is foreseen despite some midwestern lawmakers who would like a proposed alternate pipeline through Canada to their region.

Passage of the right-of-way bill, unfortunately, will end only the latest in the interminable series of hurdles placed in the way of the oil companies in their struggle to build the trans-Alaskan route.

As next step, the matter will go back to the federal courts where the conservationists are challenging an environmental statement of the oil companies. The challengers can be relied on to drag the proceedings out as long as possible by demanding further study of the proposed trans-Canadian pipeline.

This is a beauty of a red herring. Even if the alternate line were found to be practical, it would take four or five years to settle native land claims alone—not to mention years more to construct it.

The trans-Alaskan line has been researched every which way. Its potential danger to wildlife or the environment would be absolutely negligible. And we simply cannot afford to wait 10 years or so for oil we need right now.

What can you do about it? If you feel as I do, at the very least you can write to your favorite lawmaker in Washington and tell him.

BEATITUDES FOR BUSINESSMEN

Mr. YOUNG. Mr. President, I recently read an article entitled "Beatitudes for Businessmen" which was authored by Rev. Harry E. Olson, Jr., senior pastor of the Messiah Lutheran Church in Fargo, N. Dak.

This short article by Reverend Olson is not only beautifully written and very expressive, but I feel it is also quite appropriate for these times.

Mr. President, I ask unanimous consent that this article be printed in the RECORD as a part of my remarks.

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

BEATITUDES FOR BUSINESSMEN

(By Harry E. Olson, Jr.)

Blessed will be the man who will trust other men.

Blessed will be the man who is determined to control himself.

Blessed will be the man who not only counts his blessings but makes his blessings count.

Blessed will be the man who can turn his barricades into bridges.

Blessed will be the man who works hard but does not press.

Blessed will be the man who does not demand achievement but deserves it.

Blessed will be the man who is willing not only to improve his circumstances but more willing to improve himself.

CAN NIXON STILL GOVERN?

Mr. McGEE. Mr. President, in Sunday's June 3, Washington Post there appeared a very thoughtful column written by Joseph Kraft on whether the issue of Watergate has incapacitated the President's ability to govern.

Mr. Kraft offers some helpful suggestions as to how the President can be effective, in spite of the obstacle Watergate poses. As Mr. Kraft notes:

The model on the big issues should be the sharing of power with the Congress which President Dwight Eisenhower arranged with Lyndon Johnson and Sam Rayburn during the last two years of his administration.

First, however, the columnist warns that the President could govern despite Watergate "if he stops dreaming of heroic achievements redounding to his personal glory."

The point is that the Nation is confronted with severe economic problems and it would behoove the President to begin working closely with Congress in seeking resolution of these problems. Congressional cries for at least a temporary freeze on wages and prices is a constructive plea to the President which which he should heed.

There are many areas of international and domestic concern with which the President and Congress can work together on in an effort to resolve many problem areas. But it is going to take an about-face by the President in his relations with Congress if this is to transpire.

I ask unanimous consent that Mr. Kraft's article be printed in the RECORD.

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

CAN MR. NIXON STILL GOVERN?

(By Joseph Kraft)

Can the President govern despite Watergate? The answer seems to be yes, if he stops dreaming of heroic achievements redounding to his personal glory. The model on the big issues should be the sharing of power with the Congress which President Dwight Eisenhower arranged with Lyndon Johnson and Sam Rayburn during the last two years of his administration.

Consider first the economy.

Mr. Nixon, working through the medium of Secretary of the Treasury George Shultz, has tried to apply his own personal patented political medicine. That is, unrestrained consumer spending for the silent majority; tight restraints on parts of the federal budget that help Democratic clients; and an absolute minimum of controls on prices and wages. As a result, wholesale and retail prices have gone out of sight. It is only a matter of time before wages follow. When they do, the boom will topple over into a serious recession.

Nobody can be certain about the right cure for all these troubles—particularly at a time of Watergate jitters. But the right first step is to apply a temporary freeze on wages and prices. Two of the most thoughtful congressional Democrats—Sen. Mike Mansfield of Montana and Rep. Wilbur Mills of Arkansas—suggested precisely that last week, and if the President only accepts their formula, he will be on top of a problem that could become truly dangerous.

Consider next the matter of dealing with friends and allies which found expression last week in Mr. Nixon's meeting with French President Georges Pompidou in Iceland.

Mr. Nixon's chief foreign policy adviser, Henry Kissinger, has been talking about a new Atlantic charter which would link the United States, Japan and the countries of Western Europe in a big deal to end all big deals. The only trouble is that the material for a big deal isn't there. Nobody has figured out how to take the Japanese into the club, and the Europeans are at odds as to how to manage their own defense and economic problems.

So the best approach would be to let matters follow their present course. Various secretaries of defense would get together and modernize security arrangements. Various secretaries of the treasury would work out plans for a new monetary system. Trade negotiations would go forward after the Congress passes a new trade bill. Various people, in other words, would make music without any Toscanini trying to orchestrate a supreme symphony from the White House.

Lastly, there is the issue of dealing with the Communists which comes to a head when Leonid Brezhnev of the Soviet Union visits the United States this month. Mr. Brezhnev is hungry for American capital, know-how, machinery and grain.

In the past, Mr. Nixon and Dr. Kissinger have wrung from Mr. Brezhnev various trades of special uses to their clients. In particular, they have used Mr. Brezhnev's appetite for American favor to make a deal that improves the survivability of the South Vietnamese regime of President Nguyen Van Thieu. Apparently they have some other complicated arrangement in mind for the Brezhnev trip.

But with Mr. Nixon in a vulnerable position because of Watergate, the sensible thing for him is to return to basics. What this country, and indeed the whole world, wants out of Moscow is the beginning of a withdrawal of Soviet troops from central Europe which will permit the United States to thin out its commitments in Europe. The Congress and especially Mansfield have been pushing for that all along. So by associating himself with the congressional leaders, the President will be in potent position to wring from the Russians what we should have been seeking all along as a first priority—arrangements for a mutual troop withdrawal from Europe.

In sum, the President can continue to govern while the Watergate investigation goes forward. And there is no need to sprint through the hearings, as now argued by those who used to favor a total cover-up.

THE ENERGY CRISIS

Mr. STEVENS. Mr. President, many Americans believe that the "Energy Crisis" is in fact just one problem. Unfortunately, this is not the case. The "energy crisis" represents a number of severe problems that are affecting many parts of this country in many different ways.

Recently the important petrochemical industry has been stricken by this Nation's energy shortage.

Mr. President, the petrochemical industry is a vital industry to America. Petrochemicals are used in the composition of literally thousands of products that are necessary in our day to day living.

The Wall Street Journal reported on May 29 that many of the Nation's petrochemical firms are now facing closedowns, layoffs, and that consumers can look forward to rising prices.

Mr. President, immediate construction of the Trans-Alaska pipeline could help alleviate this problem by providing the energy necessary to help keep this Nation's petrochemical industry on stream and conversely assuring the American people that the products they need will in fact be available.

I commend this article to my colleagues who are concerned over ramifications of this Nation's energy shortage and ask unanimous consent that it be printed in the RECORD.

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

PETROCHEMICAL FIRMS SAY PRICE INCREASES, SHORTAGES LIKELY AS ENERGY WOES MOUNT

(By Jeffrey A. Perlman)

Save your plastic bags. They may be collector's items before long.

Plastic bags, along with floor tiles, synthetic fibers and hundreds of other products derived from petrochemicals, may eventually be priced off the market if something isn't done about the energy crisis.

That's the gloomy warning from chemical industries executives, who say the heavy world-wide demand for fossil fuels is hitting them with a double whammy. Like everyone else, chemical companies are paying more for fuel to power their plants. But since so many of their products are derived from these same petroleum-based fuels, chemical manufacturers are also faced with unprecedented shortages and rising costs of raw materials.

"It isn't even a question of how much housewives will have to pay for Glad bags," says Richard C. Perry, chairman of Union Carbide Corp.'s energy task force. "There's a serious question of whether Glad bags will even be available." At the very least, he predicts, the dual squeeze on energy is likely to cause scattered plant closedowns, layoffs and rising consumer prices.

SUPPLY AND DEMAND

The reasons are purely economic. Natural-gas prices in the Gulf Coast area, where much of the country's fuel supply originates, have doubled in the past two years, and the rise shows no sign of slowing. And the price of coal has risen 40% in the same period. Meanwhile, the chemical industry's demand for its increasingly expensive energy is expected to more than quadruple by 1980 to about 68 quadrillion BTUs, or units of heat. This is nearly as much energy as will be used by the entire nation this year.

Gerald L. Decker, Dow Chemical Co.'s energy specialist, says that by 1980 it will cost 32% more to make polyvinyl chloride, a major plastic used in products such as bowling balls and floor tiles. Moreover, he anticipates a 23% rise in the cost of producing polyethylene, used to make plastic bags, dishes and bottles. And ethylene glycol, used in antifreeze, polyester fibers and plastics, should cost 8% more to produce by 1980, he says. The list goes on and on.

FROM SODA ASH TO SEAT BELTS

Wherever possible, chemical makers hope to recover these extra costs with price increases. Indeed, the rising cost of energy is already bting blamed for recent price rises on a number of major plastics, including polyethylene, which is in very short supply.

In certain product lines, raw-material shortages have created almost black market conditions. Both polystyrene and styrene, are in extremely short supply due to the scarcity of benzene, a petroleum product from which both are derived. Because of shortages, the prices small distributors are charging for the two plastics are going through the roof.

Dow, a major producer of the plastics, acknowledges that a black market of sorts exists but claims it involves only a tiny fraction of the total market. Only a few middlemen who sell to manufacturers are taking unfair advantage of the situation, a Dow spokesman says.

Morton Levine, president of Amberlite Plastics Corp., a Leominster, Mass., comb manufacturer, says he can't get enough polystyrene, the raw material for his combs. While he once paid 15 cents a pound, he now is charged 23 cents a pound—provided he can get someone to sell him the stuff. By contrast, Dow says it is currently selling the plastic to distributors for 13 to 13½ cents a pound. Distributors normally charge an extra two

cents a pound to their customers, Dow says. Mr. Levine worries about getting enough polystyrene to keep his plant operating and his 40 employes on the payroll. He can't buy from a major producer, he says, because they sell only to long-standing customers. With small distributors running out of the material, he says, "I'm left out in the cold."

Although the real crunch is expected several years hence, energy problems are already beginning to reshape the chemical business. For one thing, chemical markets are all closed to new entrants. "If you aren't already in the business, you might as well forget it," says J. Peter Grace, chairman of W. R. Grace & Co., a diversified chemicals and consumer-products concern.

What's more, many chemical companies have begun to alter their product mix as a result of fuel shortages. Allied Chemical Corp., for example, has diverted capital spending away from its traditional chemicals business into products less dependent on large amounts of energy, such as automobile seat belts. And about half the company's $180 million capital budget this year is earmarked for oil and gas exploration.

The need for energy is also changing marketing strategy. "Energy is quickly replacing gold as the standard of value in commerce," Mr. Decker observes. With energy prices rising so fast, suppliers of chemicals requiring a lot of energy to produce are loath to sign long-term contracts with their customers. If they do, they are demanding increasingly that customers sweeten the deal by paying in energy as well as cash. Dow Chemical and Shell Oil Co. have reportedly signed such an agreement, in which Dow will supply chlorine in return for Shell's ethylene, a petroleum raw material vital to the chemical industry. Customers unable to come up with energy payments are forced to buy certain chemicals under more expensive short-term contracts.

A GLIMPSE OF THE FUTURE?

Some concerns have already seen grim previews of fuel shortages likely to come. In recent weeks, for example, both Union Carbide and PPG Industries Inc. have been beset by power blackouts at some of their Puerto Rican facilities. And difficulties in obtaining hydrocarbon raw materials have disrupted production for the past six weeks at Puerto Rican Olefins Co., jointly owned by PPG and Commonwealth Oil Refining Co.

Such delays can have a ripple effect, as when fuel shortages in the Pacific Northwest recently forced Union Carbide to cut deliveries of calcium carbide, a basic raw material used in making cleaning solvents. Because of Union Carbide's action, Hooker Chemical Corp. claims it had to close permanently its cleaning-solvents operation in Tacoma.

Production curtailments will be more frequent as time goes by, industry officials predict, because chemical companies for the first time are being forced to compete with other major users for available energy. Already, federal and state regulatory agencies have begun to assign priorities for deliveries of natural gas, the fuel most in demand, in the event of severe shortages. And, generally speaking, chemical companies are winding up third in line, behind public utilities and residential users.

Right now, Union Carbide and a dozen other chemical concerns are battling Houston Light & Power Co. over who will get first crack at natural gas supplied to the Houston area by Pennzoil Co. Texas regulatory officials are expected to hand down a decision soon.

A SCRAMBLE FOR CLEAN FUEL

The chemical companies contend they should be given top priority because most of their plants are built to use only natural gas. Utilities, they claim, can convert to alternate fuels at less cost, because their plants are designed to use more than one type of fuel. The utilities argue that clean, low-sulphur oil—the only other type of fuel that would enable them to meet federal pollution standards—is just as scarce as natural gas.

Officials within the chemical industry recognize they are waging an unpopular battle. Asks one: "How do you tell your wife she can't heat the apartment because the fuel is needed to employ thousands of people who make products like polyethylene?"

Despite the worrying, however, industry profits have been unaffected by the crisis. This year's first quarter earnings were the highest on record, and chemical stocks have held up reasonably well in the recent market decline. "It's a very healthy industry at the moment," declares one securities analyst who follows chemical concerns.

Such optimism, according to experts within the industry, is based on the conviction that somehow the energy problem will go away. But "that's an assumption that nobody ought to be making," warns Mr. Perry of Union Carbide.

A HOLDING ACTION

Nevertheless, to help delay the day of reckoning, the Manufacuring Chemists Association and the Petrochemical Energy Group, two trade associations, have mounted a massive lobbying effort in which they charge that the nation's energy policies favor big oil companies at the chemical industry's expense. They say U.S. chemical concerns are at a competitive disadvanatge because overseas producers have ready access to low-cost foreign gas. The U.S. companies complain they must pay domestic refineries about 60% more for the same raw materials.

To ease this situation, U.S. chemical producers are asking the government to lift import restrictions on natural gas and allow additional oil imports so that U.S. refineries can produce more low-sulphur fuel. This, they reason, should take some of the supply-and-demand pressure off natural gas. They'd also like to see economic incentives for other industrial and utility users to switch away from natural gas to alternate fuels.

In the meantime, chemical companies are seeking ways to save energy. Dow, for example, was able to cut energy consumption 20% last winter at its latex-manufacturing operation in Midland, Mich. The facility was a major steam user, and Dow found that heating waste tars instead of water provided the same amount of heat using less energy. With the energy it saved, Dow estimates, New York City could operate its subway system for two years.

AGRICULTURE NEEDS A CHANGE

Mr. HARTKE. Mr. President, the American people have lately become acutely aware of the deficiencies of the administration's agricultural policies. For the consumer, these policies have brought higher prices; for the farmer, they have failed to bring adequate incomes.

We need new directions in our attitude toward agriculture, but the administration shows little sign of giving us any fresh thinking.

Mr. President, I ask unanimous consent that a recent Business Week editorial on this subject be printed in the RECORD.

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

AGRICULTURE NEEDS A CHANGE

There is a sort of rough justice in the fact that the Agriculture Dept. this week drew the painful task of telling the American public that the cost of food to the average family went up 2.4% between January and February. The Administration has blamed bad luck and bad weather for the climb in food prices. But the main reason is bad management. And the Secretary of Agriculture, Earl Butz, has been primarily responsible for the management mistakes.

Under Butz, the Agriculture Dept. has acted as though inflation and wage-price controls were the problems of some other country. It has plugged away single-mindedly with policies designed to limit crops and raise farm incomes by raising farm prices.

It slept quietly through the negotiations with the Russians for huge grain purchases last year. And though it is supposed to employ some of the most expert agricultural forecasters in the world, it did not anticipate the impact of the purchase program on world markets. When the prices of wheat and feed grains skyrocketed, no one was more surprised than Agriculture, which found itself obligated to pay $100-million export subsidies on the Russian purchases.

Nor has the department shown any capacity to learn from its mistakes. When it set up crop targets last fall, it still was thinking of limiting output. And more recently, it programmed a cutback in turkey production to keep prices up.

Butz's scornful opposition to farm price controls has made it all but impossible for the Administration to give this crucial question serious consideration. And since he ranks as a super-Cabinet official, his public comments have undermined confidence overseas in the willingness of the Administration to do anything effective about inflation.

When the most productive agricultural country in the world finds itself facing runaway prices and food shortages, it needs a new policy and new people to administer the policy. The only way President Nixon can now do what must be done with prices is to overhaul the Agriculture Dept., beginning with the replacement of Secretary Butz.

THE GENOCIDE CONVENTION AND DOUBLE JEOPARDY

Mr. PROXMIRE. Mr. President, one argument has been made against the Genocide Convention that its ratification would make American citizens vulnerable to situations of double jeopardy, or two prosecutions for one crime. They argue that an American, tried and acquitted of crimes by an American court, might conceivably be retried for genocide by any international tribunal.

If this were the case we would have cause to worry. Fortunately it is not. Ratification of the convention would not change our existing treaties. In the United States, no citizen can be extradited for a crime for which he has already been tried and acquitted. Thus, under the Genocide Convention no citizen would run the risk of double jeopardy.

It seems to me that the United States has nothing to lose and much to gain by ratifying the Genocide Convention. We would still be protected from unjust prosecution and would enhance our position of world leadership by emphatically endorsing this worthy humanitarian treaty.

Once again I urge the Senate to decisively ratify the Genocide Convention

and thereby join an overwhelming number of our allies in this statement against world violence.

AN ADEQUATE UNDERSTANDING OF THE CAUSES AND EFFECTS OF THE "WATERGATE TRAGEDY"

Mr. HATFIELD. Mr. President, it is important that all Americans seek and obtain an adequate understanding of the causes and effects of what is commonly being termed the "Watergate Tragedy." In this regard, I would like to call the attention of the Senate to a perceptive speech by the distinguished junior Senator from Massachusetts given at the recent Temple University commencement. Senator BROOKE clearly delineates several weaknesses in our present governmental system that made possible the occurrence of the present tragedy. He also suggests why it is important to maintain a balanced perspective as we attempt to reconcile our ideals with the realities of political life.

Mr. President, I ask unanimous consent to have Senator BROOKE's remarks printed in the RECORD.

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

SPEECH BY SENATOR BROOKE

When I accepted your gracious invitation, I hoped that disquieting national events would not once again intrude upon the commencement season as they have for a period stretching back into the childhood of many of you who graduate today.

In that period we have witnessed the assassination of our national leaders, and assassination or the threat thereof has haunted our national elections.

An American President, elected by the greatest margin in the nation's history, found himself by the end of his term unable to move among the people.

A war thousands of miles away in Southeast Asia has bitterly divided us, and, as was said about the War Between the States, "It is over, but they will not let it be over."

Public opinion polls have shown a growing distrust of the American people of their government itself—not only of its competency, but of its very honesty.

And now we suffer an attempted subversion of our most important institutions, including the electoral process itself, not by a foreign power as we for so long feared, but allegedly by some of the highest officials in our government.

Therefore, I find it difficult, if not impossible, in this confused and ailing time in our history to ignore in my remarks the intentions and implications of Watergate, or to try to suggest they are of but minor or passing interest.

Oh, I know that Watergate is painful to the American people and that many wish that it would just go away. But most painful national events do not readily disappear. And it is more likely that we will have to live with Watergate, its investigations, its indictments, its trials, its appeals and many of its by-product legislation for years to come.

For a long time, many of you and I have agonized over how and why "Vietnam". Today, we ask the same questions about Watergate—how and why? Were we victims of well-intentioned but dangerously misguided policies and assumptions? Had we become so preoccupied with national security that we neglected to recognize other grave dangers? Had we failed to see that once set into motion, actions and men become subject to dynamics and temptations which have a way and a course of their own?

Many have come to realize that Vietnam was more than the result of men committed to the wrong ideals. And I believe that we will find the same to be true of Watergate.

There can be no excuse for the men involved in Watergate who betrayed the trust of the American people.

It is true, as some have said, that the system is now working to bring out the truth and bring the guilty to justice. But, we cannot forget that the whole web of intrigue was originally discovered and unravelled through a fragile combination of circumstances and luck.

It is wrong to say that sabotage and espionage are political facts of life. Nor is it right to portray the men involved as merely over-zealous in their loyalty to a cause in which they believed.

While we make no excuses for the individual perpetrators of "Watergate," we should make no assumption that their prosecution and possible conviction will be sufficient remedies.

Far greater questions must be resolved than the guilt or innocence of the persons involved.

Were Vietnam and Watergate but isolated aberrations in our system of government and policy making, we might feel safe—simply by removing the men whose policies or actions we reject. Or is it possible that both Vietnam and Watergate warn us in vivid terms that we have allowed the type of government to develop which those who framed the Constitution and founded the government so thoughtfully sought to prevent.

The men who structured our government understood that "power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it." "It may be a reflection on human nature," they wrote in the Federalist Papers: "that such devices should be necessary to control the abuses of government. But what is government itself but the greatest of all reflections on human nature. . . . In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government, but experience has taught mankind the necessity of auxiliary precautions."

The Constitution therefore seeks to divide and balance the powers of government among its branches to prevent any one branch from exceeding its defined and safe limits. Should any one of the three branches of the Federal government lose its sense of restraint, its ambitions should be stayed by the deterrent power of the other two branches.

There were complementary advantages inherent in a legislative and an executive branch which would not only benefit the nation, but also effectively check the possible abuses of power by either. "Vigor and expedition" were the qualities of the Executive.

In contrast to the role of the hare, the Congress was valued for being a plodding tortoise. "In the legislature, promptitude of decision is oftener an evil than a benefit. The differences of opinion and the jarrings of parties in that department of the government, though they may sometimes obstruct salutary plans, yet often promote deliberations and circumspection, and serve to check excesses in the majority."

But we Americans have always prided ourselves on being a "can do" people. And it was this impatient attitude perhaps as much as specific exigencies that lured us from the wisdom and safety of a balanced government. We increasingly valued efficient government over representative and deliberative government—over the need for thought, the questioning of power, and the vigorous representation of all groups and opinions. We came to judge the government by its ability to get things done, and thus we not only tolerated but encouraged ascent of the Presidency and the decline of the Congress.

The New Deal spurred this trend. In World War II Congress delegated the Presidency extraordinary powers traditionally and necessarily granted to a President in times of war. And after that war, as we geared our institutions to our Cold War fears, the ability to act swiftly in response to a possible nuclear attack seemed the primary defense necessity. The Presidency had the ability to act quickly and decisively. The Congress, the deliberative body, did not. Thus, presidential power continued to grow, as did the view that Congress was an obstructionist relic in the nuclear age. The Founding Fathers had been well meaning, we were told, but they could not, of course, have understood the needs of the Twentieth Century.

And so, the powers they allowed the President in time of war or in case of emergency, came to be regarded as inherent and necessary powers of the Presidency. Even in normal circumstances, we came to allow the President to act virtually at will in any situation he and he alone declared vital to national security. And the powers we allowed him in foreign policy were gradually used also in domestic policy.

But, the growth of presidential power was not simply a result of executive encroachment. We cannot ignore congressional acquiescence or excuse Congressional lethargy. Not until recent months did Congress become fully aware of its own responsibility for its eclipse. When it tried this year to reconstruct what had happened, it required several computers simply to track down all the emergency powers, domestic and foreign, important and trivial, which Congress over the years had granted the Presidency. At last count, Congress had delegated through existing law over 580 different emergency powers to the Executive. There were no provisions requiring close consultation with the Congress over the use of those delegated powers. There were no stipulations for congressional review to determine if the emergency in question still existed, or if the power delegated was still relevant to the situation.

In addition to the loss of congressional power, informal counterbalances to the unchecked power of the Presidency also passed away, unnoticed and unmourned. Particularly with the advent of television, the President was increasingly able to bypass the leaders of his political party and go straight to the voters. Thus party checks upon a President's power were also weakened. Cabinet posts and the Vice-presidency no longer had to be offered to people with strong, independent political bases of their own. Posts around the President could be filled by men whose primary qualification was their loyalty to the President or by experts and intellectuals, who were knowledgeable in their fields but were in no political position to deflect a determined President and his aides from a chosen course.

Over the years, this combination of circumstances and misconceptions came to change the Presidency, not only in the quantity of its power but also in its quality. A

certain mystique evolved around the Presidency. The man who held it soon came to symbolize the entire nation, what Rousseau called, "the general will."

It was argued that the President alone is elected by all the people, though in the 1960 and 1968 elections, the victor won with less than a majority of the popular votes cast.

It was held that the President alone spoke for the nation and consequently that any check on the President was depicted as a check on the nation, and any threat to the President's interest came to be seen as a threat to the nation's interest—indeed its security.

The media gave more and more exposure to the presidential personality. Psychologically the nation became more and more dependent upon one man for its sense of direction and purpose. The White House was even expected to be the embodiment and standard for national taste and style. The stock market could fluctuate with the rise and fall of the presidential temperature. We looked with amused tolerance at societies that elevated their leaders to the status of god-king, oblivious to the dangerous burdens and temptations we ourselves were placing not only upon the President himself, but also upon his White House assistants. And many of these assistants, accountable solely to the President, had more power at their disposal than most Congressmen and Senators elected by the people.

Having given the Presidency such tremendous power, the possibility that a President might be wrong about a major policy matter became a truly dreadful prospect. For the corrective mechanism in our system of government had atrophied to the point of near impotence.

And it was because of the war in Indochina that many Americans first came face to face with this frustrating reality. And it was during this period, therefore, that we first began seriously to doubt the lesson so unquestioningly taught by the recent generation of scholars—that our presidents are judged to be active or passive, strong or weak, great or mediocre, almost in direct correlation with their ability to alter the consitutional balance of power by expanding presidential power at the expense of congressional rights.

Regarding both Vietnam and the Watergate, is it true—as someone has written:

> Thus the world we made
> Pays back what we paid
> Thus the dark descends
> On our means become our ends.

Watergate was, I believe, not a mark of desperation, but a mark of the ultimate arrogance of power.

If Vietnam was the logical extension of a too powerful Presidency in foreign affairs, in policy terms—Watergate may well be its logical extension at home, in institutional terms.

In Watergate, we may find it distressing that so many of our highest officials felt no sense of restraint.

But we must also ask ourselves why they seemingly feared no effective checks upon their abuse of power. And perhaps, we should not be surprised that the men involved apparently acted, not out of party fervor or desire for personal gain—but out of personal loyalty to the President, whose interests they were unable to distinguish from those of the country itself. And they apparently acted out of the rationalization that those who opposed him somehow threatened the very security of the nation.

After living through Vietnam and Watergate, will any of us really feel secure simply by the removal of the men involved? I think not.

We dare not ignore the basic danger any longer. We must reverse the erosion of constitutional safeguards to restore the system of checks and balances. If Watergate educates the public and thus encourages the Congress to reassert its powers and reassume its responsibilities, its effects may *in the end* be healthy. If both people and Congress are forced to think more for themselves, rather than acquiescing in the judgments of the person who occupies the White House, that too is a *desirable* result.

I shall not pretend, however, that the restoration of congressional powers and the reduction of presidential powers to more modest proportions is a complete or an easily achieved solution.

In order to responsibly fulfill its duties, Congress must reform its own procedures and organization. We must be politically courageous in insisting upon congressional staff and resources adequate to discharge congressional responsibilities.

We must not again cite the need for deliberation as an excuse for not being responsive to very real and immediate needs. And perhaps above all, Congress must first find the will to insure that it regains and retains its constitutional powers.

To be sure, the President will still have to retain great powers. But these powers should be carefully proscribed, and procedures for consultation with Congress regularized.

These proposals for the future still leave us with the uncertainties of the present. Many seem to have a paralyzing fear, not of the act of Watergate, but of our ability as a people to accept and survive the total truth. We even hear cries that perhaps we must veil the truth, if necessary, to save the Presidency. I ask you to reject that thesis. We must never fear the truth! Let us learn from the truth in order to strengthen our form of government.

I do not minimize the costs of Watergate, particularly in terms of public trust. I recognize some of the potential dangers in regard to foreign policy. However, the right of the people to know, cannot be subordinated to any other interests. To do so is to take the first long step down a path which inevitably leads to totalitarianism. And nothing could do more to cause a further loss of public trust in government than the suspicion that facts are still being withheld—or that any person, however highly placed, is above the law.

I believe that this nation as a whole is stronger than any single man or any single institution. Jefferson wrote: ". . . that even when the government of the people's choice shall manifest a tendency to degeneracy, we are not at once to despair but that the will and watchfulness of its sounder parts will reform its aberrations, recall it to original and legitimate principles, and restrain it within the rightful limits of self-government."

Shall we succumb to despair or shall we confirm Jefferson's trust in us?

You have been the most politically active generation within memory, perhaps in our history. But the test of your commitment and concern will not be its depth, but its perseverance.

It may be that some of you, in the words of Sartre, "Like all dreamers . . . confused disenchantment with truth?" Many of you have despised compromise in politics without distinguishing between compromise of conscience and compromise of necessity. But we would be wise to remember the description of the Southern lawyer in the novel *To Kill a Mockingbird:* a man who had to do "our unpleasant things for us." In the difficult choices which must be made in national policy you must not make politicians simply your mercenaries—rewarding them for agreeing with you, for patronizing you with painless answers—leaving the honest ones with the unpleasant and thankless tasks of reconciling your desires with reality.

I believe I know the depth of your disillusionment with those of us who govern—of how bitter the revelation that the storybook vision of your country has turned out flawed.

But as William Faulkner once wrote of the South, "I think that one never loves a land *because*—you love *despite*, not for the virtues, but despite the faults." If you can accept the fact that *your* solutions too will be incomplete, and yet not let that possibility—that fear—paralyze you into inaction and indifference you may be able to achieve a safer and a better, if a still imperfect world.

That is a far more modest wish than the traditional command of a commencement orator to go out and save the world. But, it is my wish for you, and—*it is an honest one!*

CAL-STATE, NORTHRIDGE PROGRAM FOR THE DEAF

Mr. CRANSTON. Mr. President, during commencement exercises at California State University, Northridge, on June 9, two milestones in the university's history will be noted: successful completion of a decade of educating deaf college students alongside hearing students and awarding of the 100th master's degree earned by a deaf person.

Deaf persons have participated in the university's program to train teachers of the deaf, in adult education classes, and in short-term workshops, since 1964. In addition, the university has trained parents of the deaf, student interpreters, and professional interpreters for work in religious, rehabilitation, legal, and educational fields.

Today 120 deaf students pursue liberal arts studies on the Northridge campus. More deaf students are currently enrolled in graduate studies at CSUN than at any other university in the world.

Deaf students are integrated with hearing sudents in the mainstream of university life because they are provided with support services—interpreting, note-taking, tutoring and counseling.

The program is national in scope. Every State of the union has sent representatives for training in various aspects of deafness.

To meet the growing demand for services for the deaf, the university has formed a comprehensive center on deafness. The California legislature and the State College and University Board of Trustees have designated this university as the one institution in the State system of higher education to serve deaf residents seeking liberal arts education.

Deaf graduates of CSUN are employed in 23 States and the District of Columbia as teachers, as administrators in day and residential school programs for the deaf, in postsecondary programs serving the deaf and in rehabilitation agencies at the local and State levels.

The center is funded cooperatively by the university and the California State Department of Rehabilitation.

RESOLUTIONS OF THE MARYLAND GENERAL ASSEMBLY

Mr. BEALL. Mr. President, the recently concluded session of the Maryland General Assembly passed several resolutions which relate to issues confronting the Federal Government. The Maryland House of Delegates passed Resolution No. 55 which expressed their firm opposition to granting amnesty for draft dodgers and deserters. The State Senate passed Resolution No. 23 which urged the Congress to enact changes in the Federal tax structure exempting the families of men missing in action who are subsequently proven to be dead from paying back taxes on the salaries they have received while their servicemen were classified as POW's or MIA's.

Mr. President, because these resolutions address themselves to national issues, I ask unanimous consent that the text of the Maryland House of Delegates Resolution No. 55 and the State Senate Resolution No. 23 be printed in the RECORD at the conclusion of my remarks.

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

SENATE RESOLUTION No. 23

Senate Resolution urging the Congress of the United States to revise the Internal Revenue Code so that the families of men, who had been in a status of Prisoner of War or Missing in Action in Southeast Asia, and are subsequently declared to be legally dead, would not be required to pay back taxes on the salaries paid to them while their servicemen relatives were classified as POW's or MIA's

Whereas, Under existing law the Internal Revenue Service is required to collect back taxes on the salaries paid to widows and relatives of servicemen who had been in the status of Prisoners of War or Missing in Action and are subsequently declared to be legally dead; and

Whereas, This present U.S. tax policy threatens to deliver a cruel blow to the families of U.S. Servicemen who had been in the status of POW–MIA in Southeast Asia by requiring the collection of these back taxes; and

Whereas, This body believes that it is morally unjust to attempt to collect back taxes on the salaries of men who have given their lives for their country; and

Whereas, If enforced this tax policy will have a crushing impact on all those whose loved ones had been declared legally dead after being in the status of POW–MIA in Southeast Asia; now, therefore be it

Resolved by the Senate of Maryland, That the United States Congress is requested to act to end this inequity to the survivors of U.S. servicemen, who have been declared legally dead after serving in the capacity of POW–MIA in Southeast Asia by enacting legislation revising the existing tax policy; and be it further

Resolved, That the Secretary of the Senate forward copies of this Resolution to Senator Charles McC. Mathias, Jr., Senator J. Glenn Beall, Jr., Senate Office Building, Washington, D.C. 20510 and Congressman William O. Mills, Clarence D. Long, Paul Sarbanes, Lawrence J. Hogan, Goodloe E. Byron, Parren J. Mitchell, Gilbert Gude and Congresswoman Marjorie S. Holt, House Office Building, Washington, D.C. 20515.

HOUSE RESOLUTION No. 55

House resolution expressing approval and commendation of President Nixon's firm and courageous stand in refusing to consider amenesty for those who deserted their country in its hour of need

Whereas, For the past eleven years the validity of America's commitment to protect world peace and support her allies in their efforts to avoid communist domination has been tested by fire; and

Whereas, Every citizen has been called upon to make sacrifices to bring the war in Southeast Asia to a just conclusion and to bring about an honorable peace; and

Whereas, It is to the credit of the great majority of Americans that they did not fail to come to the aid of their Country, even at the cost of great personal tragedy in many cases; and

Whereas, It would be a betrayal of all those who fought and died; all those who will spend the remainder of their lives disabled or as invalids because of wounds sustained in the fighting; all those families who will never again see their loved ones; and all those who have waited patiently, having trust and faith in their Government to do what is best for America, if those few who clamored for a premature peace and, being called upon to serve, instead deserted and ran, were to be granted forgiveness and a release from all penalties for their actions; now, therefore, be it

Resolved by the House of Delegates of Maryland, That this Body approves and commends our President's firm and courageous stand in refusing to consider amnesty for those who deserted their Country during the Vietnam War.

CONTINUING DEBATE ON TRUCK SAFETY

Mr. HUGHES. Mr. President, on March 6 I placed in the RECORD a report on truck safety and the working conditions of truckdrivers which had been prepared by the Professional Drivers Council for Safety and Health—PROD. At that time I also promised to refer that report to the Department of Transportation for consideration and comment.

Having now received a reply from the Department of Transportation, plus additional comments from PROD, I want to bring them to the attention of the Senate.

Secretary Brinegar lists many of the actions taken by the Department of Transportation to investigate and then solve problems relating to driver fatigue and vehicle safety. He notes that the Department is working hard to enforce existing safety rules and to study any necessary changes.

On behalf of PROD, Director Arthur Fox takes issue with some of the statistical evidence cited by Secretary Brinegar and stresses the problems which remain to be solved.

This debate is healthy, in my view, in fostering greater public and governmental attention to the problem of truck safety and the related concern of the working conditions of drivers. I ask unanimous consent that the two letters from Secretary Brinegar and Mr. Fox be printed in the RECORD.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 8, 1973.

Hon. HAROLD E. HUGHES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUGHES: Thank you for your letter of March 7, 1973 (acknowledged on March 9 by our Executive Secretary, A. B. Virkler Legate), which furnished us with a copy of a report on "Safety Hazards for Professional Drivers," prepared by an organization known as the Professional Drivers Council for Safety and Health (PROD). Your letter seeks the Department's comments on the report.

At the outset, we fully share your concern, and that of PROD, about safety of operation of large commercial motor vehicles and particularly about the role that driver fatigue plays in accidents that involve those vehicles. The Department's Bureau of Motor Carrier Safety has been working vigorously on a number of fronts to isolate the causes of excessive driver fatigue, to change the Motor Carrier Safety Regulations to eliminate the causes of excessive driver fatigue, and to enforce the existing rules on the subject. What we have done thus far tends to indicate that the PROD analysis suffers from a number of defects, defects which stem from the fact that it has attempted to oversimplify a very complex problem based upon insufficient information and research.

It begins by saying that the Bureau's [r]ecently published . . . statistics for the year 1970 disclose that . . . 76% of the accidents involving interstate commercial carriers where the driver's physical condition was involved, were caused by fatigue." The data to which the report refers show that there were approximately 52,100 accidents during 1970 involving interstate for-hire motor carriers; of these accidents, 400 (or .767%) were attributed to drivers' physical condition. Of the physical-condition accidents, 303 (76%) involved driver fatigue as the ascribed cause. Thus, driver fatigue is listed as the cause of less than 0.6% of all reported accidents. What are we to make of these figures? On the one hand, we can sensationalize about them, as the PROD report has done. Or, we can speculate, equally validly, that the regulatory scheme has reduced the level of accidents caused by driver fatigue to a praiseworthy low level.

The most productive course of action, we believe, is to refrain from making *a priori* judgments and to obtain the facts. We are taking steps to do exactly that. The Bureau of Motor Carrier Safety, having come to the conclusion that the existing hours-of-service rules could beneficially be amended, issued a $363,000 contract for a study of the relationships between fatigue and hours of service. The study has been completed and is now being analyzed. On a preliminary basis, it seems to indicate that the factors that induce driver fatigue are very complex, and that a great many factors, such as the type of service in which the driver is engaged, the age of the driver, the type of equipment he operates, and the nature of the duties (other than driving) he performs, play a part in determining how much fatigue he incurs within a given period of time. As we continue to work towards the institution of formal rulemaking proceedings, it is becoming very clear that abstract generalizations about the validity of the current 15-hour and 10-hour rules are likely to be incorrect.

There are about 5,000,000 drivers of commercial motor vehicles who are subject to the Motor Carrier Safety Regulations. The PROD membership, and hence its sources of information, consists, virtually in entirety, of drivers employed, or formerly employed, by for-hire certificated common carriers. The

working conditions they describe simply do not exist in the vast majority of cases: there are only 500,000 drivers in the certificated for-hire segment of the industry, and less than one percent of them belong to PROD.

This is not to say that the PROD report is totally in error. There are undoubtedly cases in which carriers compel their drivers to work for excessive hours, to operate unsafe equipment, and to work under unhealthful conditions. It is equally true, however, that drivers themselves are frequently the guilty parties in abusive and unsafe practices, such as the use of alcohol and drugs. Through our regulatory and enforcement programs, we try to prevent these practices and to prosecute, on an evenhanded basis, the parties who are responsible. For example, the Bureau has laboriously checked out numerous complaints that carriers have been dispatching runs that are too long to be completed within the drivers' available hours of service. We have been instrumental in having the runs discontinued or modified when the complaint was found to be justified. However, there are at least an equal number of cases in which the complaint was found to lack merit; in some instances it was lodged only because drivers sought to retain desirable relay stations when the carrier exercised its right to relocate those stations.

The PROD report says that the cab of a truck is not an optimum work environment. We agree. The Bureau is now engaged in rulemaking proceedings with a view towards establishing mandatory maximum levels of in-cab noise that commercial vehicles may produce. We are also conducting research on other sources of driver stress, such as heat, vibration, and glare. We expect to initiate new rules on many of these matters.

We have also begun rulemaking proceedings on the subject of vehicle maintenance. The Director of the Bureau of Motor Carrier Safety has announced that he intends to overhaul the existing regulations in this area and has solicited comments from the public on the form that the new rules should take. One of the factors that caused the Bureau to begin this proceeding was a petition from PROD which suggested several candidate areas for rule changes. In view of the fact that PROD has been participating in this proceeding, we are surprised to find its report stating that existing rules do not require carriers to repair defects that drivers report. The rules do impose that requirement: section 396.7 of the Regulations requires the carrier to examine the driver's report and to check all defects reported; section 393.1(a) forbids the dispatch of a motor vehicle that fails to comply with our regulations on parts and accessories; and section 396.4 forbids the dispatch of a vehicle that is in a hazardous condition.

We do not, however, believe that our current regulations are perfect. As mentioned above, we are working hard to improve them in many areas, and we are trying as best we can to enforce the rules now on the books. In assessing the virtues and deficiencies of what we are doing, it is important to bear in mind that the motor carrier industry is extremely diverse and is more difficult to regulate effectively from a safety standpoint than other industries. This is the case not only because truck drivers spend much of their working time without effective supervision but also because our national transportation system cannot function unless trucks are on the highway around-the-clock and on irregular schedules. Driving a truck for a living will never be as comfortable as working an 8-hour day in an office. The best that we can expect is that it will be at least as safe. We are working to that end as diligently as possible.

Sincerely,

CLAUDE S. BRINEGAR.

PROFESSIONAL DRIVERS SAFETY & HEALTH ORGANIZATION,
Washington, D.C., May 24, 1973.

HON. HAROLD E. HUGHES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUGHES: I feel compelled to reply to Secretary Brinegar's comments on the PROD report published in the March 6th Congressional Record. Basically, the Secretary would have us believe that the Department of Transportation is doing a perfectly fine, if not laudable job of promulgating and enforcing safety regulations covering interstate motor carrier vehicles and their operation.

First of all, the Secretary points to the fact that a figure cited by PROD representing accidents caused by fatigue was based upon a small base (400 accidents), and he suggests, without offering any supporting data, that the Department of Transportation (DOT) "has reduced the level of accidents caused by driver fatigue to a praiseworthy low level." While it is quite true that the DOT's records show that only 1 percent of all commercial vehicle accidents were caused by the driver's physical condition, its records also reveal that no more than 4 percent of all accidents were caused by vehicle defects despite the fact that some 23 percent of the trucks and 12 percent of the buses spot-checked that year by DOT investigators were found to be in imminently hazardous mechanical condition.

There is no mystery behind the fact that the DOT's statistics are so uninformative. It is the carrier that submits the reports upon which the statistics are based, and the carrier is naturally reluctant to assess itself at fault or to suggest that driver fatigue was a causative factor since the economic consequences would be decidedly adverse. Carriers currently benefit from the DOT regulations which allow them to require their drivers to work unmercifully long hours, a fact the Secretary does not dispute. The carriers would, therefore, have us believe in effect that 95 percent of their accidents result from causes beyond their control. Their representations simply cannot provide a stable foundation to support the Secretary's hypothesis that fatigue is not a significant factor. Indeed, one must read between the lines and glean whatever he can from these accident reports and the DOT's statistical compilations.

Looking therefore to other data, we learn for example that of the 221 accident investigations conducted by impartial, trained DOT inspectors during 1970, the commercial vehicle driver was described as "inattentive, dozing, or asleep" at the time of the accident in 94 cases. In other words, it may be said that the drivers of the commercial vehicles were suffering from fatigue in 42.5 percent of these accidents which incidentally resulted from the full range of causative factors including the negligence of other drivers. Another collection of data relevant to large carriers of property discloses that 40 percent of the total commercial driver fatalities during 1970 resulted from "ran-off-roadway" accidents where fatigue was very probably the underlying cause. And, while the DOT's analysis of this data states that 32 percent of the accidents were "preventable", that word is defined to mean "collisions with fixed objects, and non-collision overturns or running off the road" where fatigue may also have been a factor. Thus, the DOT statistics, to the extent they are useful, do clearly reveal that fatigue is a major cause of commercial vehicle accidents and fatalities. Moreover, the private research organization commissioned by the DOT to study the relationship between its "Hours of Service" regulations and driver fatigue has concluded that driver performance errors increase significantly within the current 10-hour limit and that accident frequency increases disproportionately after the 7th hour of driving. It is therefore no "abstract generalization" to suggest that the DOT's regulations are the permissive cause of many commercial vehicle accidents and that these regulations are in need of immediate and substantial reform. The DOT has had ample notice of the problem and it has had the above mentioned "fatigue study" in its possession since early December 1972, yet no rule making has been undertaken to date.

Concerning the present hours of service regulations, the DOT has been taking a dangerous hands-off attitude toward enforcement of a most frequently violated provision, Section 392.3 (49 C.F.R.) which states that "a motor carrier shall not require or permit a driver to operate a motor vehicle, while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause as to make it unsafe for him to begin or continue to operate the motor vehicle." Since Section 395.3 permits carriers to dispatch drivers at any time after they have been off duty 8 hours, regardless of the hour of the day or of their previous rest, it frequently occurs that drivers are told to report for duty when they are fatigued or are likely to become tired rather soon. Nonetheless, in a recent case where a driver declined to accept a dispatch due to illness, his company sent him a "final warning" letter and later refused to retract it despite a lengthy hospital confinement. Fully apprised of the facts, DOT refused to "intervene" in what its chief of compliance characterized as a "labor-management dispute". In fact, the DOT official volunteered in his letter to the driver that "the warning letter was issued because you had not maintained yourself in condition to work." This type of gratuitous advice gives one the distinct impression that the Bureau of Motor Carrier Safety is in fact operating as a bureau of motor carriers. The official went on to explain that "a violation of Section 392.3 occurs only when a vehicle is actually operated by a driver in an ill or fatigued condition." While PROD has protested and repeatedly demanded a formal legal construction of the provision together with an explanation of past policy, DOT officials have repeatedly refused to honor the request. Their attitude toward this serious problem does not encourage much confidence in their willingness to aggressively enforce their regulations on motor carriers and to protect drivers and the public.

On the other hand, as the Secretary points out, the DOT has on PROD's insistence commenced rule making proceedings to revise the wholly inadequate "Maintenance and Inspection" regulations. The Secretary expresses surprise that PROD should criticize the DOT for inaction in this area, but the fact is that our criticism was launched prior to the DOT's March 16 notice in the Federal Register. Moreover, the Secretary contends that the DOT does currently require the repair of driver reported defects. As a practical matter, this statement is simply incorrect. In the first place, the DOT has only 103 field investigators on its payroll and it maintains that its jurisdiction only reaches vehicles which are "in interstate commerce", excluding those sitting on a company lot about to be dispatched despite uncorrected driver-reported defects. Because of staff limitations, when a DOT investigator does discover a vehicle to be seriously defective at a roadside weigh station where he has jurisdiction, he will rarely, if ever, travel to the carrier's terminal and check to see if the vehicle had previously been "written up" by another driver. And, under existing law a carrier cannot be legally disciplined or fined for dispatching a dangerous truck unless the DOT can develop suffi-

cient evidence to enable the Department of Justice to prosecute the carrier and prove "beyond reasonable doubt" that it had knowledge of the vehicle's dangerous condition and intended to violate a regulation. During 1971 there were a scant 207 such prosecutions brought by the Department of Justice despite the fact tens of thousands of vehicles were found to be dangerously defective. Moreover, while the DOT's regulations do require carriers to examine drivers' "vehicle condition reports" and to refrain from dispatching dangerous vehicles, the regulations leave a tremendous gray area and safety disputes between frightened drivers and economically motivated dispatchers are generally resolved by mechanically unqualified persons whose job it is to "move freight". The fact that nearly one quarter of the trucks inspected by the DOT while in transit are found to be in imminently hazardous mechanical condition bears silent testimony to the inadequacy of the DOT maintenance and inspection regulations and their enforcement.

Finally, it is suggested that since PROD, as a public interest membership organization, receives financial support from only a small percentatge of the total driver community, its representations should not be fully credited. The fact is that PROD receives information from many non-member drivers and members of the public at large as well. Because only one driver in a hundred may be a dues paying member does not stand for the proposition that he cannot describe conditions affecting all one hundred. While it is true that most of the PROD complaints have been directed toward the DOT and common carriers which employ a minority of the total number of drivers subject to DOT jurisdiction, inadequate regulations, unsafe and illegal carrier practices, and accidents and fatalities are just that, and they become no less significant because another class of carriers may be more safety conscious.

Sincerely,

ARTHUR L. FOX II.

HOMICIDE IS A COMMUNITY PROBLEM

Mr. THURMOND. Mr. President, the Greenville News of Greenville, S.C., has been involved in an in-depth study of homicide in the area. The study provided many valuable insights into the reasons behind homicides and what can be done to prevent them.

The investigative reporting also uncovered many disturbing facts. Perhaps the most astounding fact is that the homicide rate of the Greenville area averages out to one killing a week. The timeliness of this study was brutally underlined as Greenville County Coroner Mercer Brissey was slain recently.

A concluding editorial which appeared in the newspaper accurately and poignantly points out the tremendous problem facing not only the county, but the entire Nation. It also makes some valid observations about steps which should be taken to stem the homicide rate.

Mr. President, I ask unanimous consent that the editorial entitled "Homicide Is Community Problem," which appeared in the Greenville News, May 28, 1973, be printed in the RECORD at the end of my remarks.

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

HOMICIDE IS COMMUNITY PROBLEM

The Greenville area's high homicide rate—an average of a killing a week for more than three years—is rightly a matter for community concern. A serious problem definitely exists, but finding a solution is a complicated and controversial task.

For the past few weeks this newspaper has been asking the question, "Why So Much Killing?" in an extensive series of articles. The answers have been as varied as the individuals interviewed. Some themes have appeared, however, again and again throughout the series. It is these common threads, rather than differences of opinion among various authorities, which the community should focus on in seeking to reduce the homicide rate.

Who does all this killing which has made Greenville one of the nation's leading homicide centers? The facts indicate that criminals, in the true sense of the word, account for only a small percentage of the violent deaths. Most of the recorded homicides do not happen in the course of armed robberies and other overt criminal acts. The majority are, instead, the result of personal acts of violence, based primarily on emotions.

Circuit Solicitor Thomas W. Greene blames the bulk of the area's shootings and knifings on "beer joints" and unfaithful husbands and wives. This may be a simplification of the problem, but it is an opinion shared by many law enforcement officers and others who must deal with homicides on a daily basis.

"Crimes of passion" is Greenville County Public Defender H. F. "Pete" Partee's tag for the majority of the area's violent killings. He makes the point, echoed by others knowledgeable about the problem, that local homicides center around low income and poverty segments of the population, where violence is an acceptable method of settling an argument.

Mr. Partee believes that acts of violence will not be curbed until the objectives and life styles of these lower income individuals are raised. All the evidence supports his belief.

The ultimate answer probably lies in a greater effort by our social institutions, such as church and school, and government, to change the life patterns and raise the living standards of those in our population who are bred on violence. But, as important as this is, it is a slow process that is unlikely to show meaningful results for several generations.

There are, however, steps that can and must be taken now to at least restrict the number of homicides. Tighter gun control is not one of them. More prohibitions on the purchase of firearms would do little except make it more difficult for the average citizen to purchase a weapon for the protection of his family and home.

Criminals who want guns are going to get them, regardless of any laws to the contrary. A waiting period for a gun purchase, which is being advocated by some members of the General Assembly, would do little to check Greenville's crimes of passion. Most people involved in such crimes already have their weapon in hand.

It would be just as effective, and probably more practical, for law enforcement to make routine checks of gun purchases to insure that gun ownership laws are not being violated. The truth is that registration of guns is already a law and that strong enforcement of existing laws should be attempted before new regulations are added.

The immediate burden for homicide prevention lies with law enforcement and the court system. Rather than trying to stop the killing by slowing the sale of guns, the legislature should be working on producing stiffer penalities for law violations involving guns and other weapons.

The Greenville-Pickens area abounds with "dives" and "bloody buckets" which have histories of serving as battlegrounds for murder. Carrying a gun into one of these establishments, or any other place where alcohol is available, should be an automatic prison offense. Too often in the past law officers have just patted "good old John," with his gun in his jacket, on the back and told him to go on home and sleep it off. Too often "old John" has staggered back in for one more beer and killed a friend in a drunken brawl.

Local governments have an obligation to provide enough law enforcement officers to effectively patrol places of potential violence. And these officers have a public obligation to realize that no matter how friendly the drunk, having a gun in a beer joint is a criminal act.

The penalty for carrying a concealed weapon needs to be strengthened and enforced. The most a person can get now in South Carolina for this practice is $100 or 30 days in jail. Any unauthorized individual who carries a gun, outside his home, hidden on his person is a walking bomb and should be put away long enough for him to have plenty of time to meditate on his mistake.

The courts should follow the example of Pickens County Judge John Gentry who recently sentenced a man to 10 years in prison for involvement in knifing in a bar. Such sentences, handed out on a consistent and fair basis, would make many people think twice before they whip out a gun or a knife in a public place.

People who use guns, knives or any other method to abuse their fellow men deserve a hard measure of justice. The tendency to label such abuse as a "personal matter" has contributed to the feeling by a large part of our population that violence is as natural as breathing.

"Why so much killing?" There is no single answer or pat solution. But community awareness and public pressure on those charged with upholding the law to treat all violence with the gravity it warrants may be a place to start.

The high homicide rate is a blot on our entire community. Lowering that rate will not be easy, but every attempt must be made unless we want Greenville to continue to be recognized nationwide as "the place where they have so much killing."

MINNESOTA: VACATIONERS' EDEN

Mr. MONDALE. Mr. President, I would like to call to the attention of my colleagues an editorial, which recently appeared in the Minneapolis Tribune, describing the outstanding recreational and scenic attractions of the State of Minnesota.

It is with great pride that Minnesotans reflect upon the richness and diversity of our natural heritage—of our lakes, wildlife, rivers, and forests. These assets have brought family vacationers from many parts of the Midwest; and according to surveys, visitors having come once are likely to return again and again.

While Minnesota is gifted with unusual natural wealth, we must take care to preserve the quality of our air, our water, and our forests.

These thoughts are eloquently expressed in the editorial, "Minnesota: Vacationers' Eden," which appeared on May 20 in the Minneapolis Tribune. This

editorial suggests that the spring and summer of 1973 should be a time when Minnesotans rededicate themselves to the preservation of what we have for future generations to enjoy. I wholeheartedly agree with this suggestion, and I feel it merits the attention of my colleagues in other States as well as that of the people of Minnesota.

Mr. President, I ask unanimous consent that the editorial be printed in full in the RECORD.

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

MINNESOTA: VACATIONERS' EDEN

With the countryside, yards and parks in the full bloom of late spring, our thoughts these days turn pleasantly to long weekends and vacations. We Minnesotans need look no farther than our own state for rest and relaxation. In fact, at least half of us take our annual vacations within the state's borders, and with good reason.

Consider the richness and diversity Minnesota offers vacation-goers: In the north, gigantic Lake of the Woods and its surrounding fenland. The magnificent sweep of canoeing and camping country of the island-dotted Rainy River area and the brooding, virgin Superior National Forest. The beauty of Lake Superior's North Shore. The Iron Range. The crusty, broad-shouldered, inland-port city of Duluth.

The pine-scented forestland of Bemidji, Walker, Park Rapids, where deep, blue lakes crouch off in the trees around the curve of almost every road. The peaceful little lakes nestled in the rolling farmland of southwestern Minnesota—a region that includes Pipestone and a locality rich in Indian lore. The southeast, where the Mississippi River begins to stretch wide and hint at its mighty destiny; down the river past Hastings and its apple orchards; past Red Wing and Winona with a river landscape of steep, craggy, wooded bluffs.

And—as a part of the vacation scene for many—the Twin Cities and their prosperous, pretty suburbs, a metropolitan center brimming with night life, theaters, art centers, stores of every description.

The Capitol in St. Paul. And St. Paul itself, which Mark Twain once viewed and called a queen among cities. And our own lake-encrusted Minneapolis, on any list one of America's most attractive cities.

Orvin Olson, director of research for the Minnesota Department of Economic Development, says about $940 million will be spent this year by travelers in Minnesota. Much of that will, of course, be merely a redistribution of wealth among its citizens. The department recently conducted an eight-state advertising campaign for tourists. Of those responding and seeking more information, 34 percent were from Minnesota, 22 percent were from Illinois (Minnesota is a favorite for many Chicago residents), 10 percent each from Michigan and Ohio, 8 percent from Wisconsin, 7 percent from Indiana, 6 percent from Iowa and 3 percent from Missouri.

An average group vacationing in Minnesota has four people, compared with 2.5 nationally, indicating that families vacation here. A private firm spot-checked travelers in Duluth recently and found that 56 percent of the visitors to northern Minnesota had been there before and that they had made an average of four visits. So those who come seem to like what they see and come again and again.

Minnesota is unusually blessed. But it's worth reflecting again that our water, our air and our forests can be destroyed by man's greed and carelessness. This spring and summer of 1973 is a good time for all Minnesotans to rededicate themselves to the preservation of what we have for future generations to enjoy.

UNUSED VETERANS' BENEFITS

Mr. DOLE. Mr. President, millions of Americans have served in our Armed Forces since the end of the Korean war, and in response to their service and the contributions they have made to our Nation, Congress has passed a broad series of laws providing special veterans' benefits. But unfortunately it appears many of these benefits are not being fully utilized.

Recently, Donald Johnson, Administrator of Veterans' Affairs, pointed out that only a third of the 4,100,000 veterans eligible for educational benefits have used all or part of their benefits.

I fear a large portion of the veterans who have not taken advantage of the educational benefits simply are not aware of these programs and the opportunities they provide. These men and women richly deserve the benefits they have earned by their service in the Armed Forces, and I believe every effort should be made to give them the greatest possible chance to participate while the programs are still available.

Therefore, I ask unanimous consent to have printed in the RECORD a VA announcement on Mr. Johnson's statement which clarifies the availability of benefits for veterans discharged since January 31, 1955.

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

UNUSED VETERANS' BENEFITS

Altough G.I. Bill education benefits for thousands of Vietnam Era veterans will expire May 31, 1974, the Veterans Administration emphasized today the May 1974 expiration date does not affect G.I. Bill job or farm cooperative training, apprenticeship or flight training benefits for these veterans.

This clarification was made by Administrator of Veterans Affairs Donald E. Johnson. He pointed out that most education benefits for those discharged prior to June 1, 1966, would expire on May 31, 1974, the eighth anniversary of the current G.I. Bill.

The 1966 law allows each veteran eight years to complete his training. The time is computed from the individual's date of discharge or from the date of the law, whichever is later.

Johnson explained that the original bill did not include flight, apprenticeship, on-the-job and farm-cooperative training, so eligibility for these benefits will not expire for Post Korean veterans until August 30, 1975, which is eight years after the date they were authorized by law.

The Administrator noted that 1.4 million, or 33 percent, of 4.1 million veterans made eligible by the 1966 law have used all or part of their education benefits.

The current G.I. Bill provided eligibility to all veterans discharged since January 31, 1955, many of whom had been out of service several years before they became eligible, the VA chief pointed out.

The overall participation rate for Vietnam era veterans is about 46 percent.

VA pays veterans (with no dependents) $220 monthly if they are full-time trainees, with higher rates for those with dependents. On-job trainees with no dependents are paid a starting allowance of $160 monthly—larger checks go to those with dependents. Employers also pay the veteran-trainee wages, which are increased on a regular schedule during the training period.

Veterans whose benefits may soon expire, or any eligible veteran interested in G.I. Bill benefits, are urged to contact any VA office or representatives of local veterans service organizations.

RISKY QUIBBLING OVER OIL

Mr. GRAVEL. Mr. President, my colleagues have heard many appeals from me—and more will come—for their urgently needed help in removing the roadblocks to get construction underway for the trans-Alaska pipeline.

The May 30 issue of the Washington Star carried an editorial with the appropriate title "Risky Quibbling Over Oil." That is exactly what the Congress is doing—"quibbling."

And while the Congress is quibbling, construction of the trans-Alaska pipeline is delayed, and we are increasing our costly and risky dependence upon foreign imports. There is no doubt in my mind but what the trans-Alaska pipeline will become a reality. It will become a reality for the simple reason that Alaska's North Slope oil is absolutely essential to the security and well-being of this Nation. The sooner the line is constructed, the sooner this critically needed resource will flow to the Lower 48.

Mr. President, I would like to share this very timely editorial with my colleagues and ask unanimous consent to have it printed in the RECORD.

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

RISKY QUIBBLING OVER OIL

Petroleum may well be running a close second to Watergate as a national obsession before this year ends. Already the gasoline shortage is causing some people to trim their summer travel plans, and a fuel-oil crunch may be on the way. This whole problem could become a full-blown crisis, because the supply simply isn't there any more to meet the demand. And against such an ominous background, we find it incredible that a sizable segment of Congress, largely from the Middle West, is raising a parochial obstruction to the trans-Alaska oil pipeline.

This huge petroleum artery is ready to be built. The pipe that would extend almost 800 miles across Alaska, from the northern Arctic rim to the warm-water port of Valdez on the southern shore, already is on the ground. On that North Slope, untapped, is the largest oil pool ever discovered on this continent, which can come flowing down the line at a rate of 2 million barrels a day. And most importantly, this would be a domestic source, reducing the nation's costly and risky dependence on foreign oil imports. Those will rise to about 5 million barrels a day this year, and drastically increase until, in the 1980s, the dollar outflow may strike a severe blow at the American economy.

So the Alaskan oil is absolutely essential. Right now the $3 billion pipeline project is stalled, however, by a Supreme Court ruling on a question of corridor width across federal lands. Congress could, and should, remove

this obstacle in short order by amending an old right-of-way law. But as that attempt gets underway, some lawmakers—in both the House and Senate—have launched a counter effort. They argue that the trans-Alaska line should be scrapped in favor of a route across Canada. That way, the oil would enter the petroleum-hungry Midwest which, they contend, will pay a cost penalty if shipment is down the West Coast in accordance with present plans.

There are some good points in this argument, but they have been raised much too late to justify any interference with the trans-Alaska plans. Shifting to a Canadian route could mean a five-year postponement in gaining access to North Slope oil, according to Interior Secretary Morton. If Congress forces such a delay, either by action or inaction, it will face a furious populace in the Midwest and everywhere else in the event of a crippling oil emergency. It should, as President Nixon recommends, get the Alaskan project unjammed, while the government begins negotiations for another pipeline across Canada. For this country will need every drop of oil it can get from both lines, and then some.

THE MILITARY AND THE DRAFT

Mr. THURMOND. Mr. President, a recent broadcast on WSOC television in Charlotte, N.C., dealt with the subject of the military and the draft.

Now that the draft has ended, it might be well for my colleagues to peruse this sound editorial. Mr. President, I ask unanimous consent that the editorial which was broadcast on WSOC television May 23, 1973, be printed in the RECORD at the end of my remarks.

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

THE MILITARY AND THE DRAFT

We don't see any great rush to the recruiting office to join an army that has no strong national calling. With the draft in limbo, the military has gone on a bidding kick for new recruits, waving high pay and big bonuses in front of eligible young men. But, perhaps somewhere along the way we have lost sight of what an army really is. An army, as most people see it, is a force of men gathered into a disciplined organization whose primary purpose is to defend its country. Yet, there's still something missing. Let's call it "desire." When this country was winning wars it was doing so with an army that would have fought for nothing, and practically did. But they had a cause, a purpose. When the war was over they returned to civilian life. They weren't soldiers, they were patriots. A loyal army comes to arms for a cause. Mercenaries come to arms for money.

SUPPORT FOR INTERSTATE RECYCLING EXPANSION ACT OF 1973

Mr. GURNEY. Mr. President, I have cosponsored legislation, S. 1122, the "Interstate Recycling Expansion Act of 1973," introduced by my distinguished colleague Senator COOK this past March. today I would like to take the opportunity to discuss my reasons for supporting this legislation and why I feel the bill will do much to alleviate the solid waste problem our country now faces.

We are faced with a solid waste problem of immense proportions. Our "throw-away" culture accumulates waste at a rate of 4.45 billion tons per year—a rate which has increased by 1 billion tons a year since 1967. The United States spends $4.5 billion yearly on disposal of this waste. If we could salvage it through recycling it could be worth over $5 billion in renewed resources. As the situation now stands this mounting pile of garbage represents only a complete and total waste of many reuseable materials. To cope with this situation we need a strong Federal commitment to a coordinated recycling program. Therefore, I have cosponsored Senator COOK's bill, S. 1122.

Only by understanding the incredible demand we place upon our resources can one understand the importance of this legislation. In 1971, the United States economy used 5.8 billion tons of materials—an average of 28 tons per person. Of this amount, 10 percent came from food and forest products, 34 percent from fuel, and 55 percent from the mineral industries. But that is not all. Our material usage rate grows 4–5 percent a year and current estimates show an expected doubling of U.S. production by 1985. In the face of these statistics we must consider the ability of our natural resources to meet such a demand.

No one doubts that it is possible to ease the demand on our natural resources by recycling more of those resources than we do today. That fact makes it even more appalling that we currently recycle only 1 percent of the total material requirements of the Nation. Of the total 191.22 million tons of paper, metal, glass textile, and rubber consumed annually, only 48.108 million tons are recycled. Only 25.2 percent of the total consumption of these materials is recycled.

The dumps of our cities contain an enormous recyclable potential. The typical percentage content of an open dump by weight consists of 50 percent paper waste, 10 percent metal, 20 percent food waste, 10 percent glass, 3 percent yard waste, 2 percent plastics, 1 percent cloth and rubber and 3 percent ash. Through efficient recycling, much of this waste could be turned into valuable new raw materials.

There is one statistic which is a vivid demonstration to me of the wisdom of using recycling in our production methods. The present rate of recycling paper is approximately 17.89 percent—12 million tons a year. This represents a preservation of some 200 million trees a year.

We face a pollution crisis in this country. On this point, it is interesting to note that the Environmental Protection Agency has conducted a study which indicates that the amount of air and water pollution effluents and other wastes which are a direct result of production systems is considerably less for systems which utilize recyclable materials than for those which employ virgin materials.

In sum, successful, increased recycling would conserve our rapidly diminishing supply of natural resources, and eliminate disposal of much solid waste. It might also help us to decrease our energy requirements.

For instance, a recent Environmental Protection Agency study compared two industrial systems, each of which produced 1,000 tons of steel products—one which utilized 100 percent waste steel input and the other which used exclusively virgin metal. They found that the system utilizing 100 percent steel waste used 90 percent less nonsteel virgin materials and 40 percent less water in production. Furthermore, they found that in the system using 100 percent waste steel there was a 74 percent decrease in energy consumption, 80 percent less air pollution effluents, 76 percent less water pollution effluents, and 97 percent less mining wastes.

Unfortunately, there remain many impediments to successfully increasing recycling, including discriminatory ocean and freight rates, increased production costs when industries utilized recyclables in lieu of virgin materials, lack of markets for recycled materials, and federally erected economic barriers such as inequitable taxes.

For example, another EPA study demonstrates the increased operating cost for systems utilizing waste materials. It compares the economics of paper manufacturing for companies which utilized paper waste in production to those which used virgin pulpwood. They found that the companies which used the paper waste as an input showed an increased operating cost for the recyclable fiber of $3.75 per ton for linerboard, $2.50 per ton for corrugating medium, and $20 to $30 per ton for writing paper.

In the steel industry, the cost of scrap metal ready for charging a basic oxygen furnace is $6.5 per ton greater than using the hot metal derived directly from the virgin one.

Discriminatory transportation and ocean freight rates are a significant cost factor in the distribution of recycled materials to prospective markets. These rates are sometimes as much as 50 percent greater for recycled commodities than for their virgin counterparts—they place recycled materials in an unfavorable competitive position to primary materials. These discriminating rates are basically a carryover of Government policies designed to encourage the development of our natural resources at a time when our Nation was just developing. In many instances, recycled materials cannot now be shipped economically to compete with virgin materials.

On this point, S. 1122 would direct the ICC and the FMC to investigate, identify, and eliminate any ocean or freight rates which are found to be discriminating against recycled materials. This would be a major step toward eliminating the present economic discrimination between recyclables and virgin materials.

Another factor frustrating the acceptance of recycled materials is a lack of markets. Successful recycling is dependent on demand for the recycled products. One way to increase the demand for these products is through Federal purchasing power. Efforts in the direction of Federal procurement of recycled materials and products have already been made, yet they have been ineffective or have tended to discriminate against recycled materials, in favor of virgin materials.

Congress has tried to widen the market for recycled materials by the passage of at least 10 bills which established recycled material content regulation standards for products procured by executive agencies and other departments of the Federal Government. We have also passed at least three bills directing GSA and other environmental agencies to conduct studies of the uses of recycled materials in the manufacture of such bills. Yet, increased recycling is still frustrated by lack of markets; demand for secondary materials is still limited. The Federal Government must take the lead in the utilization of recycled materials, S. 1122 calls for more aggressive Federal procurement in the use of recycled materials and products.

Mr. President, in view of the rapidly mounting solid waste problem, I feel the Congress must act immediately to remove economic barriers and other impediments to increased recycling. Obviously, there still remain other obstacles to the increased use of recycling as a means of alleviating our solid waste problem, but S. 1122 is a positive, needed step toward that goal.

REMARKS BY ARTHUR J. GOLDBERG BEFORE THE AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE

Mr. MONDALE. Mr. President, former United Nations Ambassador and U.S. Supreme Court Justice Arthur J. Goldberg recently reviewed United Nation action in the Middle East before the 14th Annual Policy Conference of the American Israel Public Affairs Committee which was held in Washington on May 7–8.

I believe that Justice Goldberg's remarks will be of interest to my colleagues. Focusing upon the language and legislative history of UN Security Council Resolution 242 of November 22, 1967, which represented the UN's blueprint for a settlement following the 6-day war, Justice Goldberg pointed out that Resolution 242 simply "endorses the principle" of Israel withdrawal "from territories occupied in the recent conflict" without "defining the extent of withdrawal." He also said:

> The notable presence of the words 'secure and recognized boundaries,' by implication, contemplates that parties could make territorial adjustments in their peace settlement.

We can all agree with Justice Goldberg that the concept of a just and lasting peace accepted and agreed upon by both parties is the essence of Resolution 242.

Mr. President, I ask unanimous consent that Justice Goldberg's speech be included in the RECORD.

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

REMARKS BY THE HONORABLE ARTHUR J. GOLDBERG

Eight years ago, on May 3, 1965, during my tenure on the Supreme Court, I addressed the American Israel Public Affairs Committee at a dinner celebrating Israel's 17th anniversary. In this address I said:

"The leaders of Israel on every occasion have proclaimed their earnest desire to negotiate a just and lasting peace with their Arab neighbors and a willingness to cooperate with them in the development of the resources of the area for the benefit of all its inhabitants. The direct negotiation of an Arab-Israel permanent peace treaty to replace the present unsatisfactory armistice is a goal of American foreign policy just as it is the Israeli goal . . .

"Neither America nor Israel welcomes an arms race in the Middle East. Both seek peace, but the cause of peace . . . will not be served . . . by permitting those whose security is imperiled to be the victims of an imbalance of arms . . . Israel deplores, as we do, the wastefulness of armaments . . . in an area which loudly calls for social and economic development."

As the French say, the more things change, the more they are the same.

The record shows that even before the Six Day War the Arab States were opposed, as they are now, to direct negotiations with Israel to settle their differences and to conclude a peace agreement.

Today, this unwillingness to engage in direct negotiations is explained on the ground that Israel is in occupation of Arab territories. A commitment by Israel for total withdrawal is insisted upon by Egypt, in particular, as a pre-condition to any form of negotiation—direct or indirect.

It is a simple fact of international life, however, that a refusal to negotiate on this ground is unprecedented and contrary to international custom and usage. But Egypt thus far has been adamant on this critical point.

In light of this unswerving position by Egypt and of recent events which have tended to add tension to the area, it may seem academic to discuss the prospects of peace in the Middle East. Present circumstances are hardly propitious for negotiations and settlement.

Yet, the goal of peace must never be forsaken and must be constantly pursued.

It is a natural temptation for one who, as United States Ambassador to the United Nations, for three years played a key role in the debates and negotiations involving conflict and peace in the Middle East to offer his personal blueprint of how peace can best be achieved.

I do not propose to yield to this temptation. If anything, Israel and the Arab States have had too much advice as to how to settle the dispute between them.

It is one thing to express concern about the situation in the Middle East and to voice the fervent hope that a peace treaty between Israel and the Arab states will be achieved—better sooner than later. It is quite another thing to profess a monopoly on the prescription which thus far has eluded Israel, the Arab states, the United Nations and governments, including our own, for attaining a peace agreement.

But, in lieu of a blueprint, I wish to offer some general observations about the road to peace in the Middle East.

Perhaps the best way to start is to recall the principle that guided the United States and many other governments at the U.N. during the long period of debate and negotiations following the Six Day War and culminating in the unanimous adoption of the critically important Resolution 242 by the Security Council on 22 November 1967. This principle was often stated by me, for our government, in these words: "To return to the situation as it was on June 4, 1967 is not a prescription for peace, but for renewed hostilities."

This principle was based on the realistic recognition that that situation had been tried twice—in 1948, after the War of Independence, and in 1957, after the Siani War. In both these instances, the prescription was: Let's have an armistice and the armistice, as its terms indicated, would inevitably lead to peace. This did not turn out to be the case. The armistice, which was intended to be temporary, solidified into a situation where it neither kept the peace nor led to it.

I believe that this principle was accurate then. I believe it is accurate now. And, I express the fervent hope and expectation that our government will remain faithful to this principle.

I think it is appropriate to recall also what our governemnt, immediately after the June war, said about the nature of a peace settlement in the Middle East:

"But who will make this peace where all others have failed for 20 years or more? Clearly the parties to the conflict must be the parties to the peace. Sooner or later, it is they who must make a settlement in the area. . . . The main responsibility for the peace of the region depends upon its own peoples and its own leaders. What will be truly decisive in the Middle East will be what is said and what is done by those who live in the Middle East. . . . The nations of the region have had only fragile and violated truce lines for 20 years. What they now need are recognized boundaries and other arrangements that will give them security against terror, destruction and war."

Again, I believe that this insight was true then. I believe it is right now. I again express the fervent hope and expectation that our government will be faithful to this insight.

We might also recall another principle insisted upon by our government in 1967, namely, that others can and should help, but their contribution should be "to promote agreement and assist efforts to achieve a peaceful and accepted settlement." In other words, an agreement is not to be imposed. That is the exact language of Resolution 242 of 22 November 1967.

I have discovered that people have forgotten what transpired in 1967, and I have also discovered a rather widespread attempt to forget the circumstances which led to the Six Day War. Sometimes this forgetfulness extends to people in very high places indeed.

Resolution 242 was not adopted in a vacuum. It was the product of months of debate and negotiation at the United Nations extending from May 1967, before the war actually broke out, until November 22 of the same year, the date of its adoption.

Let us together recall the incontrovertible facts of what occurred.

In May of 1967, the late President Nasser moved substantial Egyptian forces into the Sinai, ejected the U.N. peacekeeping forces, reoccupied the strategic and previously demilitarized Sharm-el Sheik, and proclaimed a blockade of the Straits of Tiran. In so doing, President Nasser disrupted the status quo in the area which had prevailed since the war of 1956–57. He also violated an understanding with the United States. President Eisenhower had negotiated with Dag

Hammarskjold and President Nasser terms which were very simple—and which are in the files of the State Department. President Nasser agreed not to remove the UN forces until their mission of achieving permanent peace in the area was accomplished.

These were ominous measures. Israel, which under American pressure had withdrawn its forces from Saini and Sharm-el-Sheik in 1957, had consistently affirmed that a blockade of its ships and cargoes seeking to pass through the Straits of Tiran would be a causus bellum. Moreover, faced with divisional forces of well-armed Egyptian troops on its borders and increasingly provocative statements by Nasser and other Arab leaders, Israel had little choice but to order mobilization of its largely civilian army. Tension in the area became increasingly acute.

It was justified concern which, therefore, prompted the Western powers, including the United States, to take the initiative in convoking the United Nations Security Council in an attempt to settle the conflict by diplomatic means.

It is interesting to recall the Soviet and Arab response. They answered that we were over-dramatizing the situation. If we were over-dramatizing the situation, then no drama, including Shakespeare, was ever a true drama.

When the war did break out on June 5, 1967, the United States took the initiative in attempting to arrange for an immediate cease-fire—before Israeli troops took Sharm-el-Sheik, before the fight in Jerusalem, before King Hussein got very much involved. Whether because of faulty intelligence or prideful unwillingness to face the facts, the Arab states supported by the Soviet Union refused to permit a cease-fire resolution to be voted on the first day of the war, even though this was obviously to their advantage. It will be recalled that in the first few hours of the fighting, the Egyptian air force was effectively destroyed and the fate of the war thereby determined.

It was only on the second day of the war, after it became publicly apparent to all that Israel for all practical purposes had already won the war, that agreement was reached in the Security Council on a simple resolution calling for a cease-fire. And even then, it took several days to get acceptance from Jordan, and even more time to obtain Syrian acquiescence to a cease-fire although Israeli forces were advancing on their fronts.

The cease-fire resolutions which were ultimately adopted during and following the Six Day War differed dramatically, however, from previous resolutions of the Council in the Israeli-Arab wars of the preceding nineteen years. In the earlier resolutions, the call for a cease-fire was usually accompanied by a demand for a withdrawal of troops to the positions held before the conflicts erupted. In June of 1967, however, no withdrawal provisions were incorporated as part of the cease-fire resolutions. This was not by accident but rather as a result of the reaction by a majority of the Security Council to what had occurred.

As the debates revealed, the Council was unwilling to vote forthwith withdrawal of Israeli forces because of the conviction of a substantial number of the members of the Council that to return to the prior armistice regime would not serve the goal of a just and lasting peace between the parties. Proof that this was so is provided by the action of the Security Council with respect to a resolution pressed at the time by the Soviet Union. The Soviet delegate offered a specific resolution not only reaffirming the Councils' call for a cease-fire, but, additionally, condemning Israel as the aggressor and demanding a withdrawal of its forces to the positions held on June 5, 1967, before the conflict erupted. But this resolution of the Soviet Union, although put to a vote, did not command the support of the requisite nine members of the Security Council.

Israel was not condemned as an aggressor because of the conviction of a majority of the Security Council, shared by world opinion, that President Nasser's actions had brought about the war, regardless of who fired the first shot.

The Soviet Union did not allow the matter to rest with its defeat in the Security Council. It called for a special session of the General Assembly which convened on June 17, 1967. It is important to recall that the General Assembly also refused to adopt by the requisite ⅔ majority a resolution and several other members and supported by the Soviet Union and the Arab states, differing somewhat in tone but not in substance from the prior Soviet resolution.

With the adjournment of the Special Session of the General Assembly in September 1967, the matter once again reverted to the Security Council and again became the subject of further public debate as well as intensive private negotiations. These finally culminated in the November 22 Resolution 242.

The Resolution offered by the British Representative, Lord Caradon, stemmed in substantial degree from a General Assembly resolution of the Latin Americans and a United States resolution offered to the resumed Security Council meeting. The unanimous support for Resolution 242 was the product in considerable measure of intensive diplomatic activity by the United States both at the United Nations and in foreign capitals throughout the world. This is not to say that Great Britain, the various Latin American countries, India and others were not actively engaged in the negotiations and diplomatic activity, but it cannot be gainsaid that the United States took the primary role in the adoption of the November 22 Resolution.

The United States went all out diplomatically because we still hoped, first, to get a resolution and second, to have all parties pursuant to the resolution negotiate an agreed and accepted settlement before positions congealed.

I always read with great interest what appears as the description of Resolution 242. I constantly read that the Arab states have accepted the resolution but that Israel has not, thus proving that Israel is inflexible, warlike, hawkish, etc. This simply is not true. The Arab states have accepted the resolution, and Israel has accepted the resolution. It is true that their interpretations differ. It is only natural that the parties should place their own interpretations on the resolution. But the fact of the matter is that both parties have accepted it.

I also see in comment even by very eminent political scientists that Egypt has said that all Israel has to do is accept and implement the resolution, and then there can be peace in the Middle East. But the resolution was designed so that it cannot be self-implementing. The goal of the resolution is an accepted and agreed settlement. There must be two parties to an agreement, and thus far the Arab states have not been willing to make an "accepted and agreed-upon settlement."

The third thing I constantly see in the press is that the resolution calls for complete Israeli withdrawal. It does not. Resolution 242, in dealing with the withdrawal of Israel's forces, does not explicitly require that Israel withdraw to the lines occupied by it on June 5, 1967, before the outbreak of the war. The Arab states urged such language; the Soviet Union, as I have already mentioned, proposed this at the Security Council, and Yugoslavia and some other nations at the Special Session of the General Assembly. But such withdrawal language did not receive the requisite support either in the Security Council or in the Assembly. Indeed, Resolution 242 simply endorses the principle of "withdrawal of Israel's armed forces from territories occupied in the recent conflict," and interrelates this with the principle that every state in the area is entitled to live in peace within "secure and recognized boundaries."

The notable omissions—which were not accidental—in regard to withdrawal are the words *the* or *all* and the *June 5, 1967 lines*. In other words, there is lacking a declaration requiring Israel to withdraw from *the* or *all* the territories occupied by it on and after *June 5, 1967*. Rather, the Resolution speaks of withdrawal from occupied territories without defining the extent of withdrawal. And the notable presence of the words "secure and recognized boundaries," by implication, contemplates that the parties could make territorial adjustments in their peace settlement encompassing less than a complete withdrawal of Israeli forces from occupied territories, inasmuch as Israel's prior frontiers had proved to be notably insecure.

The Resolution, however, does not reiterate the language of prior U.N. resolutions calling for total repatriation or optional compensation for refugees, a concept long resisted by Israel. Rather it implicitly recognizes that all must participate in solving this problem—Israel by a more generous policy of repatriation and compensation, the Arab states by ceasing to utilize refugees as political pawns and their camps as breeding grounds for hate and despair, and the world community both by more generous financial assistance and liberal immigration policies. The debates at the U.N. on this point support this interpretation of the Resolution.

Jerusalem is a very emotional issue, but here, too, the resolution offers some guidance. There was no reference in the resolution reaffirming prior UN resolutions calling for the internationalization of Jerusalem. It was recognized at the UN that these resolutions were a dead letter and that the question of Jerusalem had to be part of the overall settlement in a peace agreement.

Unless recent occurrences have changed his position, President Sadat has declared that Egypt is willing to sign a peace agreement with Israel, although this offer is conditioned with reservations not embodied in Resolution 242, principally an Israeli prior commitment to complete withdrawal. King Hussein of Jordan has long been anxious to make peace if freed from the restraints of his Arab partners. And Prime Minister Meir has frequently expressed Israel's willingness to negotiate without prior conditions to the end of a just and lasting treaty of peace.

But, notwithstanding, an impasse exists and may continue for some period to come. Indeed, a further military confrontation cannot be excluded. The time seems hardly propitious for a settlement. I would like, however, to emphasize, at this point, the value of patience and restraint in the resolution of grave diplomatic dilemmas such as this. Patience and restraint can bring their own rewards. For example, who, just a few years ago, could have predicted the recent agreements relating to Berlin and Germany, so long the most acute cause of international tension?

Our government must exercise patience, too, although it should always stand ready to use its good offices for peace. In this connection, I welcome the ongoing assurance of the Administration that Israel will not be pres-

sured in the search for a just, lasting and agreed-upon peace which will serve the interests of Israel and its Arab neighbors alike. The role of the United States has been defined to be an "honest broker" seeking to bring the parties to negotiations. This is the appropriate role for the United States rather than what was attempted in the ill-fated Rogers Plan.

I know there are still some who dream of an international utopia in which a few "civilized" states would use their power to settle the affairs of the world, much as the major powers of Europe did in the century after the Congress of Vienna. But we should remember that when the rule of the Concert of Europe finally fell apart world war ensued.

The time has long passed when great powers can or should impose their views on small states. Greatness alone does not assure a monopoly on wisdom. Rather, all powers and people genuinely interested in a settlement in the Middle East should lend their influence in support of a negotiated peace treaty between the parties to the 1967 conflict. In this uncertain world, no one can guarantee that anything done today will endure forever. But I am strongly of the conviction that there is no other way to lasting peace in the Middle East than the way in which nations throughout history made peace which lasts—through negotiated agreements between the affected parties reflecting both magnaminity and a true and realistic recognition of the needs and interests of those directly concerned.

It seems scarcely necessary to emphasize how profoundly all the parties would benefit by a peaceful and accepted settlement.

The cost on both sides of the continuing conflict has been far greater than the world generally realizes. From the 1948 war to the present, Israel has suffered more than 8,500 persons killed, both military and civilian, and a much larger number wounded. In proportion to population, this toll is greater than that suffered by the United States in World War II. In the Six Day War in 1967 alone, Israel's casualties in relative terms were more than twice as high as all the casualties the United States has suffered in the years of fighting in Vietnam. On the Arab side, it is evident from published estimates that losses in this prolonged conflict have likewise been numbered in the many thousands, and relatively and absolutely have been most grave and tragic.

In addition, there is the economic burden. Israel's defense-related expenditures constitute a staggering weight on an economy striving to expand. Israel is the most highly taxed country in the world. The dead weight of the arms burden on the Arab side is equally to be deplored.

Thus, both the responsibility and the overwhelming interest of the parties is for peace.

Israel cannot make peace alone, just as it cannot disarm alone. It is necessary that a corresponding will and commitment to peace and disarmament should exist also on the Arab side. And it is necessary that both parties be willing to make sacrifices and compromises in the interest of peace.

The making of peace requires no less courage—sometimes greater courage—than the making of war.

That a shared desire for peace and a realistic approach to negotiations and a peace treaty may emerge is my profoundest hope, for common interest dictates its necessity. But peace will not come into existence of its own accord. For, although we all acknowledge peace as the will of God, yet, it remains true, as President Kennedy said, "that here on earth God's will must truly be our own."

U.S. POLICY TOWARD GREECE

Mr. PELL. Mr. President, the shortsightedness and failure of U.S. policy toward the Greek junta have never been more apparent than they are today. In the aftermath of the junta's abolition of the monarchy and its proclamation of a pseudo republic, it is clear that the time has come for the administration—or the Congress if the administration is unwilling—to undertake a thorough review of U.S. policy toward Greece.

By the extra-legal actions in abolishing the monarchy and proclaiming into existence a "presidential parliamentary republic" the Greek colonels, who have never been noted for respecting the law, demonstrated their unwillingness to be bound even by the provisions of a constitution which they themselves wrote. Indeed it appears that the junta's members will stop at nothing in their effort to eliminate any and all possible avenues of return to a free political system.

Because of the prominent expressions of approval which high U.S. officials have repeatedly bestowed upon Colonel Papadopoulos the administration must accept a large measure of responsibility for his arrogant behavior. It is clearly evident that the policy of "quiet persuasion" which the administration has claimed to have pursued in Athens has been a total failure. Thus far it has failed to produce even the slightest prospect that the Greek people will ever have an opportunity to freely determine their political future. Indeed it may well be that the administration's acceptance of the junta's brutal repression of unrest in Greek universities and its failure to react to the most recent wave of political arrests led the colonels to believe that the administration would condone any steps which the junta might take to maintain itself in power so long as such actions do not directly jeopardize the ostensible benefits to the United States of United States-Greek military cooperation. We must now ask ourselves, however, whether this extremely narrow military justification of the administration's support for the junta is not open to serious question.

The repressive behavior of the Athens regime, which long ago made it a political outcast in the European community seems now to have affected the Greek Armed Forces in a manner which gives rise to serious concern over whether they are capable of fulfilling their responsibility to the Atlantic Alliance. It is evident that the junta does not consider its own naval forces politically reliable and there are reports that the air force is not fully trusted. According to news reports, important segments of the commandos and the marine corps are engaged in guarding navy and air force installations with the main units of the navy locked in Salamis Bay and those of the air force grounded in central Greece. And for the last 6 years much of the army has been employed in enforcing the junta's control over the civilian populace. These circumstances make a farce of the ability of Greece to make an effective contribution to the defense of NATO's southern flank. Moreover, the long-term viability of Greece as a suitable homeport for the 6th Fleet is a matter which should be closely examined. In fact, the detachment of destroyers from my home city of Newport to Athens seems more reprehensible than ever in the light of last week's events.

It is a bitter irony that the junta's first public commitment to hold parliamentary elections by a fixed date should have come as part of an announcement which eliminated the last impediment, symbolic though it may have been to perpetual totalitarian rule by the junta. Unfortunately, there is no reason to expect that even this promise will be honored any more than were the junta's earlier promises to implement those articles of their own constitution which theoretically guarantee individual liberties.

It is indeed unfortunate that we have yet to hear any expression of concern from the administration over these recent actions of the junta. It is for this reason that I have today written to the Secretary of State to urge that the administration review its existing policy toward Greece—a policy which was once described in a report to the Committee on Foreign Relations as one which "has strengthened the position of the regime in Greece and at the same time has reduced the incentives for a return to democratic order." That description of the administration's policy unfortunately appears as valid today as it was when it was written over 2 years ago.

PRESERVATION OF ESSENTIAL MUNICIPAL SERVICES

Mr. RIBICOFF. Mr. President, following passage last Friday of my amendment to S. 1570, The Emergency Petroleum Allocation Act of 1973, I received a letter from the National League of Cities and the U.S. Conference of Mayors.

This letter from Mr. Allen E. Pritchard, Jr., executive vice president, National League of Cities and Mr. John J Gunther, executive director, U.S. Conference of Mayors, on behalf of 15,000 municipalities throughout the Nation, expressed support for my amendment. They set out the grave dangers posed to our Nation's cities by the growing fuel shortages and included a number of specific instances of municipal fuel crises.

In my remarks on the floor prior to passage of my amendment, I had cited the situations in Plainville and Norwich, Conn. My amendment is intended to deal exactly with these shortages and those facing municipalities everywhere. I am hopeful that in its consideration of this legislation by the other body, the same or a similar provision will be included.

I ask unanimous consent that the text of the letter and the memorandum on a number of municipal fuel crises be printed in the RECORD.

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

NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
June 4, 1973.

Hon. ABRAHAM RIBICOFF,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RIBICOFF: The National League of Cities and the U.S. Conference of Mayors, on behalf of over 15,000 municipalities throughout the nation, wish to express support for your amendment to S. 1570, the Emergency Petroleum Allocation Act of 1973. This amendment, adopted by the Senate on June 1, would create an Office of Emergency Fuel Allocation to assure State and local governments will have adequate supplies of fuel.

Unless the urgent fuel needs of the nation's cities are immediately met, cities will be unable to perform their essential governmental functions and services. The fuel shortage has forced cities to curtail or eliminate such vital city services as police and fire protection, ambulance and other emergency services, and public mass transportation. This is an intolerable situation for public officials charged with protecting the public's health, safety, and welfare.

Moreover, the uncertainty cities face over availability and price of fuel disrupts a city's budgetary process, increasing overall costs and lowering governmental efficiency. Escalating prices in this sellers' market is also highly inflationary, and substantially increases the cost which must be borne by the local taxpayer, either in higher taxes or reduced services, or both.

This crisis is not just a situation of isolated shortages. Attached is a brief summary of the difficulties cities throughout the nation are experiencing now.

We emphasize that any scheme to "share the shortage," particularly through a voluntary allocation mechanism, ignores the basic fact that city governmental functions and services must be continued and must be given the highest priority in the allocation of energy supplies. The amendment that you introduced and which was adopted by the Senate on June 1 would establish a more satisfactory means whereby cities would be assured of their needed fuel supplies under a mandatory national fuel allocation program.

We would caution, however, that cities face problems because of the uncertainty of supply and price over time, as well as the absolutes of no petroleum supplies or excessive price increases. The Office of Emergency Fuel Allocation should also take into consideration the duration for which petroleum is supplied, so that cities may count on a known supply of fuel at a known price. In addition, States and local governments must be fully consulted and involved in the operations and policy decisions of the Office, and also in the general application of the Act to the present fuel shortage.

We are also enclosing copies of the relevant energy policy positions of the National League of Cities and the U.S. Conference of Mayors. We feel that will be useful to you and your colleagues as you continue action toward resolving the energy crisis.

Sincerely,

ALLEN E. PRITCHARD, Jr.,
Executive Vice President,
National League of Cities.
JOHN J. GUNTHER,
Executive Director,
U.S. Conference of Mayors.

SUMMARY OF MUNICIPAL FUEL CRISIS

Based on checks conducted by NLC/USCM, newspaper stories, and other sources, the following are specific instances of cities adversely affected by the nationwide fuel shortage:

CLEVELAND, OHIO

Officials were able to acquire bids for only 28 percent of the city's fuel oil needs. They have been operating on an interim short-term contract which expired in May. A second round of bidding began on May 31.

CHICAGO, ILL.

The city has an annual need of 13 million gallons of gasoline. During the first round of bidding earlier this year, 10 million gallons were committed. During the second bidding, no bids were required. The problem was temporarily resolved as the original supplier agreed to furnish an additional 3 million gallons, but only at an increased cost of 6 cents per gallon. Recently the city opened bidding for fuel heating oil and received no bids.

LAKEWOOD, COLO.

This community of 93,000 thought its fuel needs were accounted for as a one-year gasoline contract was signed with Gulf Oil Company in June of 1972. In November, Gulf informed the city that it was pulling out of its contract and that "if you don't like it you can sue us." Repeated attempts to acquire bids have proved unsuccessful and the city's police cruisers must go to area filling stations for gasoline, at an increased cost per gallon of over 100 percent.

DULUTH, MINN.

The Duluth, Minnesota, City Purchasing Agent has said that "things will be tough" when the current gasoline contract expires at the end of July. It is anticipated that any new contract will be based on last year's deliveries or less. The Duluth Transit Authority has not received bids on the contract that expires June 30.

LOS ANGELES, CALIF.

The City of Los Angeles reports that their annual requirements contract expires June 30, 1973, and that the current contractor has declined to bid on future needs of the City. The City said that the reason no firm offers of petroleum supplies have not been received, even under the scheme of voluntary allocations promulgated by the Oil Policy Committee, is that the City's present supplier was not among those companies which furnished the City's fuel requirements during the base period.

DETROIT, MICH.

The City of Detroit spent $74,615.07 for gasoline purchased during May 1972. The cost for May 1973, will be $109,638.52. This represents a cost increase of 47 percent. In March, 1973, the City of Detroit advertised bids for gasoline at which time the City failed to receive any offers from any gasoline supplier. In April, a request for bids was advertised a second time and the City received an offer from Amoco to supply 25 percent of the city's requirements. Through negotiation, the City was able to cover the balance of their needs for May. As of the end of May, only 75 percent of the June requirements were covered, and the City has developed an emergency plan to divert city vehicles to retail stations.

INDIANAPOLIS, IND.

The City's contract for gasoline expired March 30, 1973. Nine suppliers were asked to bid on a new, one-year contract to supply 4 million gallons of petroleum. Only one contractor submitted a bid, which was rejected because it contained a price escalator clause, prohibited by State law. An agreement was subsequently negotiated for a base price at a four cent increase over the 1972–3 contract price. In addition, the actual cost of petroleum delivered at any given time will be subject to change upward from the base price in relation to current Chicago wholesale prices. Orders are issued monthly, with the delivery price already one cent over the base price. The Company has guaranteed its intention to supply all gasoline requirements for one year by delivery of a performance bond to the City. But the supplier has agreed to operate only on the basis of a price floor with no ceiling and no supplier is willing to submit a flat price bid. The effect will be to increase the cost of gasoline to the City by at least $200,000. This represents a significant, unanticipated budgetary impact at the time when other operating costs also are increasing.

MARSHFIELD, WIS.

Marshfield, Wisconsin, is a city of over 15,000 population. For the first half of the year, the city received only one bid; in the last half of 1972 they had five. The city received no bids at all on diesel fuel. If the City receives bids for the second half of the year, it is expected that the price will go higher than current levels, which are the highest since 1959.

OKLAHOMA CITY, OKLA.

The City will pay 27 cents a gallon for gasoline, an increase from the present 17 cents a gallon when their contract expires.

CINCINNATI, OHIO

Cincinnati has received only one bid to supply gasoline, at a 40% price increase. Diesel fuel price will be based on an escalator clause at the time of delivery.

LYNCHBURG, VA.

The City has been unsuccessful in soliciting any bids for No. 2 diesel fuel. Also, dwindling gasoline supplies and the inability to obtain a long-term cost-specific contract is forcing the City to pay as much as 20 cents per gallon of gasoline, up from 12 cents per gallon.

DENVER, COLO.

Bids were sent out in February, 1973, for No. 2 fuel heating oil contracts. The existing contract expired March 31, 1973. No bids were received and the City is forced to meet its needs on monthly allotments made available to them by their original supplier. However, the cost of this additional allotment has now increased by over 2 cents a gallon.

SEATTLE, WASH.

The Municipality of Metropolitan Seattle (METRO), which has responsibility for metropolitan transportation, put our requests in February for bids for diesel fuel for their bus fleets. With the assistance of the Office of Emergency Preparedness, METRO was able to get one bid. METRO contracted for a year's supply of diesel fuel at a price increase from 11 cents a gallon for No. 2 grade to 16 cents a gallon, without any guarantees that it be No. 2 grade.

NIXON ECONOMIC POLICIES COULD LEAD TO A RECESSION

Mr. HUMPHREY. Mr. President, it is a matter of deep concern that the Nixon administration does not move immediately to reverse the skyrocketing inflation so obviously damaging the economic health of this country.

But the real problem is not just action—but the right kind of action.

The Nixon administration's action is generally kind to big business and hard on the average working family. And, if the past is any predicator of the future,

the next phase of the Nixon policy will be to cause such a slowdown in the economy that a recession develops and millions more Americans are thrown out of work.

In fact, millions of Americans are still paying with their jobs for the Nixon administration's disastrous economic policies.

Geoffrey H. Moore, former head of the Bureau of Labor Statistics, for example, says that there is clear evidence that a mild recession may lie ahead.

The plain fact is, Mr. President, there is no confidence in the Nixon administration's economic policies. From the large corporate suites to the bank economists on Wall Street, to the average man in the street—there is no confidence that the Nixon administration will demonstrate the kind of thinking and leadership so necessary to stop the rising inflation without increasing unemployment.

Mr. President, I ask unanimous consent that Hobart Rowen's recent column, "Is Mr. Nixon Programing another Recession?" the Wall Street Journal article, "Signs of Future Slump Show Up in Indicators, Some Analysts Warn," and Thomas Mullaney's "Will There Be a Recession?" be printed in the RECORD.

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

IS MR. NIXON PROGRAMING ANOTHER RECESSION?

(By Hobart Rowen)

It is rather ironic that as the United States is at the very peak of an unparalleled economic boom, talk grows apace about the prospect of a recession within the next year.

To some, this is an unhealthy—even an unpatriotic—topic of discussion. Those who worry about their investments in Wall Street would often rather not know the truth (or at least, would like to have the truth concealed from the general public).

This, of course, betrays a lack of sophistication about Wall Street. As New York analyst and Nixon administration adviser Alan Greenspan points out, "stock prices behave best when the economy is sluggish, when change is slow, and the longer-term is more credibly viewed as an extension of the recent past."

Thus, the weakness in stock prices since the Nixon re-election is not a forecast of a recession (although Greenspan happens to believe one is likely in 1974) but reflects uncertainty arising from a spectacular inflation in prices, in the gold market—and the trauma connected with the Watergate scandal.

If those underlying forces creating uncertainty should stabilize, therefore, it is possible to visualize a stronger stock market in 1974, even if the economy should be receding, or actually in recession.

What are the actual prospects for a recession in 1974? And first of all, what is the definition of a recession?

The accepted rule of thumb, first popularized by economist Arthur M. Okun, is that we enter a recession when the *real* growth of the economy (as distinguished from the *dollar* growth) shows an actual decline for a period of six months.

Geoffrey H. Moore, the distinguished economist who heads the business-cycle staff at the National Bureau of Economic Research (and who was unceremoniously canned by Nixon after 4 years as head of the Bureau of Labor Statistics) says there is "clear evidence" that a mild recession may lie ahead.

That would mean that the economy, which showed a *real* growth rate of better than 8 per cent in the first quarter of 1973 would gradually slow down, and finally show a minus number for two consecutive quarters.

Lots of respectable economists disagree. Almost to a man, economists expect to see that 8 per cent growth rate come down.

But an impressive number argue, instead, that an apparent decision by the Federal Research Board to pursue a monetary growth goal of at least 6 per cent will produce a real growth rate next year of about 4 per cent. (A few call that pattern a "growth recession").

Economist Don R. Conlan, associated with one major New York brokerage house, has a more precise scenario: by the end of the year, real growth will have dropped from the spectacular first quarter rate of 8 per cent to 2 per cent.

Then, during the first half of 1974, the growth rate slips further, to a range of something like plus-2 per cent to minus-2 per cent. This is followed by a rapid expansion, say by 5 to 6 per cent, for a full year gain of 1.5 to 3 per cent. Description of the Conlan scenario: "mini-recession."

But why, one asks, must there be a declining cycle, whether it is a slowdown, "growth recession," mini-recession, or full-fledged recession?

The argument is that one way or another, the current boom is so out-size, that it will collapse of internal pressures. The slowdown, moreover, will be enhanced by governmental restraining policies on the fiscal, and monetary side, aided by price controls that will begin to bite as companies run into profit margin limitations.

But beyond that, many feel that the boom would never have gotten so unmanageable if Mr. Nixon hadn't pulled the plug on Phase II last Jan. 11. "The shift from Phase II to Phase III was timed about as badly as a wild inflationist would seek," says economist Robert R. Nathan.

"The administration economists are on the brink of programming another recession which will also prove to be a failure in achieving relative price stability."

The skyrocketing of prices has stimulated a wave of consumer buying unparalleled in history. The binge has been heavily financed by excessive consumer credit, which the Federal Reserve should attempt to reduce.

Economists debating the prospects, while generally agreed on the potential for a boom-bust cycle, are far apart on what might be done now to soften the blow. Some Democrats, like Okun, would try not only tougher wage-price controls, but risk a tightening of the money screws. In a sense he's saying that if we prevent the economy from climbing too high, any fall from the top will be less precipitate.

Treasury Secretary George Shultz, at the moment, calling the shots, says no, obviously convinced that inflation is at or approaching its peak.

Only time will tell who's right. But if there *is* a recession in 1974, with an inevitable further increase in the unemployment rate, the voters in the congressional elections will no doubt register their unhappiness with the "in party," whether or not Wall Street shows a perverse kind of strength.

DANGER AHEAD?—SIGNS OF FUTURE SLUMP SHOW UP IN INDICATORS, SOME ANALYSTS WARN

(By Alfred L. Malabre Jr.)

For months business forecasters have been worrying about a recession down the road.

And for months so-called leading indicators that economists peruse for an early warning of trouble have been signaling only expansion and more expansion.

So where's that recession?

It's just beginning to come into view.

At least that's the cautious report of some analysts who specialize in deciphering economic statistics that normally foreshadow business slumps. The report that red lights will soon be flashing emanates especially from analysts at the National Bureau of Economic Research, the nonprofit organization that keeps official track of recession and expansion periods in the U.S. And evidence of a recession ahead also is being reported by an increasing number of independent forecasters who keep a close tab on early-warning statistics.

NO SIGN YET FROM THE "LEADERS"

The recession that economists at the National Bureau and elsewhere see on the horizon doesn't register yet in the widely followed index of 12 key leading indicators that the Commerce Department issues monthly. In March, the latest month for which figures are available, this composite yardstick stood at a record 161.1% of the 1967 base of 100. The March gain over the February level, the previous record, was a healthy 1.4%. In the first quarter as a whole, the index spurted 4.6%, one of the sharpest three-month jumps in post-World War II history.

But recession signs do already show up in some other unpublished data that, in the view of National Bureau analysts, "lead" the leading indicators.

Geoffrey H. Moore, former U.S. commissioner of labor statistics who heads business-cycle research at the National Bureau, summarizes his group's view. "We now see clear evidence that a slowdown, and very possibly a full-fledged recession, lies ahead," the economist says. "It should begin to show up in the index of leading indicators before many more months."

The indicator that Mr. Moore and his colleagues at the National Bureau are paying particular attention to right now is an obscure index that is, in fact, a ratio of two other economic indexes—one measuring the movement of so-called coincident indicators, which tend to move concurrently with general business, and another measuring so-called lagging indicators, which, as the name implies, tend to lag behind the general business trend.

This ratio of coincident to lagging indicators, Mr. Moore says, has recently been dropping quite sharply. Indeed, he reports, in the years since World War II the ratio hasn't ever dropped so sharply for so long—seven months now—without the economy subsequently entering either a pronounced slowdown or an all-out recession.

When, by this yardstick, might a recession hit?

On average, the ratio begins to drop about 13 months before a recession sets in, National Bureau calculations show. Thus, if past patterns prevail, a slump could occur within six months.

This lead time is close to three months longer than the average warning given by the much-publicized index of 12 leading indicators during the postwar era. Occasionally, and some analysts say this may be such a moment, the ratio signals trouble six months or more before warnings are seen in the index of the 12 indicators.

WATCHING THE "LAGGARDS"

National Bureau economists aren't at all surprised that the coincident-lagging ratio has so consistently presaged the movement of the leading indicators and the general business trend. Essentially, they explain, the

ratio provides forecasters a measure of how rapidly, in relation to general economic activity, lagging indicators of business activity are rising. Since these laggards generally represent facets of economic activity that tend to inhibit further growth—such as labor costs and interest rates—their rapid rise would signal business difficulties, analysts explain.

Still another unpublicized "leading" leading indicator of business trends has recently begun flashing red, according to National Bureau economists. This is an index that measures the ratio of changes in business sales to changes in business inventories with certain adjustments made in the inventory figures to take into account the fact that, in Mr. Moore's words, "inventory changes tend to occur more sluggishly than changes in sales."

This obscure, rather complicated yardstick, which is followed closely at the National Bureau, has been falling since January. The record book shows that it, too, has tended to turn down several months before the index of key leading indicators points to trouble.

While it continues to set records each month, the behavior of the leading-indicator index itself is beginning to disturb some economists.

EXPECTING A DECLINE

Leonard H. Lempert, a private economist based in North Egremont, Mass., has long specialized in interpreting the behavior of the leading indicators. At present, he detects "what may be the first signs of weaknesses" in their performance. Although the composite index has continued to climb briskly, he says, several "particularly important" indicators among the dozen followed are beginning to point down. These include the stock market, new home starts and an "inverted" index showing initial claims for unemployment insurance. The economist guesses that when the composite index for April is published, around the end of this month, it well may show a drop.

A similar forecast comes from A. Gary Shilling, chief economist of White Weld & Co., the large New York-based securities concern. Mr. Shilling believes a full-fledged recession will be under way by early next year.

Analysts note that some of the key leading indicators still on the rise are inflation-related. At a time when inflation is causing so much concern, it's claimed, strength among such yardsticks is hardly reason for economic optimism.

One such inflation-related index is a statistical series that records price changes of various industrial raw materials found to be especially sensitive to price pressures. Another is a ratio of prices to unit labor costs. The latter is among leading indicators that analysts say could rapidly change direction if labor costs, a lagging indicator, should begin to rise more sharply in coming months.

In an effort to improve the forecasting accuracy of the key leading indicators, and to try to make them warn sooner about coming recessions, the Commerce Department recently signed a contract with the National Bureau to have the research group revamp the list. Mr. Moore, in charge of the work, reports that "no decisions have been made yet." But he adds that some familiar indicators will probably be eliminated and some others, such as the coincident-lagging ratio, will probably be added.

Whatever the makeup of the new official list, Mr. Moore cautions that "judgment will still have to be used in assessing the behavior of the indicators." For example, he says, the devalution of the dollar has tended to push up the raw-materials index at a rate that reflects more than simply U.S. economic expansion.

The economist also doubts that a revamping of the composite list of leading indicators can bring much improvement in forecasting how severe a coming slump might be. "There's just no sure way of telling how bad a recession is going to be until you're into it," Mr. Moore asserts.

Accordingly, he will venture no guess as to how sharp a slowdown may lie ahead now. It could be merely a "growth recession," he says, in which the rate of business expansion—after eliminating "growth" reflecting merely price increases—slows sharply. Or it could be a bona fide recession, such as the 1969–70 slump, in which general economic activity, measured in terms of "real" gross national product, actually does contract.

Either development, of course, would represent a dramatic change from recent months. In the first quarter of this year, "real" GNP rose at an annual rate of about 8%, the sharpest climb in 18 years.

Mr. Lempert of North Egremont agrees that the indcators can't foretell the severity of a recession. In the present situation, nonetheless, the economist feels that "any recession could become severe." He bases this opinion in large part on what he terms "frightening" rates of increase in recent months in various forms of credit. He notes, for instance, that in March, the latest month for which figures are available, consumer credit expanded at a near-record pace and the rise in installment debt set a record for the third month in a row.

"There's no question about the very large quantity of credit outstanding in the economy," he remarks. "But it's hard to tell much about the quality of the loans that have been made." He adds: "What may seem a perfectly sound loan during a period of business expansion, such as now, could quickly turn out to be not so sound when economic growth slows down."

WILL THERE BE A RECESSION?

(By Thomas E. Mullaney)

In meetings of leading private economists these days, the most absorbing topic of conversation continues to be the question of whether or not the American economy is careening along a course leading to another recession.

Somewhat surprisingly, the private world of forecasters is fairly evenly divided, it seems, on the answer—with only the slightest margin on the optimistic side, that is, that there will not be an outright decline in total business activity for at least two consecutive quarters next year, even though there may well be a significant slowdown in the rate of expansion.

Two months ago, a top level group of economists from the banking and business world in New York expressed views on the recession question, and the result was an 8-to-7 vote that there would not be a recession in 1974. Last week, with a few more in attendance at the group's bimonthly meeting, the vote was 10 to 8 that a recession was not coming, but the minority was much more vociferous in defending its position.

In this corner, there is a strong inclination—at the moment—to side with the majority. The case for the no-recession view seems much more compelling, though it does appear rather certain that an economic slowdown in the offing for the second half of this year lasting through the first six months of 1974. There better be.

To avert a boom-and-bust cycle, however, the time has arrived for the Nixon Administration to distract itself from its political problems and unveil a new game plan in the effort to stabilize the soaring economy—or at least to modify the design drafted last January when Phase 3 was introduced with precipitate haste.

It is true, of course, that there have been some encouraging signs in recent weeks that the superboom of the first quarter is abating, but there are legitimate doubts whether enough cooling is under way and whether it will be effective soon enough to escape the dire consequences of an unchecked economic surge.

In any event, it appears that some additional interim fiscal and wage-price control measures may be needed to bridge the gap between the excessive expansion of the first three months this year, when the economy grew at a roaring 15.2 per cent pace, and the slower growth that clearly seems in prospect for the latter part of the year.

So far the most significant indication that the boom may be starting to taper off is shown by the performance of the housing industry. In April, housing starts were down for the third consecutive month (6.4 per cent), as were the permits issued for future building. This carries with it the likelihood of lower consumer spending, since so much of the appliance and furnishings boom is related to the surge in new-housing activity.

The prolonged and unprecedented auto boom has not receded yet, as evidenced by the big 11.8 per cent sales gain in the first 10 days of May. Neither has the course of the nation's industrial production, which showed another big 1 per cent rise in April. But both auto volume and industrial output may be at, or close to, their peaks. One straw in the wind may be the recent consumer surveys, which have detected a notable deterioration of public spending intentions for autos, new homes and durable goods.

While these developments seem to signal a slower general business trend ahead, they do not spell recession. They will be offset by the continued strength of capital spending, inventory buying and the nation's growing balance in its net export trade.

Recent actions on the monetary front also augur a reduced pace for business. The Federal Reserve has clamped a taut rein on monetary expansion this year and the central bank last week took a significant step to restrict bank lending activity by requiring greater reserves for the issuance of large certificates of deposit and suspending interest-rate ceilings on such deposits.

The need to curb the nation's roaring business expansion may be great, as it surely is, but a more insistent problem is the necessity of reducing the untenable rate of inflation.

In the Government's upward revision of the gross national product figures for the first quarter, issued last week, the most startling change was the adjustment of the price component, which now shows a 6.6 per cent inflation rate, instead of the 6 per cent figure previously reported.

The startling inflation figure has been responsible for much of the malaise prevailing in the financial markets and among the public this year. And, if not checked and reduced soon, it may well make labor less restrained than it has been so far in settling new wage contracts in the key negotiations still ahead.

Without doubt, too, the inflation problem was a major factor in the latest turmoil in the international gold and currency markets, when the price of the precious metal bolted well above the $100-an-ounce level for the first time as the dollar showed weakness for the first time since last February's 10 per cent devaluation.

Inflation has also been a major factor in the stock market's continued—and puzzling—decline in the face of so much favorable economic and business news. Last week, the Dow-Jones industrial average dropped

below the 900 level for the first time in more than 15 months in its steady erosion from the historic high of 1,051 only last January.

Neither the gold flurry nor the stock market's decline were justified by economic realities in the American economy, but they happened and they may recur because of the lack of confidence in United States economic policies—and because many observers continued to look backward to past statistics on the state of the economy, inflation and the nation's international payments position.

A prominent top-level New York banker, who returned last week from a series of meetings with key bankers and industrialists in London, Amsterdam, Zurich and Stockholm, said he was not surprised—nor greatly concerned—with the recent flare-up in the gold and international currency markets.

"It reflected the numerous concerns they have on the Continent these days over their own problems as well as ours," he said.

"Foreign investors," the banker added, "are bothered by the high level of inflation throughout Europe, the trend toward leftist Governments, the future of the profits system and the uncertainty of the stock market in this country.

"As a result, they are sitting with a lot of cash but unwilling to put it into the stock market anywhere. Instead, they are rushing into gold, farm lands or other real estate ventures, while waiting for the stock market atmosphere to clear, particularly in this country."

The Watergate disclosures, he indicated, were at the root of the foreign nervousness and the Continent's reluctance to invest here—not on moral grounds but because it was feared that the United States Government would be afflicted with a paralysis seriously affecting its ability to deal forcefully with inflationary problems and to bargain effectively with the rest of the world, particularly the Soviet Union, on trade and other matters.

Another respected international economic authority, Robert V. Roosa of Brown Brothers Harriman, who is a former Under Secretary of the Treasury, attributed a large part of the recent unrest in the gold and currency markets to a misunderstanding abroad about the implications of the Watergate disclosures for the United States Government.

"As a result of Watergate," he said, "many people abroad thought our Government must fall, causing a weakness in our currency, not realizing that we do not have a parliamentary system like theirs. But now they realize that impeachment of a President would be a horrendous and difficult task and that there may be weakness in our Government but no likelihood of a fall.

"Thus, there was an initial bout of speculation in the gold market, but the foreign-exchange markets behaved very well and the central banks have kept things cool. The foreigners began to look through all of this to the continued strength of the United States economy, and the speculation died down. But we may have to go through a tougher test than this."

In every assessment of the gold fever, the currency turmoil and the status of the American economy, analysts are unanimous in stressing the urgent need for controlling inflation in this country. There must be emphatic actions to convince foreigners that the United States is serious about putting a lid on inflationary pressures if it hopes to avoid future upheavals in the gold and currency markets of the world.

Evidence that a handle is being obtained on the inflation problem would also be a great tonic for the depressed stock market and the hordes of disillusioned small investors.

ON NOMINATION OF ROBERT MORRIS

Mr. STEVENSON. Mr. President, on May 21 I reluctantly voted against the confirmation of William Springer of Illinois to the Federal Power Commission. The issue was not William Springer, but the philosophy of appointees to the regulatory agencies. I voted against a nominee whose record gave every indication of upholding industry's interests over the consumer's interest in matters before the FPC. I will continue to do so.

I intend to vote to confirm the nomination of Robert Morris to the FPC. As with Mr. Springer, the issue is not the character or integrity of the nominee. They are both beyond reproach.

Like Mr. Springer, Mr. Morris has been characterized as proindustry—and therefore anticonsumer. Mr. Morris is characterized as such because of his work as an attorney in a large law firm which represented Standard Oil of California. That work included some work before the FPC. As a good lawyer, he put his client's best foot forward, and in some instances that meant opposing FPC policies and decisions. It cannot be inferred that because he represented Standard as a lawyer he was opposed to the consumer's interests. To draw that conclusion is to find him guilty by association and suggest that lawyers cannot represent industrial clients and later be expected to serve with impartiality. Congressman Springer's proindustry record was made, not as a lawyer, but as a public servant. It was clear from Mr. Springers' voting record that he consistently took industry's views for his own.

We ought not to look to the clients of Mr. Morris' large law firm, but to the testimony he gave before the Commerce Committee. From this testimony and conversations I have had with Mr. Morris, I conclude that Mr. Morris is not "proindustry" and "anticonsumer." The opposite is more likely. Mr. Morris intends to be his own man and vote in the public's interest as he sees it.

On the key issue of the deregulation of the wellhead price of natural gas, Mr. Morris clearly indicated that he was not an advocate of deregulation. He said that cost-based pricing of the interstate sale of natural gas had been a failure in the past. He also said that:

If we are able to revise the pricing standard under the Natural Gas Act as it exists today so that we have got a more stable and farseeing pricing standard than we now have, then we could and should have effective regulation for both inter- and intrastate gas.

He opposed deregulation because there was no effective competition in the energy industry.

To quote Mr. Morris further on this issue, he stated:

All I am trying to say is that I think five years ago we thought of price very myopically, and at that point in time a pro-industry or a pro-consumer label meant something, because the only job that regulation was attempting to do then was to save pennies per month or dollars per month or millions of dollars per year for consumers. Price was thought of only in terms of price savings.

I think the lesson we are beginning to learn out of our shortage is that price has other facets to it.

Promotion of energy efficiency, environmental protection, depression of demand. It is a resource-allocated matter. I think it is very difficult to say what a pro-industry or a pro-consumer view is any more, because the parties who were traditionally considered pro-consumer in the past are beginning to say that prices must go up.

Mr. Morris stated his belief that the standard as to price in the present law was "too vague," and that as long as no change is made in the statute "regulatory policies are going to change every time you get a change in the makeup of the Commission." He said it was up to Congress to make the change by substituting a "new set of words"—to choose a specific standard rather than relying on a vague term which may have worked for most utilities but not in gas production.

I do not believe this viewpoint is anticonsumer or proindustry. In fact, it seems to me a rather farsighted view that reconciles both the consumer's viewpoint and the need for an effective long-range energy policy.

Mr. Morris said he had no objection to the creation of a Consumer Protection Agency, that he favored legislation directing the FPC to make continuous independent studies of reserves and production of natural gas and that he favored experimenting with an inverted natural gas rate structure—one in which the larger natural gas consumers in industry paid more per unit of natural gas the more they used, rather than less. In addition to favoring an inverted rate structure, he favored other conservation-oriented measures. His nomination is supported by organizations unassociated with industry, such as the Sierra Club.

The record before the Commerce Committee indicates that Mr. Morris would be an able commissioner. It would be ironic if the Senate approved Mr. Springer, whose public record gives every indication of upholding industry over the consumer's interests, and then in the name of consumer welfare disapproved Mr. Morris whose views reflect a keen commitment to consumer welfare..

I urge the Senate to confirm the nomination of Robert Morris.

POLITICAL FREEDOM IN SOUTH VIETNAM

Mr. KENNEDY. Mr. President, I reported at length yesterday the findings of a recent study mission sent to South Vietnam by the Judiciary Subcommittee on Refugees regarding the plight of civilians held as political prisoners by the government of President Thieu.

As I noted yesterday, the root cause of the problem are the repressive laws that the Thieu government has decreed. These so-called laws—really nothing more than the decrees of a dictatorship—have served to jail tens of thousands of civilians whose only crime has been to

exercise free speech in the interest of reconciliation and peace—although not the reconciliation or the peace that Thieu seeks. Yesterday, a former Chief of State of South Vietnam, Gen. Duong Van Minh, urged that Thieu repeal these laws which have imprisoned so many innocent students and others, and to release political prisoners not explicitly covered by the cease-fire agreement.

I would hope, Mr. President, that our Embassy in Saigon would actively support the proposals offered by General Minh. I would hope that this will be the message our Ambassador carries to President Thieu, echoing the eloquent plea of Pope Paul IV when he appealed in April for President Thieu to treat humanely and to release civilian political prisoners.

I ask unanimous consent that two news dispatches relating to this issue be printed in the RECORD.

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

[From the Washington Post, June 5, 1973]

MINH CALLS FOR END TO RESTRAINTS

SAIGON, June 4.—Former chief of state Duong Van (Big) Minh urged the Thieu government today to repeal laws aimed at "intimidating and restraining" the non-Communist opposition. He also called for the immediate release by both Saigon and the Vietcong of all political prisoners.

Minh, one of the leaders of the junta that took power after the killing of President Ngo Dinh Diem in 1963, said that the people of South Vietnam are setting their hopes on secret talks between U.S. presidential adviser Henry A. Kissinger and Hanoi's Le Duc Tho which begin Wednesday in Paris.

But Minh said that even if these talks are successful "the correct implementation of the Paris agreement, in practice, depends nevertheless on the goodwill of the two opposing sides of South Vietnam."

Minh, who reportedly is hoping to make a political comeback, said: "If the two sides of South Vietnam wish to see the people begin to acknowledge their goodwill, they must take the following steps immediately.

"Abolish all laws and measures infringing the basic freedoms of man . . .

Set free immediately the political prisoners, especially university and high school students and those who have struggled for democracy, for peace, so that they may return early to their families without being forced to go where they do not wish to go."

Minh's statement on political prisoners drew a denial from a Saigon government official that there are any political prisoners, but at the same time the official acknowledged that individual liberties have been restricted.

In defending this, the Saigon official said that despite the four-month old cease-fire, "the country of Vietnam is now in a war status.

"Therefore, fundamental liberties must be limited. As soon as the Communists stop violating the agreement, as soon as there are no longer any threats to the nation resulting from the other side's violations, the government will immediately delete laws and regulations that are now limiting the people's fundamental liberties."

A government spokesman, meanwhile, said today that Columbia University should forward its offer of a faculty post for Mrs. Ngo Ba Thanh to either North Vietnam or the Vietcong because she will be released to the Communists "in the near future."

Mrs. Thanh was arrested while demonstrating against the one-man election of President Thieu in October 1971. A government spokesman last month said evidence had been found that she had "close liaison with the Communists."

Columbia University last week offered Mrs. Thanh an appointment to teach international law.

[From the New York Times, Apr. 10, 1973]

THIEU VISITS POPE, WHO BIDS HIM FREE POLITICAL PRISONERS

ROME, April 9.—While policemen and leftist demonstrators battled near St. Peter's Square, Pope Paul VI met President Nguyen Van Thieu of South Vietnam here today and urged him to release political prisoners.

The audience lasted an hour, and a Vatican communique issued later said that the Pope "wanted to call to the special attention of the guest the human problem of political prisoners of both sides in Vietnam" and that "the President gave detailed information and explanations on this subject."

What he told the Pope, Mr. Thieu said at a news conference later, was that there were no political prisoners in South Vietnam and that such reports were "only gross Communist propaganda."

"There are no political prisoners in South Vietnam," said Mr. Thieu, a Roman Catholic, in response to a question. "There are only two kinds of prisoners: 21,007 of common law and 5,081 Communist criminals."

The Communist prisoners, he said, are civilian terrorists.

Several hours before the papal audience leftist youths who have been demonstrating against Mr. Thieu since he arrived in Rome yesterday began assembling for another protest. They carried posters reading "Down with Thieu" and "Thieu Assassin."

Dozens fought to break through hundreds of policemen who cordoned off all entrances to the Vatican. Brief clashes erupted and four youths were arrested.

Mr. Thieu has avoided appearing in public here. He rode by helicopter between the Vatican and the villa where he is staying as a guest of the Italian Government. He also went by helicopter to meet President Giovanni Leone of Italy at Mr. Leone's summer residence.

THE GOVERNOR OF FLORIDA SPEAKS ON WORLD TRADE

Mr. CHILES. Mr. President, the distinguished and outstanding Governor of my State, Reubin Askew, convened last month Florida's first Governors' Conference on World Trade. In these days of concern for our balance-of-trade and payments deficits, I take pride in pointing out that Florida is the only State in the Union with a balance-of-trade surplus for 1972.

The Nation as a whole is looking toward increasing possibilities for export. The Governor of Florida is making a commendable effort in leadership by State government to collaborate with businessmen in the State in promoting Florida's great trading and investment potential with the rest of the world. The Governor has recently formed a Council of International Development made up of distinguished citizens of Florida to advise him on State policy on international economic matters. The State Department of Commerce, under the leadership of Secretary Don Spicer, is becoming increasingly active in promoting the State's trade interests.

Florida is a natural gateway to the Americas and the world. I am happy to see the State government and business community taking on together an active, collaborative effort to realize the great trade potential of the State. For the RECORD, I would like to call attention to this effort by asking unanimous consent to insert the speech by Governor Askew which opened Florida's first Governors' Conference on World Trade.

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

REMARKS OF REUBIN O'D. ASKEW, GOVERNOR OF FLORIDA

It is indeed a pleasure to extend this welcome to our panel of distinguished speakers, to the members of the Florida Council of International Development/Coordinating this conference, and to the leaders of Florida's international business community assembled here this evening.

This conference is symbolic of a growing awareness in Florida of the importance of world trade to our continued economic prosperity.

When I speak of world trade, I speak of a diversity of opportunities—including international commerce, international tourism, international investment and international education, all of which are represented at this conference.

I include all four of these enterprises under the broad category of world trade because they represent the commodities most in demand in the world today. Each represents an opportunity for international exchange.

International tourism offers an exchange of cultures between America and its visitors from abroad.

International commerce offers the exchange of goods and services between nations and is a measure of world economic strength. It also offers the rewards of business and finance on the greatest possible scale, as well as open competition among nations in world markets.

International investment offers an exchange of economic opportunities for the mutual benefit of two or more nations. It provides a vehicle for international economic cooperation among developed and developing nations.

And, finally, international education offers the exchange of mankind's most precious resource . . . knowledge. It is a tool of economic progress and an investment in the future of the world.

The United States today finds itself in an unfamiliar and uncomfortable situation. It has failed to concentrate as it should on developing these cooperative exchanges with the world and its stature as a world economic leader has slipped as a result.

So perhaps we should begin this conference by considering the benefits of world trade, its advantages in Florida, and the prerequisites for renewed economic strength for our nation abroad.

Since the Florida economy is dominated by the tourist industry, let us first consider international tourism. Our state is keenly aware of the economic value of international tourism. Its well-developed tourist attractions and climate and natural resources are as valuable to the national economy as any export commodity.

They attract foreign money for domestic goods and services. They add to our tax base.

And they expand existing services, which serves commerce as well as tourism.

Yet even in Florida we are not geared to the needs of the international tourist. Our most valuable visitor is not catered to in the same manner as the domestic tourist, and we lose for this oversight.

As tourism in the United States becomes more economically practical for foreign vacationers, we must prepare for them, and market our attractions accordingly. A dollar spent by a international visitor is like a dollar generated by export.

No conference on world trade would be complete, therefore, without a thorough examination of the part that tourism can and does play in that trade.

The benefits of international commerce, meanwhile, are more familiar to the American public and to American businessmen.

It is estimated that each billion dollars in exports supports 110,000 workers in the United States. The U.S. Bureau of Labor statistics estimates that export industries pay wages approximately 9 to 10 per cent higher than non-export industries.

The lure of more jobs and higher wages has prompted major efforts by State and Federal agencies to encourage export expansion in our Nation.

Yet we must also consider the advantages of imports in any serious discussion of world trade. With the debate over protectionism sounding once again in the halls of Congress, it's imperative that we not allow the benefits of importing to be overlooked.

Like exporting, it produces jobs. Jobs in shipping, handling, marketing, processing and sales that play a valuable role in our Nation's employment picture, and must be considered a significant contribution to our economy.

Of equal consequence is the effect of imports on domestic prices, particularly in the food and fuel industries. Competitive foreign products, while often decreasing the demand for domestic goods, provide savings for the American consumer and increase his or her overall buying power.

In a period of concern over mounting inflation, we are all witnesses to the benefits of imported commodities in our national economy.

In another area, we stand to benefit from recent monetary realignments which have made foreign investment into the United States more practical.

Florida is actively soliciting this reverse investment by foreign firms in our State, because of the solid economic contributions to be derived.

Besides creating new jobs for Americans, reverse investment contributes to the local tax base, and to economic diversification.

Interrelated to the other three aspects of world trade is the field of international education. Each of the other three ventures relies on skilled and educated leadership, the product of years of expert preparation. This aspect of world trade represents a hope for our future, new jobs for our young people, and the prospect of progress and understanding throughout the world.

All segments of our State economy stand to benefit from Florida's growing role in world trade, and all are committed to a cooperative effort to foster this growth.

The benefits of increased world trade to Florida are varied and diverse. Increases in tourism, exports, imports, foreign investment and cultural contact mean many things in a State facing the challenges of rapid growth and economic expansion.

The mean *economic* growth without significant *population* growth. They mean new, non-polluting industry and better job opportunities for Floridians.

They mean diversification of our tourist-oriented economy, expansion of our financial community, and better use of our natural resources, our ports and our schools.

A key to renewed United States competition abroad is an educated and dynamic domestic business community, trained to engage foreign competition and attract sales and business for our Nation in the international marketplace.

We in Florida are in the position to train the skilled men and women needed by American industry to meet this challenge. Our excellent universities are gearing programs to the sophisticated needs of the multinational corporation, the international bank and the export-import industry.

As more Florida firms accept the challenge of world trade, as more multinational corporations move hemispheric headquarters to Florida, and as our financial community finance, the job opportunities and the educational system will grow together.

Florida's Latin community has given our State an international flavor, and we've become a center for cultural contact and technical interchange with our southern neighbors. Many of our workers are bilingual and capable of handling transactions with Latin customers.

Our task now is to draw together our people, give them the skills required to support world trade, and encourage our business community to take advantage of the opportunities available.

The key to Florida's future in world trade is cooperation:

Cooperation with our economic allies to serve the needs of our people in the best possible manner.

Cooperation between business, labor and government to create a strong national economy.

Cooperation between business and education to prepare our young people for the challenges of international commerce.

Cooperation between State and Federal agencies dealing with world trade to avoid duplication of efforts and ensure a wide range of services to domestic firms entering the competitive marketplace.

Cooperation between our Nation and the rest of the world to ensure free trade, equal opportunity and economic progress for all.

We must reassess and reorder our national priorities to strengthen our economy and forge a new, strong and dynamic approach to foreign trade.

Florida has been at the forefront of man's greatest adventure, the exploration of space. We have been leaders in the world entertainment industry, serving more than 25 million tourists annually.

Now is the time for Florida to look ahead to its own destiny, to attempt to foresee its problems and its potentials, to solve its problems and take advantage of new opportunities.

For if present trends are indicative of the future, Florida will truly become a gateway to the Americans and the world.

We must be prepared to work together if we are to realize the economic potential we face today, if we are to help our state and our nation once more play a vital leadership role in the world economy.

I can see the airlines and ships of the world plying the paths of commerce and channeling their commodities and services through Florida. I can see the bankers of our state underwriting the costs and sharing in the gains of world commerce.

And I can see the people of our state reaping the benefits of a strong, vital economy, and playing an active role in the progress of the world.

The future is in our hands. Let us build it together with a common commitment to the progress and betterment of mankind.

NEEDS OF VIETNAMESE ORPHANS AND CHILDREN

Mr. KENNEDY. Mr. President, the Judiciary Subcommittee on Refugees, which I serve as chairman, has received recent testimony and reports that raise troubling questions as to our Government's policy and sense of priority toward meeting the urgent needs of orphans and children in Vietnam.

On May 22, I addressed a letter to Secretary of State William P. Rogers requesting the Department to review the status of American aid programs for children in Vietnam and to respond to a series of important recommendations made by the subcommittee's recent study mission to Vietnam. In light of the continuing congressional and public concern over this issue, I ask unanimous consent to have printed in the RECORD a recent statement reflecting the subcommittee's concern, as well as the text of the letter to Secretary Rogers.

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

SENATOR KENNEDY APPEALS TO ADMINISTRATION ON VIETNAMESE ORPHANS AND CHILDREN

Senator Edward M. Kennedy, Chairman of the Judiciary Subcommittee on Refugees, said today that "the Nixon Administration is pursuing a policy of tokenism and lip-service towards helping the children of Vietnam", and charged that high officials in the U.S. Embassy in Saigon and the Department of State "with undermining the legitimate efforts of other American officials to upgrade our country's priorities in helping the youngest victims of the Indochina War. After many months—and even years—of promises and commitments by our government to move on helping the children of Vietnam, we find that precious little progress has really been made."

"High officials in our government put off decisions for helping these children. Humanitarian appeals for help by the Vietnamese Ministry of Social Welfare are referred for study. Token funds set aside for child welfare are not always used. Commitments to support voluntary agency programs in the field are bogged down in red-tape and not being fulfilled. Offers of international humanitarian assistance are all but ignored. And reasonable suggestions for action from Congressional committees and other go unanswered."

Senator Kennedy said that "our country's heavy backlog of responsibilities in helping the many thousands of Vietnamese children who are fathered by Americans—and the hundreds of thousands more who are maimed or orphaned or abandoned or simply disadvantaged from the war—grows and grows with each passing day.

"This appalling record of neglect—and the urgency of humanitarian needs among the children of Vietnam—demands the immediate concern and active intervention by the highest officials in our government. Congress and millions of Americans expect nothing less. And I urge the Administration to respond in helping to heal the wounds of conflict among the youngest victims of the war."

Senator Kennedy made his comments in releasing the text of a May 22 letter to Secretary of State William P. Rogers. The letter to Secretary Rogers followed the return of the Subcommittee's Study Mission to Indochina, and Subcommittee hearings early in May on the humanitarian needs of children in Vietnam. Several Study Mission recommendations to energize American policy on this issue are currently under review in AID and the Dept. of State.

In his letter to Secretary Rogers, Senator Kennedy said: "Study Mission findings, supported by internal memoranda of the U.S. Mission and conversations in the field, strongly suggest that legitimate efforts by some American officials to upgrade our country's long-term policy and program priorities, have been repeatedly undermined by higher officials in the U.S. Mission, especially those representing the Department of State. Such conditions are distressing to me, as I know they are to others in the Congress and to many Americans.

"As I recently wrote to the President, there are no easy solutions to the many people problems that beset South Vietnam and all of Indochina. But few of these problems evoke more public compassion, and concern, and have greater significance for the future, than the special problems and needs of children, who represent at least fifty percent of South Vietnam's population. I share the view of many Americans that our country should do a great deal more to help these young war victims. But unless some greater measure of priority is attached to this task by our Ambassador in Saigon and other officials within our government, and unless some impediments in our bureaucracy are removed, the crisis of children in South Vietnam and other war-affected areas of Indochina will continue.

There follows a summary of the internal memoranda mentioned above, the text of Senator Kennedy's letter to Secretary Rogers, and a summary of the Study Mission recommendations.

SUMMARY OF INTERNAL MEMORANDA OF U.S. MISSION/SAIGON TOWARD ADOPTIONS AND CHILD WELFARE PROGRAMS IN SOUTH VIETNAM

1. On March 8, 1973, an internal USAID/S memorandum was prepared by USAID officials responsible for adoption and child welfare programs in South Vietnam. The memorandum contained a number of recommendations, and was, in the main, urging that the GVN M/SW "be given the most vigorous support from the highest levels of the U.S. Mission". The memo was forwarded to the USAID director for transmittal to Deputy Ambassador Charles Whitehouse. The memo was never transmitted, but suppressed.

2. According to the memo, early in 1973 USAID officials responsible for adoption and child welfare programs, requested "an audience with the Deputy Ambassador to enlist his intercesssion with the [GVN] Prime Minister to urge action" on overseas adoptions and the strengthening of the GVN M/SW, in the context of meeting "the needs of all children disadvantaged by the war." The audience was denied by Deputy Ambassador Whitehouse.

3. According to the memo, on February 26, however, Whitehouse, "at the request of the Embassy Public Affairs Officer," called a meeting "to discuss Mission participation in an hour long documentary by NBC . . . on the 'plight of the GI-fathered child' left behind in Vietnam."

4. According to a March 4, Whitehouse memo on the Feb. 26 meeting, sudden urgency was put on the adoption and child welfare issue for a number of reasons, "including public and Congressional pressures from America".

5. Among other things the Whitehouse memo took note of the fact "that for years prior to last summer, for various reasons, mainly bureaucratic ineptitude and sluggishness, the number of Vietnamese orphans eligible for overseas adoption was very small." The memo clearly implied that an increase in the number of adoptions would meet "public and Congressional pressures", and no concern was expressed for the broader humanitarian issue of child welfare and the long term rehabilitation of all children disadvantaged by the war.

6. The suppressed March 8 USAID memo mentioned above was prepared in response to the Whitehouse memo of March 4. The USAID memo, in addition to urging "the most vigorous support from the highest levels of the U.S. Mission" for the GVN M/SW, also made these points:

(a) "USAID finds the statement of U.S. Mission policy pertaining to the adoption by American adoptive parents of orphans and mixed blood children in Vietnam to be completely unacceptable."

(b) "The U.S. Mission must not undermine the confidence and integrity of the Ministry of Social Welfare at this critical juncture where the Ministry is beginning to exercise leadership. . . ."

(c) "Increased funding by the Mission of Ministry of Social Welfare child welfare activities will provide only short-term benefits unless the Ministry is fully supported in its efforts to upgrade orphanages and day care services as well as monitor intercountry adoption."

TEXT OF LETTER TO SECRETARY OF STATE WILLIAM P. ROGERS BY SENATOR EDWARD M. KENNEDY, CHAIRMAN OF THE JUDICIARY SUBCOMMITTEE ON REFUGEES

MAY 22, 1973.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Department of State.

DEAR MR. SECRETARY: As you may know, following the return of its Study Missions to Indochina, in mid-April the Judiciary Subcommittee on Refugees began a series of public hearings on humanitarian needs resulting from the war and the kinds of additional effort our country could make in helping to meet these needs. In light of the very high percentage of children in the population of the war-affected areas, and the special problems the conflict has brought to young people, on May 11 the Subcommittee held a hearing on the children of Indochina, especially those in South Vietnam. Witnesses before the Subcommittee included Mr. Robert Nooter, Assistant Administrator for Supporting Assistance in the Agency for International Development (AID), and two members of the Study Mission—Dr. James Dumpson, Dean, School of Social Service, Fordham University, and Mr. Wells Klein, Executive Director, American Council for Nationalities Services.

With regard to the situation in South Vietnam, the hearing record and Study Mission findings clearly establish that, until recent months, the special problems of children, including those fathered by Americans, received scant attention in official quarters; and, because of this, both our own government and the Government of South Vietnam have a backlog of responsibility in meeting child welfare needs. The hearing record and Study Mission findings also suggest that one of the continuing impediments to more meaningful progress in this area—especially as it concerns long-term rehabilitation goals—relates to conflicting assessments within the U.S. Mission in Saigon, over such matters as the urgency and scope of child welfare needs, the degree of priority our government should attach to these needs, and the kind of commitment our government should make to encourage and support the long-term efforts of the South Vietnamese Ministry of Social Welfare, the voluntary agencies and others, in restoring the lives and spirit of the youngster war victims.

Study Mission findings, supported by internal memoranda of the U.S. Mission and conversations in the field, strongly suggest that legitimate efforts by some American officials to upgrade our country's long-term policy and program priorities have been repeatedly undermined by higher officials in the U.S. Mission, especially those representing the Department of State. Such conditions are distressing to me, as I know they are to others in the Congress and to many Americans.

As I recently wrote to the President, there are no easy solutions to the many people problems that beset South Vietnam, and all of Indochina. But few of these problems evoke more public compassion and concern, and have greater significance for the future, than the special problems and needs of children, who represent at least fifty percent of South Vietnam's population. I share the view of many Americans that our country should do a great deal more to help these young war victims. But unless some greater measure of priority is attached to this task by our Ambassador in Saigon and other officials within our government, and unless some impediments in our bureaucracy are removed, the crisis of children in South Vietnam and other war-affected areas of Indochina will continue.

In the hearing on May 11, Dean Dumpson and Mr. Klein submitted a number of recommendations to energize American policy towards the special problems and needs of children in South Vietnam. Enclosed are excerpts from their testimony, which, in consultation with members of the Study Mission and representatives of interested voluntary agencies, are currently under review by officials in AID.

Hopefully, our government will take immediate steps along the lines recommended by the Study Mission, and I look forward to getting your comments on American policy toward helping the youngest war victims in South Vietnam and the other countries in the area. Many thanks for your consideration and best wishes.

Sincerely,

EDWARD M. KENNEDY.

SUMMARY OF STUDY MISSION RECOMMENDATIONS CURRENTLY UNDER REVIEW BY THE AGENCY FOR INTERNATIONAL DEVELOPMENT AND THE DEPARTMENT OF STATE

1. Invite the establishment of, and fund, a consortium of experienced and professional competent voluntary agencies to facilitate and expedite inter-country adoption of Vietnamese children for whom adoption is legally possible and clearly the best plan. Particular priority should be given to the racially mixed child. The primary bottleneck with regard to inter-country adoption at present is the lack of adequate services and staff in Vietnam. We view this recommendation as an urgent requirement, though we recognize that adoption must still be handled on a case by case basis to protect all parties concerned. The expensive services for the few at the expense of the many is unconscionable. Therefore, the consortium must equally concern itself with providing counselling services to mothers who may be considering abandoning their children, and with the immediate

up-grading and improvement of child care services and institutions in Vietnam.

2. Expedite the inter-country adoption process by assigning one additional officer to the INS regional office in Hong Kong so that U.S. government formalities will not represent a bottleneck as they have, on occasion, in the past. INS is planning to transfer 1,000 inspectors to the U.S. Customs Bureau in the near future. We ask that one of these be diverted to Hong Kong.

3. The U.S. Government, through its Embassy in Saigon, should urge the Government of Vietnam to expedite passage, or interim implementation by decree, of sound adoption legislation which, we understand, is presently in draft form.

4. The Government of the United States should formally transmit to the Government of Vietnam a clear statement of intent of support for programs designed to assure the welfare of children in Vietnam. This recommendation will have the duel effect of indicating American commitment particularly in terms of funds on a more than a year to year basis, and of stimulating the Government of Vietnam to give its own child welfare programs and Ministry of Social Welfare reasonable support and priority. One of the persistent problems is that U.S. funding is only available on a year to year basis. The Vietnamese, understandable, are reluctant to commit themselves to long range programs with only a few months of funding in sight.

5. The U.S. Government should strongly urge the Vietnamese Government to lift its present restriction on hiring new personnel within the Ministry of Social Welfare. At present, the Ministry does not have adequate personnel, in terms of numbers of professional competence, to supply many of the child welfare services needed.

6. AID should be authorized to proceed with direct hire from outside its own personnel resources in order to replace departing child welfare personnel in Vietnam and expand the AID child welfare advisory and support program by several additional positions.

7. The Subcommittee on Refugees should review the various pieces of legislation addressed to the needs of children of Vietnam which have been introduced over the past two years to determine whether modification of previously proposed legislation, or new legislation, is warranted to ensure that we can and will continue to exercise our responsibilities to the children of Vietnam.

8. The appropriate Subcommittee of the Judiciary Committee should be asked to explore some modification of our present Immigration and Nationality Act in order to enable American fathered children in Vietnam to obtain American citizenship, if they so wish, upon reaching their majority.

9. Until such time as multi-lateral mechanisms can be determined and utilized, the Agency for International Development should continue to work with the Government of Vietnam, particularly the Ministry of Social Welfare, in an advisory and supporting role, to assist that government in carrying out its responsibility to the children of Vietnam, responsibilities which we share. After many years of inaction, AID has initiated a well-thought out program of child welfare assistance in Vietnam. The AID continuing effort should be encouraged and supported by this Subcommittee and by the Administration.

EIGHTY-FIFTH BIRTHDAY OF JAMES A. FARLEY

Mr. NUNN. Mr. President, I ask unanimous consent to have printed in the RECORD two excellent editorials about one of America's finest citizens, Mr. James A. Farley.

Mr. Farley celebrated his 85th birthday on March 30, 1973, and these well written editorials by his friend of many years, Maynard R. Ashworth, are a fitting tribute to his lifetime of contributions to his State and Nation.

I am certain all of my colleagues in the Senate join me in wishing this distinguished American a very happy birthday.

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

[From the Columbus (Ga.) Enquirer, May 30, 1973]

JAMES A. FARLEY

Diogenes never met James Aloysius Farley. But in all fairness to the ancient Greek philosopher, the grave cut short Diogenes' search for an honest man long before "Gentleman Jim" Farley burst onto the scene.

Farley, who more than any other single person spearheaded Franklin Delano Roosevelt's 1932 and 1936 presidential victories, is 85 years young today. Although slowed by a heart attack a little over a year ago, Farley is still going strong.

RECENTLY RETIRED

He recently retired as chairman of the Board of Coca-Cola Export Corp. becoming honorary chairman. In a personal note to Ledger-Enquirer Publisher Maynard Ashworth, Farley pooh-poohs the thought of his retiring:

"Many of the newspapers indicated that it meant my retirement, but as I am sure you know, it doesn't. I am going to continue to carry on as I have in the past 33 years that I have been with the company."

Although Farley's beacon shone brightest during the 1930s, as mastermind of FDR's first two campaigns and as his postmaster general from 1933 to 1940, his light has dimmed only slightly these past 33 years. He is still referred to as "Mr. Democrat," and his advice and counsel are sought by persons at all levels, including the presidency.

FATE AND FDR

Had fate and FDR not intervened, Farley might have succeeded Roosevelt as president in 1940. He expected FDR to support him for the presidency. Instead, FDR sought, and won, an unprecedented third term.

Upset with the President for going against tradition by seeking a third term, Farley resigned as postmaster general and launched his 33-year career with Coca-Cola. To this day Farley harbors no bitterness toward FDR. Quite the contrary. He considers FDR among our "great Presidents."

At home now in New York City, Farley came up during trying times at the turn of the century. Truly a self-made man, he went to work in 1906 after graduating from high school as a bookkeeper in a paper company in his native New York, making $8 a week.

He became a success in the building supply business, organizing his own company in 1926.

INTEREST IN POLITICS

From his earliest recollections "Gentleman Jim" was deeply interested in politics. He was elected town clerk at Stony Point, N.Y., in 1912, county supervisor in 1919 and New York state assemblyman in 1923.

He was elected secretary of the New York Democratic State Committee in 1928 and two years later began 14 years as chairman. He was elected Democratic National Committee chairman in 1932, resigning in 1940.

It would take a thick book to chronicle Jim Farley's accomplishments. He has been referred to frequently as a legend in his own time, and rightly so.

He has to be one of the most avid Democrats who ever lived, unwaveringly supporting every Democratic President from FDR on. But the label "Democrat" did not assure Farley's blessings. He was down on Adlai Stevenson, playing an instrumental role in squashing Stevenson's 1960 nomination hopes. Bobby Kennedy was not one of Farley's favorite people, at least partially because of Kennedy's dovish stand on Vietnam.

BACKED BY L. B. J.

A dove Farley is not. He has been a strong advocate of fighting to win. He stood behind President Lyndon Johnson's escalation of the Vietnam War and felt that with public support LBJ's war policy would have worked.

What kind of man is Jim Farley? A 100 per cent patriotic American with a zest for life and freedom. He told a great deal about himself in a speech he made at St. Mary's University (Texas) commencement in 1961:

"Let us stand by our principles though the heavens fall. No man and no nation ever compromises an eternal principle; it only succeeds in compromising itself . . . the path of duty is the path of hardship and sacrifice, but it is the only path to both safety and honor . . . those sacred bloody footprints in the snow of Valley Forge (cannot) be eradicated from the sands of time by an uncultivated, barefoot barbarian pounding his shoes on the table at the United Nations . . . if the crisis is great, the American tradition that the crisis will produce the man is true . . ."

FORMULA FOR LIFE

To what does Farley owe his long, illustrious life? In part, to staying busy. After a full day of work, he would "listen to the 11 p.m. news, say my prayers and go to bed," always awaking refreshed because, "I always tell the truth."

Jim Farley has been able to retain his remarkable enthusiasm for life because he likes what he's doing—dealing with people.

A man with a remarkable memory for names, Farley has multitudes of friends nationwide, including several here in Columbus. He was here in 1962 to address the Columbus Rotary Club.

NO DOUBLEDEALING

James A. Farley, as one writer noted some years ago, has never been charged with even one piece of doubledealing, of betrayal of a friend, or any of the other unsavory things politics breeds.

He has earned the respect and admiration of millions, a particularly noteworthy quality in this day of suspicion and distrust in our politicians and political structure.

We could stand a lot more Jim Farleys.

JIM FARLEY STEPS DOWN

James A. Farley is a big, cheerful man with a grin in his voice. He is also the man whom it is said had more to do with making Franklin D. Roosevelt president than any other man, including Mr. Roosevelt himself.

We noticed the other day that Jim Farley, once a frequent visitor to Columbus, had retired as chairman of the Coca-Cola Export Corporation and became its honorary chairman.

Jim Farley is truly one of the great human beings of our times. He possesses a magnetic

personality and a flair for personal contact which captivates those who come under its influence.

He is one of those rare souls who by their very presence in a room seem to fill it with optimism, pride of country and deep abiding conviction that Americanism is not only the best philosophy of government and society, but the strongest.

Jim Farley, who was Postmaster General in the Roosevelt cabinet, but broke with FDR over the third term issue, has come through many political ordeals with the reputation of being an unusual politician who is unable to compromise with his moral principles.

It was not too long ago that he expressed concern over the "word" of many people in politics in general. "The word of some of those in the party is not as good as in earlier years," he said. "If someone told you something back then you could go to bed and know that that word would still be the same the next morning."

But Jim Farley's word is still "good." He has strong and firm convictions and doesn't hesitate to express them. As we said, he has been a man both in politics and business who has been unable to compromise with his moral principles.

We wish him well in his years of retirement, with the hope he can visit Columbus again.

FURTHER STUDY OF TRANS-CANADIAN PIPELINE IS VITAL TO OUR NATIONAL INTERESTS

Mr. PROXMIRE. Mr. President, at a hearing of the House Interior Committee on May 17 a statement was presented by Dr. Charles J. Cicchetti, former research associate for Resources for the Future, concerning the superiority of a trans-Canadian route for transporting Alaskan oil into the American market.

Dr. Cicchetti's remarks are based upon 2 years' research in which he studied the environmental and economic aspects of the proposed trans-Alaskan pipeline and several alternative overland routes across Canada. This research was published in 1972 under the title "Alaskan Oil: Alternative Routes and Markets." In his analysis Dr. Cicchetti concluded that the trans-Alaskan pipeline was environmentally and economically inferior to a trans-Canadian alternative.

His testimony before the House Interior Committee updates this earlier study in light of the President's Energy Proclamation of April 18, 1973. In response to critics who have charged that the elimination of the oil import quota program invalidates his conclusions, Dr. Cicchetti shows that, on the contrary, his earlier arguments against the trans-Alaskan pipeline are even more compelling. Other developments since the publishing of his book make an even stronger case for the trans-Canadian route.

Mr. President, I believe that my colleagues in the Senate will find Dr. Cicchetti's statement helpful in their deliberations on the present controversy surrounding this important issue. I therefore ask unanimous consent that the statement be printed at this point in the RECORD.

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

TESTIMONY OF DR. CHARLES J. CICCHETTI

My name is Dr. Charles J. Cicchetti, I reside at 1930 Regent Street, Madison, Wisconsin. I am a Visiting Associate Professor of Economics and Environmental Studies at the University of Wisconsin, Madison.

Prior to my present position I was a Research Associate at Resources for the Future in the Natural Environments Program. While in that program I spent nearly two years studying the economic and environmental aspects of the proposed Trans Alaska Pipeline and several alternative overland pipeline routes through Canada. I have written a book entitled: "Alaskan Oil: Alternative Routes and Markets" (Johns Hopkins Press for Resources for the Future, 1973), several articles on these issues and I co-authored public statements with Dr. John V. Krutilla on both the Draft and Final Environmental Impact Statements of the U.S. Department of Interior on the proposed Trans Alaska Pipeline.

In my analysis I concluded that the Trans Alaska Pipeline was environmentally and economically inferior to either a Mackenzie Valley Pipeline or an Alaskan Highway pipeline. Both routes would avoid the most serious seismic and avalanche areas of southern Alaska and the marine pollution associated with tanker traffic and terminal facilities. Both routes would deliver oil to the midwest and east coast rather than the west coast. These non oil producing states east of the Rockies are presently in greatest need of oil and the price of oil is higher there than any other place in the world. Additionally, most concede that a natural gas pipeline will be constructed in the future and that there are substantial economic and environmental savings, if both a crude oil pipeline and natural gas pipeline are built in the same corridor. Since natural gas is most needed in the mid-continent markets and an all land system is the only economically feasible alternative, these advantages only add to the desirability of an all land transportation system across Alaska and Canada. Canada has not only expressed a strong interest in such a joint oil and natural gas transportation system, the Honorable Donald MacDonald has even offered to supply the United States with oil during any planning and construction periods, thus greatly reducing the often stated early delivery advantage of TAPS.

While the midwest and east coast of the United States need the entire throughput of a Trans Alaska-Canada Pipeline now, the west coast of the United States would be oversupplied with oil for a considerable length of time. My analysis showed this excess supply would last between 5 and 15 years depending upon the oil import quota system used on the west coast, if TAPS is built. Excess supply during our present energy crisis is mind boggling. Several intricate plans to deal with this situation were uncovered during my research. These included: (1) selling the oil to Japan in exchange for additional imports on the east coast with the exporting company reaping super normal profits by avoiding the Mandatory Oil Import Quota Restrictions, (2) shipping oil to the Virgin Islands via a new Central American pipeline in non U.S. built owned and operated tankers, thus avoiding the Jones Act and (3) backing out present imports to the west coast with the affected company being compensated by being granted import quota tickets on the east coast.

The conclusion of my analysis was that the environmentally and economically superior route would cross Alaska and Canada and bring oil to the midwest and east coast. On the other hand by taking advantage of the market restrictions imposed by the Mandatory Oil Import Quota Program the decision was made to develop the Trans Alaska Pipeline thus reaping the greatest possible profits by sacrificing the interests of all the other concerned parties. The state of Alaska responded by imposing a minimum well head price of $2.65 per barrel for the purpose of collecting taxes and to protect itself from the expected losses that would be generated from the oil companies intricate international marketing schemes.

A. SOME RECENT CONFUSION IN THE ECONOMIC COMPARISONS OF TAP AND ALL LAND SYSTEMS ACROSS CANADA

Recently there has been considerable attention given to my economic analysis and I'd like to review that for this committee. In my analysis of the Trans Alaska Pipeline I compared its economic value with that of the Trans Canadian Pipeline. I considered two different cases. One in which the price of oil in each part of the country would be based upon world prices; that is the Middle East price (including taxes) plus transportation costs would be the price in all parts of the United States. The second case that I considered was based upon an assumption that the domestic pattern of prices and costs that presently exists will continue in the future in the United States.

Proponents of TAP have focused on the first approach. If foreign oil is the price setter then east coast, gulf coast and west coast prices would be equal and prices in the midwest would be the highest in the nation about 25c to 30c per barrel greater than all other regions.

Most estimates of the cost of TAP and the cost of TCP put the two systems within about 10c to 20c of one another even when delays of two years for TCP are considered. When the lowest estimates of TAP's cost per barrel are compared with the highest estimates of TCP's cost per barrel the difference will be approximately equal or less than the higher price of foreign crude oil in the midwest. TAP proponents, therefore, incorrectly conclude that the two routes are economically equivalent and if delays for TCP are greater than two years TAP is superior to TCP. The first thing wrong with such a biased comparison is that it assumes all high estimates of the cost of TCP are accurate at the same time all low estimates of the cost of TAP are accurate. Second, it ignores any economic savings from constructing a natural gas and perhaps a second oil pipeline in the same corridor. Third, it ignores the admission of oil companies, findings of the Department of Interior, my own findings and recent substantiating information that shows the west coast will not need large quantities of the North Slope oil that would flow through TAP. On the other hand the midwest and east coast needs that Alaskan oil now. Over time the shortage in the midwest and on the east coast will become even greater. Since excess west coast supplies will either increase cost or further increase the inequity in relative prices in different regions of the country, ignoring these regional supply and demand imbalances incorrectly biases the comparison heavily in favor of TAP.

If these qualifying factors are not convincing enough in and of themselves let me remind you that this is the case that TAP pipeline proponents find most useful to use to promote their decision to push TAP. If present price patterns in the United States continue the case in favor of a Canadian route is unbeatable. First, it should be pointed out that given the characteristics of North Slope Crude it is better suited for refineries that produce a greater mix of light and heavy refinery products as are found in the midwest and on the east coast. At the time I completed my analysis very light crude oils were priced at about 30c per barrel greater in the midwest and 60c per barrel greater on the east coast than similar crudes on the west coast, North Slope quality oil was priced at about 64c more per barrel in the midwest and 90c more per barrel on the east coast than similar crude oil on the west coast.

The theory put forward by Mr. Simon of the State Department, the Standard Oil Company (Ohio) and Governor Egan of the state of Alaska is that these price differences will disappear in the future given the president's new oil policy. The first question that should be directed to these gentlemen is whether they think west coast prices are to rise to east coast levels (a price increase of about 30%) or should east coast consumers, contrary to all oil company advertising, expect a price decline to west coast levels (a price decrease of about 25%). They will probably answer such a question by stating the period of cheap foreign oil has passed and repeat industry claims that at the present time some foreign oil is being delivered to the United States at prices higher than domestic oil prices.

If this is their collective response a second question must be asked. At the present time the Japanese are paying more than $1.50 less per barrel of oil with qualities similar to North Slope crude (see Appendix A for a recent comparison of lighter crudes). The Japanese are being supplied with low cost Middle East oil, while the largest oil producing and consuming country, the United States, has higher domestic prices and many government and industry spokesmen soon predict we will be paying more for imported crude oil than these high domestic prices. I suggest we learn a lesson from the Japanese and start requiring our oil companies to bargain with producing countries for lower prices and stop the foolish practice of having our domestic oil companies serve as tax collectors for producing nations by ending the foreign tax credit on royalty and severance.

I stated earlier that the prices that existed at the time that I undertook my analysis were such that the midwest price was about 65¢ (and the east coast 90¢) more per barrel than the west coast for oil similar in quality to North Slope oil. In the few weeks since the President's energy message prices have been changing in this nation. They are not changing in the direction predicted by Mr. Simon, Mr. Egan or SOHIO, however. Instead as the recent issues of the Oil and Gas Journal, week after week (especially the April 30 edition), point out prices in the east of the Rockies market have been increasing by between 25¢ and 50¢ per barrel, while west coast prices did not show any movements until this past week, when a 25¢ per barrel increase was announced. This means that relative prices have either not changed or have increased to the detriment of midwest and east coast consumers, who now may be paying as much as 90¢ per barrel more in the midwest and $1.15 per barrel more on the east coast.

West coast oversupply and lower prices make the selection of TAP over TCP a very poor choice for midwest and east coast consumers. Finally, I would like to comment on a related aspect that has been raised by my critics, who have recently questioned my own objectivity for using a 50–50 mix of domestic and foreign crude oil in the midwest and a 17–83 mix on the west coast. For those who take the time to read my book, they will realize that it was not my biases that were behind these different percentages. Instead, the more than 15 years of bias in national policy that resulted in much higher prices for midwest and east coast oil was the bias that was being computed. The bias that these percentages were reflecting was similar to that the New England Governor's and recently the Governor of my own state, Wisconsin, were opposed to when they challenged the use of a different import quota system east of the Rockies than on the west coast. The bias that prevented the development of Canadian tarsands and which placed a limit on other Canadian oil coming into the midwest is another type of bias, that these calculations were meant to reflect.

When the new data are examined it seems that the economic case against TAP is greater than ever. The final fall back of TAP's proponents may be that prices don't matter, it is resource costs that are the key. This would only be true for those who do not think that vastly different prices and security of supply of oil in different parts of the country do not matter. I do not think this Congress should be so callous and narrow minded.

B. THE PRESIDENT'S ENERGY MESSAGE

Last month the President issued executive proclamation 3279, which ended direct quantity controls. This change has an important impact on the selection of the optimal transportation system for Alaskan oil. By ending direct quality controls the financial advantage for the import for export sale of oil to Japan and the Virgin Islands—Central American Pipeline plans are virtually eliminated. (Note some avoidance of the import license fee may still be possible.) As a result all three measures of comparison: economic, environmental and oil company profits now point to the Trans Canadian routes as superior to the Alaskan-tanker system.

New information on a second factor has recently come to light. It is related to regional supply-demand imbalance in the future in the United States. The President proposed a speedy increase in oil leasing in off shore areas. Two of these areas, the Gulf of Alaska and California, if developed will only compound the present regional imbalances in domestic oil supply and demand. In addition oil production in the areas of Western South America and South East Asia would benefit the west coast. A recent study prepared by the State Resources Agency of California indicates that even without any North Slope or Gulf of Alaska oil. PADV, the west coast, could be "essentially independent from unstable foreign supplies through 1985."

By following a proposal similar to the president's the report concluded California production would exceed two million barrels per day by 1985. The midwest and east coast on the other hand have no alternative but to become heavily dependent on these same so-called "unstable foreign supplies" unless Alaskan and Canadian oil and gas are brought into these regions in increasing quantities.

It is important to consider other aspects of the President's energy message. In it were two major proposals, western coal and oil shale, for domestic energy self-sufficiency. Both are located in the Rocky Mountain region of the nation. Technology to convert these resources either to oil or gas has been given some priority. However, a very important limitation on these developments is the availability of sufficient quantities of water. It is simply impossible to expect a full development of such resources without Canadian-U.S. cooperation.

The need for a North American Energy Policy has never been greater. The economic and environmental benefits to the U.S. and Canada will be maximized only by cooperating and engaging in long run planning. Developing tarsands in Alberta, locating electric plants on the Great Lakes, developing western coal and oil shale are very much interrelated to one another as well as to Arctic oil and gas development. There is probably no better way to scuttle a North American energy policy before it even begins than to allow a single private concern like the cash flow of two U.S. and one British oil company to dominate such a major international and domestic decision. Quite simply Canada cannot be expected to be ignored on the initial Arctic oil transportation system decision and then be expected to cooperate on future energy developments.

APPENDIX A

RECENT JAPANESE VERSUS NEW YORK PRICES

FOB price Abu Dhabi crude (Mar. 19, 1973) OGJ)=

$2.38 (to Japan)
12.3¢ less markup over other Japanese imports (it is also typical for discounts on FOB to Japan).

$2.26

Tanker rate range .27¢ to 43.5¢ per barrel:

		High	Low	
Landed prices	$2.26	$2.38	$2.26	$2.38
	.43	.43	.27	.27
	2.69	2.81	2.53	2.65

$4.13 New York 32° API price.
+.25 Plus price increase Spring 1973.

$4.38 New York price at present.

Current New York and Tokyo price differences:

$4.38	$4.38
−2.81	−2.53
(Low) $1.57	(High) $1.85

DISCLOSURE OF FINANCIAL INTERESTS BY SENATOR AND MRS. MATHIAS

Mr. MATHIAS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement of disclosure of the financial interests of Mrs. Mathias and myself and a letter of transmittal to the Honorable JOHN STENNIS, chairman of the Select Committee on Standards and Conduct.

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

DISCLOSURE OF FINANCIAL INTERESTS

ASSETS

Equity in Federal Retirement System.
Life Insurance.
Livestock and Farm Machinery.
Real Estate

House: RFD #2, New Design Road, Frederick, Maryland, Liber 623, Folio 80, Frederick County.

House: 3808 Leland Street, Chevy Chase, Maryland, Liber 3328, Folio 060, Montgomery County.

Half interest in Farm: 41.66 acres, Frederick Election District, Liber 587, Folio 339, Frederick County.

Half interest in House: 306 Redwood Ave-

nue, Frederick, Maryland, Liber 577, Folio 489, Frederick County.

Lease and option in Farm: 370 acres, Kabletown District, Jefferson County, West Virginia, Liber 196, Folio 337, Jefferson County.

SHARES OF STOCK

Farmers & Mechanics National Bank	1034
Capitol Hill Associates	4
Citizens Bank of Maryland	16
Frederick Medical Arts	15
G. D. Searle & Co	30
First Pennsylvania Corporation—common	135
First Pennsylvania Corporation—preferred	2
Massachusetts Investors Growth	131.985
The Detour Bank	7
The Great Atlantic & Pacific Tea Company	6
Warner Lambert Pharmaceutical Company	76
Maryland National Corporation	129

LIABILITIES

Debts due on mortgage, collateral and personal notes to:

Farmers & Mechanics National Bank, Frederick, Maryland: $40,880.96.

First National Bank of Maryland, Baltimore, Maryland: $38,000.00.

Frederick, County National Bank, Frederick, Maryland: $3,250.17.

Walker & Dunlop, mortgage 5/1/73: $26,901.20, 3808 Leland Street, Chevy Chase, Maryland.

Walker & Dunlop, mortgage: $1,799.79, 306 Redwood Avenue, Frederick, Maryland.

Total interest paid: $6,886.18.

INTEREST IN TRUSTS OR REMINDERS

Trust established under the Will of Grace Winebrener Trail, Circuit Court for Frederick County, Maryland, Equity No. 7707.

Trust established under the will of Charles McC. Mathias, Sr., Orphans Court, Frederick County, Maryland, Estate No. 8983.

Trust established under the will of Ganny Gore Cutler, Suffolk County Court, Boston, Massachusetts, No. 046024572.

For year 1972: Investment Income, $1,905.93; Interest, $198.47; Honorariums, $4,475.00; and Net Rents, $912.81.

MAY 15, 1973.

Hon. JOHN STENNIS,
Chairman, Select Committee on Standards and Conduct, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Senate Rules 42 and 44, I have submitted the information required.

In addition to that disclosure, Mrs. Mathias and I wish to follow the practice that we have established and to make a listing of our assets, our liabilities and our income over and above Congressional pay and allowances. A copy of this voluntary report is enclosed for your information and additional copies will be submitted to the Congressional Record.

Sincerely yours,

CHARLES McC. MATHIAS, Jr.,
U.S. Senator.

WHO SPEAKS FOR CONSUMERS?

Mr. RIBICOFF. Mr. President, in recent testimony on the Consumer Protection Agency legislation, Mr. Reuben Robertson, former Chairman of the Consumer Affairs Advisory Committee of the Civil Aeronautics Board and founder of the Aviation Consumer Action Project discussed airline fare overcharges. In his testimony, Mr. Roberston pointed out that over the years airlines have repeatedly been accused of overcharging their customers on a widespread basis, yet for years the Civil Aeronautics Board, which has jurisdiction over such problems, has failed to take any action. He urged the creation of a consumer advocate agency with authority to investigate and publicize the prevalance of such practices and to inform consumers how to avoid them.

Following his testimony, Mr. Robertson has written me further documenting the need for such an agency. In his letter Mr. Robertson criticizes the results of a recent CAB investigation or airline overcharging, which showed overcharges. To check the accuracy of the CAB report, the Aviation Consumer Action Project, a voluntary, nonprofit group advocating safety and consumer interests in the aviation industry, studied a random sample of tickets found by the CAB to contain no overcharges. In contrast to the CAB, it found that 70 percent of the tickets actually contained overcharges of $6 to $38 each. Mr. Robertson has asked that the CAB explain the discrepancies and its policies with regard to the elimination of overcharges. I have sent a letter to Mr. Robert D. Timm, Chairman of the Civil Aeronautics Board, asking him to respond to the specific questions posed by Mr. Robertson.

Mr. Robertson's letter points up again the inadequacy of our present regulatory system and the need for a Consumer Protection Agency which can represent consumer interests at formal and informal agency proceedings and can provide a continuing monitor of agency investigations and enforcement proceedings.

Mr. President, I ask unanimous consent that Mr. Robertson's letter to me be printed in the RECORD.

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

AVIATION CONSUMER ACTION PROJECT,
Washington, D.C., May 9, 1973.

Hon. ABRAHAM RIBICOFF,
Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR SENATOR RIBICOFF: As you are chairing the joint hearings of the Senate Government Operations and Commerce Committees considering the need for institutionalized independent consumer advocacy before the federal regulatory agencies, I would like to bring to your attention the following information.

A study printed in the May 1972 issue of *Consumer Reports* disclosed substantial and widespread patterns of consumer overcharging by airlines, particularly on certain joint fares involving more than one airline, where no through fare has been established. The Consumers Union report disclosed that its researchers had been overcharged on 20 out of 31 such tickets they purchased, almost 70 percent. CBS News reported similar results in its own investigation of airline ticketing practices.

Overcharging for an airline ticket, of course, is a direct violation of the Federal Aviation Act, under the enforcement responsibility of the Civil Aeronautics Board. While many millions of dollars were being illegally and unfairly extracted by such practices for years the agency did nothing.

After disclosure of these charges by CU, the CAB's Bureau of Enforcement conducted an abbreviated audit of interline ticket coupons at Washington's National Airport. As a result of that audit the Board issued a press release acknowledging that patterns of overcharging had been substantiated, but substantially differing with the Consumers Union study as to the frequency. The Board released statistics, purportedly based on its own study, showing that 25 out of 171 tickets analyzed contained improperly computed fares. According to the Board, 20 of these were overcharges, while 5 were undercharges. Thus the Board's release suggested that overcharges had occurred only in slightly more than 11 percent of the sample it studied (by no means a negligible figure).

To check on the accuracy of the Bureau of Enforcement study, researchers for Consumers Union and the Aviation Consumer Action Project then sought access to examine the ticket coupons the Bureau had analyzed. After considerable delay and negotiation, we were finally permitted to inspect first the coupons found by the Bureau to have been in error and then those found to have been correctly computed. We thereupon conducted a limited re-audit of a random sample of the 146 tickets said by the CAB auditors to be correct.

Ten coupons selected at random from the CAB checked tickets were analyzed by the CU–ACAP researchers. Of these, we found that seven actually contained errors in the fare computation, based on the tariffs in effect at the time of issuance. Each error was in the airline's favor, ranging from $6 to $38 in overcharges. The total overcollection on the seven tickets was $109.50. These, it should be emphasized, were in tickets which the CAB assured the public were correct.

For your reference a summary of our analysis of the overcharged tickets is enclosed.

It is hard for us to comprehend how the Bureau of Enforcement could itself have been wrong in 70 percent of the sample of audited tickets which we checked. If our computations are correct, either the Bureau was intentionally trying to deceive the public as to the frequency of airline overcharges, or it is simply incompetent to determine the proper fares from the applicable CAB-approved tariffs. In either case this situation demonstrates the urgent need for an independent agency to participate as a consumer advocate in all levels of activity, both formal and informal, at the CAB. The Consumer Protection Agency will be able to participate on a coninuing basis in tariff matters, to resist the acceptance of tariffs that are excessively complex or incomplete and make accurate ticketing (or even auditing) a difficult if not unattainable skill. Moreover, the agency should have the right to look over the CAB's shoulder in enforcement cases and special investigations to make sure the work is being done accurately and completely, and that existing consumer problems are not being deliberately downplayed. Without a continuing monitor which has the basic right to inspect agency records, there is no particular reason to believe the attitudes of the regulatory agencies toward consumer interests will change.

It would be useful, we feel, to have the responsible CAB officials explain for the record, either by testimony or correspondence, the problems they face and their views concerning an independent consumer protection agency. Some areas of inquiry that might be fruitfully explored are:

1—What is the Bureau's and the Board's explanation for failing to find overcharges in seven of ten tickets that were reaudited?

2—Don't the carriers have internal audit

procedures to identify patterns of overcharging or undercharging on passenger tickets? If not, shouldn't this be required?

3—In light of the apparently widespread patterns of overcharging on interline connection tickets, shouldn't the CAB specifically require the carriers to audit their records of such tickets issued in the past in order to identify passengers who were required to pay too much? If not, why not?

4—What steps, if any, have been taken by the Board to assure that anyone found to have been illegally overcharged by an airline will receive an appropriate refund of his money? If the Board has done nothing in this respect, what is its explanation? If the Board believes it lacks the authority to order refunds of illegal overcharges, are legislative changes needed?

5—Were a number of passengers forced to pay additional amounts for their tickets last summer, as a result of spotchecks by Bureau of Enforcement officials at Kennedy airport, which disclosed some undercollections for transatlantic flights?

6—The extreme complexity of the fare structure and the inaccessibility of applicable tariffs appear to aggravate the situation and contribute to the difficulty of determining proper fares. What steps has the CAB taken to improve their clarity and accessibility? Why can't all the tariffs be put into a computer system so that the proper rates can be made instantly available to any ticketing agency?

Please let me know if we can be of any further assistance to you in this matter.

Sincerely,

REUBEN B. ROBERTSON III.

ANALYSIS OF TICKETS FOUND TO BE INCORRECT BY ACAP AND CU

Issuing carrier and coupon number	Routing	Amount charged	Correct fare	Overcharge	Explanation
Trans-World 015-398-816-024	Washington-Columbus-Cincinnati-Washington	$113.00	$98	$15.00	Failure to use through fare on a direct connection.
Allegheny 037-4410-131-073	Providence-Charlottesville via Washington (round trip)	114.00	104	10.00	Boston and Lynchburg, Va., further points.
Allegheny 037-4410-131-074	do	85.50	78	7.50	Same (discount fare).
Northwest 012-440-988-355	Detroit-Greensboro via Washington (round trip)	130.00	112	18.00	Charleston, S.C., further point.
American 001-471-671-980	Boston-Staunton, Va., via Washington (round trip)	114.00	108	6.00	Greensboro, N.C. further point.
Allegheny 037-4410-162-123	Providence-Washington-Hot Springs-Charlottesville-New York-Providence.	141.00	126	15.00	Roanoke further point; failure to use through fare. (Conjunction ticket not attached; if NYC is a through connection the correct fare is 120. Also dependent tickets missing.)
American 001-475-425-971	Chicago-Roanoke via Washington (round trip)	156.00	118	38.00	Fayetteville, N.C. further point.

RESOLUTIONS PASSED BY THE UTAH STATE LEGISLATURE

Mr. BENNETT. Mr. President, I ask unanimous consent to have printed in the RECORD two resolutions passed by the Utah State Legislature, dealing with railroad retirement and the aviation trust fund.

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

HOUSE JOINT RESOLUTION NO. 16

A Joint Resolution of the 40th Legislature of the State of Utah memorializing the Congress of the United States to support efforts to increase the adequacy of the Railroad Retirement System through the ton-mile tax.

Be it resolved by the Legislature of the State of Utah:

Whereas, new approaches are needed to the problem of financing the Railroad Retirement System to protect the pensions of members of the system as well as all other railroad employees;

Whereas, the present Railroad Retirement System is not in the position of guaranteeing a continuation of all present benefits or to provide necessary financing to insure a reduction in retirement age;

Whereas, a method of insuring a sound retirement system for present and future pensions is needed without interference from regulatory agencies; and

Whereas, the "Ton-Mile Tax" would be an equitable method of insuring the financial soundness of the Railroad Retirement System;

Now, therefore, be it resolved, that the 40th Legislature of the State of Utah memorialize the Congress of the United States to pass the "Ton-Mile Tax" in order to insure the financial independence of the Railroad Retirement System.

Be it further resolved, that the Congressional delegation from the State of Utah use their efforts to support this concept.

Be it further resolved, that the Secretary of the State of Utah send copies of this resolution to the Senate and House of Representatives of the United States and to each Senator and Representative from the State of Utah.

HOUSE JOINT RESOLUTION NO. 26

A joint resolution of the 40th Legislature of the State of Utah, requesting the Congress of the United States to pass legislation to return to the States a portion of the Federal user charges flowing into the aviation trust fund

Be it resolved by the Legislature of the State of Utah:

Whereas, the federal government has a vital interest in the development of a national air transportation system and to this end has concentrated its efforts in airport development in the major metropolitan areas of our nation, which airports serve the national and international traveler;

Whereas, state government has a major responsibility for developing a state system of multi-sized airports which will complement and include the national system and bring air service to all citizens of our nation;

Whereas, the federal government has levied user taxes of such magnitude on the aviation public as to preempt the field in taxation; and

Whereas, the national policy has been established as being one to encourage the development of the small cities and towns of this nation and to avoid the problems associated with continued urban concentration.

Now, therefore, be it resolved, by the legislature of the State of Utah that Congress is requested to find the proper avenue and pass the necessary legislation to assure that the funds amassed by aviation user taxes on the federal level be returned in part to the state on an equitable and proportionate basis so as to allow the states themselves to provide and maintain their share of the total air transportation system.

Be it further resolved, that the Secretary of State of Utah send copies of this resolution to the Senate and House of Representatives of the United States and to each Senator and Representatives from the State of Utah.

SENATOR RANDOLPH DISCUSSES ALLOCATION OF EDUCATIONAL FUNDS—WEST VIRGINIA AND THE OTHER STATES SUFFER

Mr. RANDOLPH. Mr. President, I have become increasingly concerned about reports from education officials in West Virginia concerning substantial reductions in funds allocated under part A, title I of the Elementary and Secondary Education Act for fiscal year 1973. I have subsequently learned that our State is not the only one which is losing Federal support for disadvantaged children under part A, title I. In fact, there are 32 States which received less money under allocations for fiscal 1973 than in 1972.

The loss of receipts by these 32 States stems from the administration's spending position on the continuing resolution—Public Law 92-534—which provided funds for this program. Funds were released at the level recommended in the 1973 budget which called for $1.58 billion for part A, title I. However, the intent of the Congress was explicit in requiring that programs under the continuing resolution not be funded at the level provided for in the 1973 budget. The spending level was to be determined by the lesser of the two amounts in the appropriation of last June—the Senate item or the House item. The figure contained in both bills was the same—$1.81 billion. The intent of Congress was made clear during the debate on the continuing resolution. On February 20, 1973, a colloquy took place between the distinguished chairman of the Appropriations Committee, Senator MCCLELLAN and the senior Senator from Minnesota, Senator MONDALE which described congressional intent. I quote from the official debate contained in the CONGRESSIONAL RECORD:

Mr. MONDALE. As I understand it, reference is to be made only to the House and Senate bills of last June, and no reference is to be made to either the appropriations for fiscal 1972 or to the administration's budget request for fiscal 1973.

Mr. MCCLELLAN. The Senator is correct. The controlling factor is the lower of the two amounts—the amount of the House item and the amount of the Senate item in the appropriation.

The administration disregarded the intent of Congress, however, and funds under the 1973 continuing resolution have been released at the rate of 1973 budget request. The difference between the funds released is $225 million—a substantial sum of money to be used for the education of disadvantaged children.

The reduced amount of funds received in these 32 States is due in part to the expiration of the floor previously required in section 144(1)(B) of ESEA until the appropriation reached $1.5 billion for part A of title I. Because the appropriation reached that level, the amount available to local educational agencies within each State was recalculated and redistributed among the States, resulting in losses to 32 States. The $1.81 billion appropriated by the Congress insured that no States would receive a lesser amount in 1973 than they received in 1972.

In our State of West Virginia local educational agencies received $20.5 million in 1972. The total received in 1973 was $17.3 million. This represents a net loss of approximately $3.2 million.

Because of this loss public school employees are being released from their positions and programs are being cut back. I am sure that this same situation is prevalent in many other States.

If we are to continue our commitment to providing quality education for our children of all backgrounds, we cannot allow this type of situation to occur. I am disappointed in the action that the administration has taken.

In the 1974 budget the President has requested no funds for this program.

As the Congress considers the 1974 appropriation in the near future, we must maintain the high priority that we have placed on the education of all children including children from low-income families by requiring specific amounts in the 1974 appropriations to insure a high level of continuation of this program and others.

I ask unanimous consent to have printed in the RECORD tables reflecting the distribution of funds under part A. title I of the Elementary and Secondary Education Act for fiscal years 1972 and 1973.

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF EDUCATION, ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, PUBLIC LAW 89-10 AS AMENDED—TITLE I, ASSISTANCE FOR EDUCATIONALLY DEPRIVED CHILDREN, ALLOTMENTS FOR FISCAL YEAR 1973

	Local educational agencies	Handicapped children (State agencies)	Juvenile delinquents in institutions (State agencies)	Dependent and neglected children in institutions (State agencies)	Migratory children (State agency)	Administration	Total
Total	$1,362,172,431	$75,962,098	$18,553,231	$2,151,293	$72,772,187	$17,105,195	$1,548,716,435
50 States and District of Columbia	1,316,037,468	75,390,278	18,048,482	2,151,293	72,772,187	16,715,886	1,501,115,594
Alabama	34,549,166	645,770	186,164		660,388	360,415	36,401,903
Alaska	2,415,064	1,071,782	96,577			150,000	3,733,423
Arizona	8,134,242	426,071	332,774		1,953,647	150,000	10,996,734
Arkansas	20,963,618	936,409	252,805		697,793	228,506	23,079,131
California	111,618,375	1,770,923	1,666,018		9,355,494	1,244,108	125,654,918
Colorado	10,237,370	1,232,208	153,059	16,768	1,414,503	150,000	13,203,916
Connecticut	11,747,931	1,388,035	94,891	51,483	650,105	150,000	14,082,445
Delaware	2,323,748	571,945	146,474		300,919	150,000	3,493,086
Florida	24,111,072	1,552,513	641,900		10,349,516	366,550	37,021,551
Georgia	40,573,812	654,369	484,972		499,160	422,123	42,634,436
Hawaii	3,715,263	242,984	21,642	7,870		150,000	4,137,759
Idaho	2,719,220	160,368	69,650		844,402	150,000	3,943,640
Illinois	69,554,901	4,065,275	600,535	148,397	704,760	750,739	75,824,607
Indiana	18,773,439	1,999,221	306,547	165,097	677,585	219,219	22,141,108
Iowa	14,601,661	650,792	124,537	83,457	92,538	155,530	15,708,515
Kansas	9,147,430	1,105,376	127,262		600,196	150,000	11,130,264
Kentucky	32,212,788	603,205			82,548	328,985	33,227,526
Louisiana	31,322,489	2,038,346	409,733		453,587	342,242	34,566,397
Maine	5,633,673	539,575	117,804	12,038	60,192	150,000	6,513,282
Maryland	19,380,669	1,243,727	552,384		872,185	220,490	22,269,455
Massachusetts	24,893,505	3,193,707	282,126		279,444	286,488	28,935,270
Michigan	51,768,916	4,869,149	429,659	13,123	3,983,098	610,639	61,674,584
Minnesota	20,897,155	967,695	320,888		418,966	226,047	22,830,751
Mississippi	35,922,629	420,051	221,419		966,075	375,302	37,905,476
Missouri	23,367,302	1,763,614	391,245		431,660	259,538	26,213,359
Montana	2,865,542	268,712	87,708	46,863	810,007	150,000	4,228,832
Nebraska	7,187,530	319,015	87,278	29,236	268,712	150,000	8,041,771
Nevada	923,899	99,746	104,045		36,115	150,000	1,313,805
New Hampshire	2,007,413	327,184	77,389		22,357	150,000	2,584,343
New Jersey	44,232,287	3,873,507	752,677		2,096,825	509,553	51,464,849
New Mexico	7,393,185	327,185	130,272		944,148	150,000	8,944,790
New York	196,835,764	9,337,521	1,810,093		2,825,202	2,108,086	212,916,666
North Carolina	51,556,663	2,079,619	830,214		1,435,140	559,016	56,460,652
North Dakota	4,101,267	253,234	52,453		708,111	150,000	5,265,065
Ohio	42,248,122	4,560,804	931,250	141,880	1,408,054	492,901	49,783,011
Oklahoma	16,649,246	621,693	173,266	208,951	718,000	183,712	18,554,868
Oregon	8,421,321	1,163,858	241,673		1,799,386	150,000	11,776,238
Pennsylvania	64,998,125	5,055,335	633,963	227,390	558,925	714,737	72,188,475
Rhode Island	4,873,849	484,021	31,411	30,460	2,856	150,000	5,572,597
South Carolina	29,853,231	1,033,576	288,060	72,230	598,047	318,451	32,163,595
South Dakota	5,470,551	349,541	61,051		34,825	150,000	6,065,968
Tennessee	31,273,191	801,408	532,696	312,996	299,238	332,195	33,551,724
Texas	67,675,754	3,387,497	992,302	305,687	18,044,582	904,058	91,309,880
Utah	3,894,921	377,487	117,804		245,066	150,000	4,785,278
Vermont	2,093,957	659,528	77,819		6,019	150,000	2,987,323
Virginia	31,522,692	1,230,488	590,308		723,159	340,666	34,407,313
Washington	13,445,639	1,279,703	356,243		1,981,909	170,635	17,234,129
West Virginia	17,319,813	449,717	210,671	25,796	194,333	182,003	18,382,333
Wisconsin	17,340,875	1,931,063	490,014	43,726	489,538	202,952	20,498,168
Wyoming	1,170,817	168,021	50,715	26,901	172,872	150,000	1,739,326
District of Columbia	10,096,368	837,705	306,042	180,944		150,000	11,571,059
American Samoa	331,987					25,000	356,987
Guam	878,527	48,153				25,000	951,680
Puerto Rico	27,916,250	523,667	490,991			289,309	29,220,217
Trust Territories	1,062,419					25,000	1,087,419
Virgin Islands	561,023		13,758			25,000	599,781
Department of the Interior, BIA	15,384,757						15,384,757

[1] $725,000 to be withheld for migrant record transfer system.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION—ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, PUBLIC LAW 89-10 AS AMENDED: TITLE I, ASSISTANCE FOR EDUCATIONALLY DEPRIVED CHILDREN

[Allotments for fiscal year 1972; amounts in dollars]

	Part A							Part B	Part C			Grand total	
									Special grants for urban and rural school districts				
	Local educational agencies	Handicapped children (State agencies)	Juvenile delinquents in institutions (State agencies)	Dependent and neglected children in institutions (State agencies)	Migratory children (State Agency)	Administration	Part A, total	Special incentive grants	Local educational agencies	Administration	Part C, total	State administration	1972 total, title I allotment
Total	1,406,615,985	56,380,937	18,044,820	2,167,846	[1] 64,822,926	17,307,969	1,565,415,210	7,280,737	24,572,538	231,515	24,804,053	17,539,211	1,597,500,000
50 States and District of Columbia	1,364,707,215	55,978,666	17,705,057	2,167,846	64,822,926	16,935,605	1,522,317,315	7,280,737	24,572,538	231,515	24,804,053	17,167,120	1,554,402,105
Alabama	40,257,135	560,648	279,173		589,025	416,860	42,102,840		1,003,889	9,729	1,013,618	426,589	43,116,458
Alaska	2,054,974		77,447			150,000	2,282,421	42,739	31,991		31,991	150,000	2,357,151
Arizona	8,648,415	373,893	286,460		1,742,533	150,000	11,201,301		95,202		95,202	150,000	11,296,503
Arkansas	24,214,456	906,163	232,005		622,388	259,750	26,234,762		555,693	5,557	561,250	265,307	26,796,012
California	122,028,439	1,477,445	1,847,592		8,541,235	1,338,947	135,233,658		1,780,269	17,803	1,798,072	1,356,750	137,031,730
Colorado	10,100,532	1,146,605	153,775	30,678	1,261,649	150,000	12,843,239	116,611	119,467		119,467	150,000	13,079,317
Connecticut	11,813,005	1,220,152	122,610	44,835	589,260	150,000	13,939,862		144,993		144,993	150,000	14,084,855
Delaware	2,242,296	577,485	102,083		254,785	150,000	3,326,649	20,500				150,000	3,347,149
Florida	26,445,029	1,322,239	470,913		9,231,131	374,693	37,844,005		487,793	4,878	492,671	379,571	38,336,676
Georgia	39,947,788	474,365	401,887		445,220	412,693	41,681,953		893,376	8,934	902,310	421,627	42,584,263
Hawaii	3,250,669	212,443	19,572	6,116		150,000	3,638,800		88,039		88,039	150,000	3,726,839
Idaho	2,730,118	137,286	77,079		753,155	150,000	3,847,638	15,356				150,000	3,862,994
Illinois	63,243,090	3,065,108	921,814	129,870	623,025	679,829	68,662,736		1,096,384	10,964	1,107,348	690,793	69,770,084
Indiana	16,999,801	1,766,309	310,619	154,159	604,364	198,353	20,033,605		98,733	987	99,720	199,340	20,133,325
Iowa	15,464,659	634,115	120,127	113,826	84,286	164,170	16,581,183	665,366	63,398	580	63,978	164,750	17,310,527
Kansas	10,427,273	866,665	126,165		535,338	150,000	12,105,441		102,522		102,522	150,000	12,207,963
Kentucky	37,131,906	455,958	45,634		73,628	377,071	38,084,197		852,374	8,475	860,849	385,546	38,945,046
Louisiana	34,683,312	1,344,864	375,810		404,571	368,086	37,176,643		732,285	6,659	738,944	374,745	37,915,587
Maine	5,607,754	452,890	114,277		53,687	150,000	6,378,608	165,950	34,208		34,208	150,000	6,578,766
Maryland	19,423,141	589,707	507,148		510,643	210,306	21,240,945	10,853	309,946	3,100	313,046	213,406	21,564,844
Massachusetts	23,858,101	2,504,434	244,833		245,225	268,526	27,121,119		273,767	2,738	276,505	271,264	27,397,624
Michigan	47,708,517	2,841,841	501,373	9,633	3,588,427	546,498	55,196,289	1,092,111	620,287	6,204	626,591	552,702	56,914,991
Minnesota	21,120,043	890,344	325,834		372,318	227,085	22,935,624	1,092,111	338,559	3,386	341,945	230,471	24,369,680
Mississippi	42,074,152	302,182	229,321		861,680	434,673	43,902,008		1,098,387	10,911	1,109,298	445,584	45,011,306
Missouri	25,579,100	1,602,563	359,321		385,014	279,260	28,205,258		462,652	4,627	467,279	283,887	28,672,537
Montana	3,013,338	202,861	85,516	42,950	722,476	150,000	4,217,141	249,587	4,479		4,479	150,000	4,471,207
Nebraska	7,523,056	289,527	101,239	34,897	239,675	150,000	8,338,394		67,546		67,546	150,000	8,405,940
Nevada	883,771	115,044	92,802		32,212	150,000	1,273,829					150,000	1,273,829
New Hampshire	1,908,409	243,510	71,711		19,941	150,000	2,393,571		1,026		1,026	150,000	2,394,597
New Jersey	44,860,594	3,340,931	602,577		1,830,525	506,346	51,140,973	44,974	805,184	7,870	813,054	514,216	51,999,001
New Mexico	9,629,504	298,731	105,457		842,122	150,000	11,025,814	327,240	173,918		173,918	150,000	11,526,972
New York	193,459,929	7,253,392	1,849,722	22,774	2,403,247	2,049,891	207,038,955	1,092,111	4,156,486	41,406	4,197,892	2,091,297	212,328,968
North Carolina	56,260,988	1,870,999	819,113		1,280,056	602,312	60,833,468		1,247,117	12,471	1,259,588	614,783	62,093,05
North Dakota	4,271,181	312,536	51,770		631,592	150,000	5,417,079	146,676				150,000	5,563,755
Ohio	41,269,978	638,494	851,709	129,616	1,255,897	441,457	44,587,151		609,843	6,098	615,941	447,555	45,203,092
Oklahoma	18,199,914	497,757	144,188	141,888	640,412	196,242	19,820,401		385,907	3,835	389,742	200,077	20,210,143
Oregon	9,382,231	854,152	239,617		1,641,090	150,000	12,267,090	481,829	70,652		70,652	150,000	12,819,571
Pennsylvania	67,113,702	4,575,784	769,672	219,608	514,091	731,929	73,924,786		1,055,355	10,545	1,065,900	742,474	74,990,686
Rhode Island	5,189,238	402,390	20,120	81,372	2,683	150,000	5,845,803		54,942		54,942	150,000	5,900,745
South Carolina	34,313,120	824,482	264,218	61,357	533,421	359,966	36,356,564		822,963	8,230	831,193	368,196	37,187,757
South Dakota	6,266,048	190,973	44,484		31,062	150,000	6,682,567	165,602	21,942		21,942	150,000	6,870,111
Tennessee	36,288,395	633,892	461,326	233,156	266,902	378,837	38,262,508		846,777	8,468	855,245	387,305	39,117,753
Texas	69,566,731	2,243,741	821,414	475,132	16,094,656	892,017	90,093,691		1,359,839	13,598	1,373,437	905,615	91,467,128
Utah	3,593,198	317,521	100,472		218,584	150,000	4,379,775	163,540	21,287		21,287	150,000	4,564,602
Vermont	2,107,682	291,828	65,959		5,369	150,000	2,620,838	111,020	11,893		11,893	150,000	2,743,751
Virginia	33,803,541	735,515	585,574		645,013	357,696	36,127,339		657,543	6,575	664,118	364,271	36,791,457
Washington	12,255,022	1,278,421	419,218		1,833,149	157,948	15,952,758	502,187	144,348	1,413	142,761	159,361	16,597,706
West Virginia	20,524,496	379,645	187,905	23,009	165,663	212,807	21,493,525	69,084	409,497	4,095	413,592	216,902	21,976,201
Wisconsin	16,546,374	1,730,025	381,517	39,174	438,574	191,357	19,327,021	585,239	138,766	1,379	140,145	192,736	20,052,405
Wyoming	1,235,793	167,297	61,549	33,459	161,927	150,000	1,810,025	120,051	2,174		2,174	150,000	1,932,250
District of Columbia	8,187,278	554,514	253,336	140,337		150,000	9,285,465		221,740		221,740	150,000	9,507,205
American Samoa	333,046					25,000	358,046					25,000	358,046
Guam	902,004	43,717				25,000	970,721					25,000	970,721
Puerto Rico	26,521,556	358,554	329,062			272,091	27,481,227					272,091	27,481,227
Trust Territories	1,049,404					25,000	1,074,404					25,000	1,074,404
Virgin Islands	523,392		10,737			25,000	559,129					25,000	559,129
Department of Interior, BIA	12,477,000						12,477,000						12,477,000
Unallotted	102,368						102,368						102,368
National Advisory Council on Education of Disadvantaged							75,000						75,000

[1] $1,900,000 of this amount reserved for the migrant student record transfer system.

REPORT TO THE SENATE ON CONFERENCE WITH CANADIAN OFFICIALS

Mr. STEVENS. Mr. President, I have just returned from Ottawa, Canada, where I joined six other Members of Congress in participating in a meeting organized by the Canadian Parliamentary Center for Foreign Affairs and Trade. This is a private Canadian organization, partially funded by the Parliament of Canada.

During this meeting, it was a privilege to meet with the Honorable Donald Macdonald, Minister of Energy, Mines and Resources, and the Honorable Jean Chrétien, Minister of Indian Affairs and Northern Development. We also met with Canadian officials who deal with Canada's National Energy policies and the problems of Canada's energy supplies. In addition, we met with Canadian newsmen and leaders of Canadian industry. I have attached a list of those with whom we met to this statement—the list is not all inclusive because we met additional Canadian officials—from Parliament and the Federal Government—and other distinguished Canadians at social gatherings hosted by Adolph Schmidt, Ameri-

can Ambassador to Canada and Mr. William H. Johnson, Deputy Chief of the U.S. Mission of the U.S. Embassy in Ottawa.

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

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

CANADIAN PARLIAMENTARY CENTER FOR FOREIGN AFFAIRS AND TRADE

In Attendance—June 1, 1973

CANADA

A. Brown—Coal Section, Energy Development Sector, Department of Energy, Mines and Resources, Ottawa.

J. Read—Coal Section, Energy Development Sector, Department of Energy, Mines and Resources, Ottawa.

O. J. C. Runnalls—Senior Adviser, Uranium and Nuclear Energy, Department of Energy, Mines and Resources.

W. H. Hopper—Director, Energy Policy, Department of Energy, Mines and Resources.

Wm. A. Scotland—Senior Adviser Oil & Gas—Canada-U.S., Department of Energy, Mines and Resources.

R. B. Toombs—Senior Advisor, Oil & Gas—Canada, Department of Energy, Mines and Resources.

G. M. MacNabb—Senior Assistant Deputy Minister, Department of Energy, Mines and Resources.

Douglas M. Fraser—Vice-Chairman, National Energy Board.

R. Priddle—Director, Oil Policy Branch, National Energy Board.

A. Boyd Gilmour—Assistant Director, Economics, National Energy Board.

R. L. Borden—Chief, International Resources, Industry, Trade and Commerce.

D. W. Fulford—Director, Transport, Communications Division, Department of External Affairs.

R. G. Blackburn—First Secretary, Canadian Embassy, Washington.

E. W. Humphrys—Senior Electrical Advisor, Energy, Department of Energy, Mines and Resources.

Peter Dobell—Parliamentary Centre, Ottawa.

Mr. STEVENS. Mr. President, no formal statements were made in those meetings, and again I emphasize they were organized by the center under the guidance of Peter Dobell, a distinguished former member of the Canadian Foreign Service. However, I have decided to set forth for the Senate my impressions of these meetings and my conclusions based upon them. Obviously, these meetings were important to our future deliberations regarding pipelines and transportation of oil or gas from the Alaskan Arctic to markets in the "South 48."

At the outset let me state that the most important consideration in the determination of the merits of the Alaskan route for the pipeline as compared to the Canadian route is time, and, as a result of this meeting, it is clear to me that Canadian officials agree with Secretary Morton that it will take 3–5 years longer to construct an oil pipeline through Canada than it will through Alaska.

This conclusion is inescapable from the following minimum timetable the Canadian officials outlined for the oil pipeline:

First, the National Energy Board of Canada will be prepared to accept applications for a pipeline at the end of this year.

Second, it would take Canadian industry about 1 to 2 years to prepare an application for the Canadian right-of-way and a certificate of convenience and necessity. The right-of-way application is filed with the department of Indian affairs and northern development; the certificate of convenience and necessity must be obtained from the national energy board—there would also have to be an application to the U.S. Department of the Interior for the portion of the right-of-way in Alaska and an application to the Federal Power Commission in the United States. It was repeatedly emphasized that nothing could be done by Canadian officials until such an application was filed.

Third. The NEB would take from 1 to 2 years to review any applications filed with it—and would, in all probability, have public hearings on such an application. The Department of Indian Affairs and Northern Development would probably appoint a three man commission to review any application for a pipeline right-of-way—this would take at least 1 year.

Fourth. Highly important in this problem of delay if the Canadian route were selected for the pipeline is the issue of Canadian native claims. Canadian natives have claimed that two treaties dealing with their rights are invalid. In addition, we were informed that Canadian Eskimos have not been the beneficiaries of any treaty; consequently, Canadian Eskimos most certainly have claims that must be dealt with.

Industry representatives told us that no corporation would proceed with a pipeline until the Canadian natives' claims were resolved by the House of Commons—and in doing so, they emphasized that the question goes beyond the validity of any right of way, it also goes to the validity of the oil and gas leases issued to the industry in the Northern Territories.

In other words, the 3 to 5 year delay in the time to obtain authorization of the Canadian oil pipeline right of way and certificate of necessity does not include any of the unforeseeable delays in the processing of the two applications—and, in particular, it assumes that there will be no extraordinary delay in the processing of the Canadian native claims. The United States experience does not support the conclusion that this is either rational or reasonable. As one who was deeply involved in the Alaska Native claims issue I feel that the progress which is being made in Canada on this issue, despite the assurances of the Minister of Indian Affairs and Northern Development, does not warrant a conclusion that the Canadian native claims will be disposed of peremptorily. And, attached to this statement is an excerpt from the testimony I gave to the Senate Interior Committee on this subject on May 2, 1973 and the statement I made to the Joint Economic Committee on June 22, 1972.

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

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

EXCERPT FROM STATEMENT OF SENATOR TED STEVENS BEFORE THE JOINT ECONOMIC COMMITTEE ON JUNE 22, 1972.

One of the most important developments which would likely delay any proposed trans-Canada oil pipeline is the land claims of Canada's Native population. In recent years the northern Natives of Canada have organized to press for settlement of their treaty and aboriginal rights, much as Alaska Natives did in the recent past.

In 1968, Canada's Indian population numbered over 237,000, although most of this number have assimilated into Canadian life and live in the more urban provinces. Nevertheless, many groups still have outstanding land claims with the federal government. In 1899 and 1921, Treaties 8 and 11 were negotiated with the Indians of the MacKenzie District in the Northwest Territories, but were never enacted. With other Indians no treaties were ever enacted at all. Finally, with a third group of Indians, no treaties were entered into, in spite of understandings that such treaties would be negotiated. In 1912 complementary federal and Quebec statutes effected a northern extension of the boundaries of the Quebec province. However, although provisions in both statutes record Quebec's recognition of the rights of the Indian inhabitants of the region and its pledge to obtain surrender of such claims by some kind of settlement, no settlement was ever negotiated.

Thus, the claims of the various groups of Canadian Natives vary considerably. The judicial success of Canadian Indians whose ancestors were promised a settlement but which was never negotiated has been very slim. (See MacGuigan, Mark R., "Human Rights and the Native Peoples of Canada" 46 CANADA BAR REVIEW 695–711 (1968)).

The treaties signed in 1899 and 1921 with the Indians of the MacKenzie District of the Northwest Territories (the area, it should be noted, through which the proposed oil and gas lines would travel) granted the Indians one square mile of land for each family of five. However, these obligations were never fulfilled. A large part of the 8,000 or so Indian population in the Northwest Territories is covered by these two treaties.

In 1959 a Royal Commission was appointed by the federal government which recommended an alternative to granting the land in the form of the payment of $25 million, plus the annual payment of one-half of one percent of any revenues received by the Crown for mineral, gas, and oil reserves in the area of the treaties. This recommendation also was never implemented.

Finally, other Indians are expected to seek settlements on the basis of aboriginal rights, the foundation for the claims of Alaska's Natives. This would include the Eskimos of the Arctic regions and the Indians of the northern Yukon, particularly those in the path of the proposed pipelines from Prudhoe Bay. Most of Canada's present Eskimo population of 15,000 resides in the Northwest Territories and possesses only aboriginal claims.

By legislation enacted in 1965, the Department of Indian Affairs and Northern Development was formed on the federal level with the responsibility of administering Indian Affairs.

The Northern Natives of Canada have at present organized three groups to settle treaty and aboriginal rights. The largest and best organized group is the Indian Brotherhood of the Northwest Territories. The

Brotherhood is composed of Treaty Indians who presently live on reservations and receive a stipend from the government.

The second group is the Inuit Tapirisat which consists of Eskimos and also receives governmental assistance.

The third group is the Committee for Original Peoples Entitlement (COPE) consisting of Eskimos, Metis (part Native, part white), and non-treaty Indians (i.e., Indians who have left the reservation and no longer receive governmental funds).

The Canadian government has not taken a positive position toward the various treaty and aboriginal claims of Canada's Indians. Prime Minister Pierre Trudeau is on record as stating that the Indians' claims should be dealt with on their legal and not on a basis of moral rights—a statement indicating that he is prepared to deal wtih the treaty Indians, but not the non-treaty ones—the Eskimos and the Metis. (Oilweek, April 10, 1972).

Moreover, Jean Chretien, Minister of Indian Affairs and Northern Development, in a May 18, 1972 apparance before the House of Commons declared that his government was "prepared to abide by the treaties and we have offered two options to the Indians: either their lands or a compensatiton. They have not made a choice." (House of Commons Debates, 4th Session, 28th Parliament, May 18, 1972, Vol. 116, P. 2384). Thus, it seems obvious that the Canadian Government is not willing to go beyond its original 1899 and 1921 treaty obligations concerning land allotments, or the settlement figure of $25 million proposed in 1959.

Likewise, Mr. Chretien, in another dialogue this very month (June 5, 1972) in the House of Commons with Robert Stanfield, leader of the Opposition, declared that, although his government was prepared at any time to fulfill its treaties with the Indians of the Northwest Territories, that it intended to proceed with its plans for the development of the North without any effort to settle the question of aboriginal rights. Mr. Chretien declared that only if the Supreme Court of Canada gives a ruling directly with regard to aboriginal rights would the government "take the situation in hand and decide what ought to be done." (House of Commons Debates, 4th Session, 28th Parliament, June 5, 1972, Vol. 116, p. 2836).

The activities of the three Indian groups, however, indicate that they will not accept the present offers of the government, but will press for a settlement to include compensation for their aboriginal claims. Indeed, all of the various chapters of the Indian Brotherhood have refused to meet with the Indian Claims Commissioner regarding settlement of their treaty rights.

The successful efforts of the Alaska Federation of Natives in obtaining a generous settlement of 40 million acres of land, $500 million in cash, and gas and oil royalty payments up to another $500 million have served as a highly instructive model for the Canadian Indian groups.

The declared aim of all three Indian groups is at presnt "no settlement, no pipeline!" (*The Financial Post*, Toronto, April 15, 1972), referring to the proposed oil and gas pipelines down the MacKenzie Valley. The groups plan to go to court to halt construction of any such pipelines if they begin before the Natives have received the kind of settlements they are seeking to both their treaty and aboriginal claims. Thus, obstructing law suits are planned to block any such projects, much as the law suit filed in April, 1970, by five Alaskan Native villages resulting in an injunction barring the Secretary of the Interior from issuing a pipeline permit.

It can be expected that the legal battles involved with any such litigation could reach to the Canadian Supreme Court. At present, lawyers for the groups representing treaty Indians are researching the expectations and understandings of the Indians who signed the 1899 and 1921 treaties to portray their belief that the wording of the treaties might not have represented what the signing chiefs thought they were approving. The non-treaty Indians, on the other hand, are trying to win acknowledgement that their aboriginal claims are indeed valid. The fact that the U.S. Congress explicitly acknowledged the validity of similar claims by its passage of the Alaskan Native Claims Settlement Act last December should provide important legal precedent in this regard.

Also it should be noted that concern has grown greatly in this country with the manner in which our Indian population was treated in past eras. This growing sentiment can be seen visibly by comparing the generous settlement terms which the U.S. Congress finally accepted as part of Alaskan Native Claims Settlement Act and the provisions of a similar bill in the 91st Congress which passed the Senate but not the House of Representatives. That bill passed only 16 months earlier, offered the Alaskan Natives only 11 to 15 million acres of land and $1 billion compared to the 40 million acres and $1 billion agreed to 16 months later. In short, although the Canadian government may not now be prepared to accept the validity of the aboriginal claims of its Natives, political reality and public opinion may force it at a later date to accept these claims at a much higher, more costly settlement figure than it could now negotiate.

In summation, the Native groups of Canada are now organizing to press for the settlement of their treaty and aboriginal claims. Whether they can build up sufficient public support and develop the legal arguments necessary for blocking a trans-Canada pipeline until their claims are settled to their satisfaction is impossible to forecast. However, it does seem plain that Canada's Natives, drawing upon the experience of Alaskan Natives, should be able to significantly delay the construction of any pipeline through Canada, be it oil or natural gas.

EXCERPT FROM STATEMENT OF SENATOR TED STEVENS

Recent reports confirm the seriousness of the Canadian Land Claims. It is now apparent that Canada's northern natives have launched an all out drive to establish their right to land. The key element of this drive is native opposition to government approval of construction of a MacKenzie Valley pipeline. With the cry of "no settlement, no pipeline" (The Financial Post, Toronto, April 15, 1972) Canada's natives have raised this issue, which the United States has just taken 15 years to resolve. The Prime Minister of Canada has recently agreed to negotiate treaty claims with the Indians for a cash land settlement, including perpetual royalties on natural resources. However, Mr. Trudeau at the same time refused to say definitely that aboriginal rights existed legally. These treaties involve nearly 7,000 Indians in the territories. 13,000 Eskimos have no treaties, nor do 5,000 Metis, living side by side with the Indians in the MacKenzie area. In any event, the Indians want to do more than just negotiate their treaty claims, and rightfully so. They are organizing with the Eskimos and Metis to settle their aboriginal land claims. It took this country five years to settle Alaska's native claims. The natives of Canada have watched Alaska's 60,000 natives win a 962.5 million dollar cash and royalty payments settlement plus title to 40 million acres of land. Any major proposed trans-Canada pipeline from Alaska to the Lower 48 would have international repercussions that the Canadian Natives could rightfully use to gain additional leverage. By the same token, such Canadian native land claims would doubtless delay the construction of any trans-Canada pipeline.

Another potentially serious setback for the pipeline is court action recently taken by the Northwest Territories Indian Brotherhood that has imposed a temporary land freeze on the thousands of square miles of treaty lands there. The Indians sought an injunction against any land disposal in the 400,000 square miles area until their land claims settlement is reached. The territorial Supreme Court imposed a three month land freeze until a ruling on the injunction can be handed down. This lawsuit is breaking new legal ground and is apparently an issue of first impression in that jurisdiction. But if the injunction is issued by the Supreme Court of the Northwest Territory, a long term land freeze will probably result.

In his testimony before the Joint Economic Committee, Mr. Donald Wright, the President of the Alaska Federation of Natives, stated:

"We have learned from hard experience that it is imperative to settle the question of aboriginal land rights prior to the construction of any pipeline. The resolution of this issue in Canada is still in its early stages and nothing should be done to undermine its opportunity for successful resolution. To advocate a trans-Canada pipeline must include as its premise a fair settlement of Canadian Indian land claims prior to any construction taking place. Based on our experience in the United States, this will require a number of years of careful and thorough negotiation, perhaps even litigation."

And this is only one major delay. A trans-Canada pipeline would raise significant environmental issues where there is currently no established form for dealing with them and could involve regulatory and jurisdictional delays beyond any reliable estimate. Recently Canadian Arctic Gas Limited President Vernon L. Horte expressed confusion on Canadian federal hearing procedures for the construction application.

The Northwest Territories Minister of Indian Affairs and Northern Development, Jean Chretien, stated that his department will require a separate hearing from that of the National Energy Board. In his speech of March 15, Mr. Chretien stated:

"The Council of the Northwest Territories has formally given its support to the construction of a systems corridor—including a pipeline through the Mackenzie Valley, provided there is involvement of the N.W.T. Government, optimum employment of northerners, compensation to anyone adversely affected and adequate protection of the environment. . . .

"I have decided that public hearings will be held under the Territorial Lands Act at an appropriate time after the Department receives an application for a pipeline right-of-way covering Crown lands which are within the Territories and under my administraton as Minister of the Department of Indian Affairs and Northern Development.

"The purpose of this enquiry will be to assess the regional, socio-economic and environmental implications arising out of the construction and operation of a major pipeline in the Territories.

"These hearings will be held in addition to those required by law under the National Energy Board Act subsequent to an application of the NEB for a Certificate of Public Convenience and Necessity . . .

". . . any application to my Department for a pipeline right-of-way must be based on a viable project proposal and must further be accompanied by detailed documentation of research pertaining to those areas of social and environmental concern enunciated in the Government's Guidelines for Northern Pipelines.

". . . It is my intention to ensure that any hearings under the Territorial Lands Act are structured in such a manner that all those interested in the project at the time

would have an adequate opportunity to be represented and to make their views known. In order to ensure that northern residents, especially the native people, can make a contribution, I would expect that the hearings would be held in part at least in northern centres particularly those closest to the proposed pipeline routes."

A national energy policy for Canada, which may come within the next few months, must be determined before any hearings on the pipeline project will be scheduled. In fact, Mr. Horte, the President of Canadian Arctic Gas Limited, expressed concern that the trans-Canada project might be delayed long enough to require North Slope natural gas to be shipped down through Alaska!

Mr. STEVENS. Mr. President, it is important, I feel, to try to interpret the statements and actions of our Canadian friends and neighbors from their point of view. In the first place, Canada has sufficient oil reserves to meet her future demand. Canada has at least 10 billion barrels of known petroleum reserves and an estimated potential of 120 billion barrels. Canada produced 493 million barrels in 1971 and exported 308 million barrels to the United States in that year. Canada's natural gas reserves indicate a more positive picture. Canada estimates proved reserve at 53 trillion cubic feet, with potential reserves at 725 trillion cubic feet of gas. Canada produced only 2.5 trillion cubic feet of natural gas in 1971 and exported 0.9 trillion cubic feet of natural gas to the United States in that period.

No significant oil discoveries have been made in Canada's McKenzie River area—on the contrary, significant gas discoveries, not included in Canada's gas potential of 725 trillion cubic feet of gas, have been made in the McKenzie River area. Clearly, the Canadian national interest lies in the transportation of natural gas—not petroleum.

The major national issue involved in the Canadian appraisal of the Alaskan pipeline is the potential tanker traffic to the Puget Sound with Alaska crude for refineries in Washington State. It was made very plain to me that the Canadian National Government was prepared to commit western Canadian, low sulfur—sweet—crude oil to the Puget Sound to obtain an agreement from the United States that supertankers would not serve Puget Sound. This is an offer we may not be able to refuse.

It is clear that tanker traffic is now a potential political hazard for the Trudeau government. Canada has indicated it will send a note to the United States protesting the proposed tanker traffic to serve the Eastport, Maine, refinery.

This proposed tanker traffic and that proposed for the Puget Sound appears to me to be more of a political reality than a potential environmental risk—and, we should not ignore the implications in such a political risk.

Most significantly, the Canadian Government has enunciated another problem with political and economic considerations. It is apparent that the Canadian Government would not permit an oil pipeline and a gas pipeline to be constructed simultaneously through Canada to transport Alaskan oil and gas to U.S. markets. It was pointed out to us that if both pipelines were constructed simultaneously there would be a severe drain on available Canadian manpower. In addition, challenge has been made to Canada's ability to finance a gas pipeline—let alone a gas pipeline and an oil pipeline at the same time. Canada is also moving forward with other public works projects, such as the James Bay hydroelectric project which will require $6 billion in financing and 6,500 workers per year for 12 years. It is not possible for Canada to finance projects such as James Bay hydro and both pipelines in the decade ahead. This, as I said, most significant decision means that if it was determined that Alaskan oil should go through Canada it would be at least until 1979 before construction of a gas pipeline could be commenced. Obviously, the people of the Midwest cannot wait 10 years to receive any further increment in natural gas supplies. The one great hope that the United States Midwest has for additional natural gas supply lies in the pipeline to tap Alaskan and Mackenzie River reserves for export to the South 48.

Canada is ready to proceed to process a gas pipeline application. Canadian Gas Arctic Study Ltd. and Alaskan Arctic Gas Study Co. have spent about $30 million for research on the Canadian gas pipeline. It is anticipated that this study, which has taken 3 years to date, will be reviewed for about 18 months, and that the gas line could be constructed in about 3 years. In other words, if the Alaska pipeline is started in 1974 and the application for the Canadian gas line is filed in 1974, it is anticipated that the gas line will be completed sometime in late 1978—just in time to commence deliveries of North Slope natural gas—and at least 5 years before gas could be delivered if both the oil and gas lines are required to be located in Canada. Moreover, it is entirely possible that Mackenzie River gas will be exported to U.S. consumers as soon as the gas pipeline reaches the Mackenzie River—2 years after the Alaskan pipeline commences. This would make additional gas supplies available to the U.S. Midwest by 1975.

Canadian needs for a gasline are great—the Mackenzie River discoveries can support about 1 billion feet per day production—but at least 4 billion feet per day is required to support the trans-Canada gas pipeline of 48 inches. This additional supply can come only from Prudhoe Bay gas reserves. Furthermore, while Canada has no immediate need for Mackenzie River natural gas, it is clear that in about 10 years the Mackenzie River deposits will be needed to fulfill Canadian needs. Natural gas production in the meantime would probably be available for export to the United States—thereby augmenting Midwest supplies and actually providing needed hydrocarbon fossil fuel to the Midwest and East of the United States at least 5 to 8 years earlier than it could delivered if both pipelines are built through Canada.

There are other delay factors—for instance, Canada will not license any pipeline which will disturb gravity flows of rivers crossed by a pipeline. This stipulation alone will require significant research and design of engineering features to prevent disturbance of gravity flow. Furthermore, it was seriously questioned whether Canada has available, without significant environmental damage, enough gravel to supply a footing for two pipelines in Canada and, in my opinion, proponents of the Canadian oil pipeline have ignored completely the warnings being issued by responsible Canadian officials concerning the problems the Canadian gasline will face.

Mr. President, the Toronto Globe and Mail has reported the controversy concerning the problems of financing the gas pipeline and has editorially suggested that even the gas pipeline should be reviewed by the House of Commons. I ask unanimous consent that both the article of Terrance Wills and the Globe and Mail editorial on this subject be printed at the end of my remarks.

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

(See exhibit 1.)

Mr. STEVENS. Mr. President, let me summarize the results of the meetings we held in Canada last week:

First, it will take at least 3 to 5 years longer to construct an oil pipeline through Canada.

Second, Canadian Native claims are a significant cloud on all oil company activity in the Mackenzie River area and these claims must be honorably settled if a gasline is to proceed. If both lines were to be proposed for the Canadian right-of-way, the delay would be even more serious, because it is obvious to me that the Canadian Government is apprehensive about Canadian Native claims.

Third, Puget Sound tanker traffic is a real—political—obstacle to the Alaskan pipeline proposal.

Fourth, the Canadian Government's opposition to constructing both the oil and gas pipelines simultaneously can only increase the delay in making available Alaska natural gas supplies to the U.S. Midwest.

Mr. President, the Alaskan pipeline route has been thoroughly studied. An application has been filed for the appropriate right-of-way.

No delay is necessary for the Alaskan Native claims—we have solved that problem already. And, there is no question that the U.S. capital market could support the Alaskan oil line even while the Canadian capital market financed the gas line. Above all, Mr. President, there is no additional delay to examine the route involved and no question about support from all Alaskans—Native and nonnative—for the Alaskan pipeline.

I am grateful to the Canadian officials who met with us and to Peter Dobell and his staff for organizing the conference. I will be expounding at other times on the need for Alaskan oil now—if it had not been delayed we would not have any shortages today—but this is an issue for another occasion to address the Senate. Suffice it to say for now that Alaskan oil and Alaskan gas will reach U.S. markets sooner, and with less expense in the long run, if this Congress enacts legislation to modify the 1920 Mineral Leasing Act right-of-way limitations and takes action

to assure that the Alaskan pipeline proceeds without further delay.

I urge my colleagues in the Congress to study this issue carefully—at question is the basic issue of whether we will act to alleviate shortages here at home by utilizing U.S. reserves or whether a small group of people who do not want any development of our Arctic oil and gas resources will dominate this question. Congress cannot afford to leave 25 percent of the known U.S. reserves of oil and 40 percent of the gas reserves untapped while we dance a jig to the extremists' fiddle.

We must produce Alaska's vast resources to preserve the integrity of our foreign policy and to try to restore the value of our currency.

EXHIBIT 1

PIPELINE PLAN PROVIDES LITTLE ECONOMIC BENEFIT, REPORT SAYS PIPELINE UNHELPFUL TO ECONOMY

(By Terrance Wills)

OTTAWA.—The proposed Mackenzie Valley natural gas pipeline will provide relatively little employment and revenue for Canadians while pushing up interest rates, energy prices, and the exchange rate of the Canadian dollar.

"A northern pipeline will not make a major long-term contribution to the Canadian economy in terms of employment of personal incomes," says a confidential intragovernment report prepared by the Economic Impact Committee of the Task Force on Northern Oil Development.

"Even with the most favorable impact on employment, the direct and indirect pipeline labor requirements represent only 1 to 1½ per cent of the estimated Canadian labor force (10,000,000) during the years of construction," says the report, which is dated Oct. 6, 1972.

"Under existing tax regulations, returns to the federal Treasury will be minimal (in the order of $73 million), and substantially less than the Alaska Government expects to realize from the operation of the Alyeska (trans-Alaska) oil pipeline ($300 million)," says the main body of the report. A footnote to one of the tables appended goes even farther:

"Income tax revenues as a result of the pipeline might therefore actually decline substantially, thereby increasing the difficulties of Government finance, and resulting in up to $10 million per year in higher Government interest costs."

Canadian Arctic Gas Study Ltd., a consortium of oil and gas and transportation companies, the majority U.S.-controlled, seeks to build the line to carry gas from Prudhoe Bay in Alaska and the Mackenzie Delta.

"Most if not all of the natural gas transported by the pipeline will be marketed in the U.S.," says the report of the committee, whose chairman is H. G. P. Taylor, director of resource programs in the Department of Finance.

The committee is one of five set up by the Government's task force, which itself comprises four deputy ministers and the chairman of the National Energy Board.

The report also says: "The potential costs of pipeline operations include a continuous upward pressure of up to $183 million per year on the Canadian dollar, making it more difficult for other, more labor-intensive, exports to be sold abroad; and a potentially serious upward pressure on the level of Canadian energy prices.

The net increase in demand for the Canadian dollar during the construction of the pipeline could be up to $600-million a year over three years, it says. "This $600-million would represent a significant source of upward pressure on the Canadian dollar."

The higher the value of the Canadian dollar in relation to the U.S. dollar, the more difficult it is for Canadian manufacturers to sell their goods in the United States.

It concludes that the pipeline would be "a mixed blessing" for Canada.

The construction of the pipeline—the consortium wants to build it over the period 1975–78—would generate at the greatest possible maximum, employment for 105,000 each year. "Unless other projects requiring similar labor skills were developed at an appropriate time, construction of the pipeline could have a destablizing effect on employment trends in the economy," the report says.

The Canadian portion of the pipeline is estimated to cost $4.5-billion. It is in the financing of the pipeline, and the corollary issue of control, that the report points to some of the largest difficulties.

"Once an application for the pipeline is approved, control of its timing will largely move out of Government hands. At that point it will be difficult, if not impossible, to adjust the timing to accommodate other major capital projects which may be desirable in the same time frame," it says.

"The financing of the $4.5-billion Canadian portion of the pipeline, especially if it coincides with other large resource projects in Canada and abroad, will inevitably put some strain on Canadian and world financial markets. The increased demand for investment funds could push up interest rates in Canada—particularly if one of the conditions imposed by the Government on the pipeline is majority Canadian ownership."

Energy Minister Donald Macdonald has said repeatedly that the Government will insist on majority Canadian ownership—but the report says that this in itself will not guarantee Canadian financial control.

"Financial control of the pipeline by Canadians would tend to ensure additional benefits to Canada. Such additional benefits would not likely be forthcoming if Canadians were simply to achieve majority ownership, since this would not guarantee financial control by Canadians.

"The likelihood of financial control relates to the question of probable shareholder behavior, since normally only a small proportion of total shareholders control corporate policies.

"In contrast to the possible behavior of Canadian investors in the pipeline most foreign investors (especially the American-controlled members of the pipeline consortium) will be interested in controlling the management of the pipeline.

"It is evident, therefore, that something beyond majority ownership by Canadians would be needed to guarantee financial control of the pipeline."

The report recommends that the Government require that a majority of the directors be Canadian, that the executive officers be Canadian, and that the Government be able to appoint a director who would also be a member of the executive committee.

The report estimates that from $250-million to $750-million could be raised in Canadian equity financing for the line. The portion of the cost to be raised in equity capital would be about $1-billion, leaving $3.5-billion to be raised in debt financing.

The Canadian content of pipeline inputs is estimated to lie within a range of from $1.8-billion to $2.9-billion.

The extent of Canadian financing and of Canadian-made materials in the pipeline will, along with the timing in raising the capital, be the important factors governing the behavior of the exchange rate of the Canadian dollar.

That is, the more money raised in Canada and the less spent in Canada on materials for the pipeline, the less the upward pressure on the Canadian dollar. Conversely, the more money raised in the United States and spent in Canada on materials, the greater the upward pressure on the Canadian dollar in terms of the U.S. dollar. And too, the greater the inflationary pressure within Canada.

There will at least be localized inflationary pressures, as the economy attempts to produce the $3.4-billion to $5.3-billion in goods and services that is estimated to be the total Canadian income directly and indirectly related to the construction of the line.

"The rate of inflation would be made even worse if an attempt were made to absorb any increased foreign demand for the Canadian dollar by means of an expanded domestic money supply," the report says.

"In the absence of such offsetting Government intervention, any increase in demand for the Canadian dollar would tend to push up its value—resulting in higher imports and lower exports.

"The ensuing net shift in the balance of trade could be as much as $1.6-billion over three years.

"In addition to these difficulties stemming from a higher value of the Canadian dollar, the problems of Canadian exporters would be compounded by any further increase in the rate of domestic inflation."

The report urges changes in legislation to gain more revenues from the natural gas and its transportation for the public Treasury. (Mr. Macdonald has said he supports gaining increased revenues from resources.)

There will be no income tax revenues from the line for its first 10 years of operation through tax deferral provisions, the report says, and adds: "TransCanada Pipelines Ltd., the largest gas pipeline in Canada, has not paid any income tax since it began operations in 1958."

The report says that increasing revenues for the federal Treasury by higher royalties on gas would apply only to the Mackenzie Delta gas and not to the Prudhoe Bay gas that the line would carry.

It recommends a throughput levy to tax "the legitimate source of revenue" provided by the transportation of the Alaskan gas. A throughput tax of 10 cents per thousand cubic feet on a throughput of 1.2 trillion cubic feet per year would yield revenues of $125-million and increase costs to the U.S. consumers by 12 per cent.

"What is clear is that for Canada to accept anything less than the maximum possible return would be to subsidize the U.S. user at the expense of the Canadian taxpayers," the report says.

A MATTER FOR THE HOUSE

A confidential report prepared by an internal Government committee suggests that the proposed Mackenzie Valley natural gas pipeline would produce few benefits for Canada and would damage the country in a number of important ways.

The report is dated October 6, 1972. It was prepared by the Economic Impact Committee of the Task Force on Northern Oil Development. The task force is made up of four deputy ministers and the chairman of the National Energy Board; and the economic committee is headed by H. G. P. Taylor, director of resource programs in the Department of Finance. The committee report was released unofficially at the weekend. It is, in other words, one of those papers which the Government, under its secrecy guidelines, would treat as not for public consumption.

Yet it is a report in which the public interest is deeply concerned.

The report finds that the pipeline would provide, either directly or indirectly, relatively few jobs for Canadians ("only 1 to

1½ per cent of the estimated Canadian labor force"). Because these jobs would be temporary, lasting about three years, they "could have a destabilizing effect on unemployment trends in the economy".

Tax returns to the federal Treasury would be minimal (TransCanada Pipelines Ltd., to give a precedent, "has not paid any income tax since it began operations in 1958"). The pipeline might even result in declining tax revenues, "resulting in up to $10-million per year in higher Government interest costs".

"Most if not all of the natural gas transported by the pipeline will be marketed in the United States," says the committee. This would not only give to the United States a limited Canadian resource that is likely soon to be in short supply but, by introducing U.S. competition, elevate the cost of Canadian energy resources about what they need be.

The capital costs of the project would be huge and probably beyond the capacity of Canadian capital markets. Getting the money, both at home and abroad, could have several bad effects. It would increase inflation. It would put upward pressure on the value of the Canadian dollar, cutting Canadian exports of more job-intensive goods. It would play hob with the Canadian balance of payments.

We would be cutting our power to export the goods that create jobs and which we want to export, in order to make it possible to increase our exports of something—natural gas—which it may not be prudent to export.

Shortly before the last federal election Dr. J. Tuzo Wilson, principal of Erindale College of the University of Toronto and a world-famous geophysicist, talked about that prudence to a federal seminar on scientific activities in Northern Canada. Dr. Wilson, quoting a barrage of experts, indicated that Canada itself was going to need all its proven and unproved petroleum resources.

"Surely," he said, "a cautious individual would be concerned to husband his resources lest he soon be left without . . . The only conclusion I can draw from this is that we should sell nothing abroad, but proceed very slowly and cautiously to develop supplies to meet our own needs. This will give us time to do the research required (to find in usable form the other sources of energy that in the lifetimes of some now living will be absolutely imperative)."

The election threw Dr. Wilson's statements into obscurity, but we suggested at the time that they should be studied seriously after the election. They should be studied now, in conjunction with this secret report.

Prime Minister Pierre Trudeau told the Commons yesterday that the report was an early draft; that is, not worth considering. Energy Minister Donald Macdonald said it was "negated in committee discussions". He told Opposition Leader Robert Stanfield the decision on a pipeline would be made after public hearings by the National Energy Board.

This is not good enough. If the findings of the committee have been negated, then the public is entitled to know by whom and with what facts; and the NEB is not a suitable instrument for the examination. It cannot assess how the pipeline would relate to employment, inflation, a dollar forced upwards and making our exports uncompetitive, our balance of payments, Government revenues.

Mr. Stanfield asked that the whole question, with all pertinent reports, be referred to a committee of the House. The New Democrats made similar requests. Mr. Macdonald's suggestion, that to take the matter out of the hands of the NEB would be unlawful, was the sort of arrogant nonsense which we had hoped the Government had put behind it.

A pipeline would touch on too many facets of national life for NEB competence. Examination of the projects, and decisions about it, belong to the Government, Parliament and people.

QUORUM CALL

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

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER (Mr. HUDDLESTON). Is there further morning business? If not, morning business is concluded.

ALLOCATION OF CRUDE OIL AND REFINED PETROLEUM PRODUCTS

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1570, which the clerk will state.

The assistant legislative clerk read as follows:

S. 1570, to authorize the President of the United States to allocate energy and fuels when he determines and declares that extraordinary shortages or dislocations in the distribution of energy and fuels exist or are imminent and that the public health, safety, or welfare is thereby jeopardized; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 152 of the Senator from New Hampshire (Mr. MCINTYRE).

The text of the amendment (No. 152) is as follows:

PETROLEUM PRICE CONTROLS

SEC. —. (a) The Congress finds and declares that, notwithstanding the imposition of mandatory controls by the Cost of Living Council on March 6, 1973, on the prices of crude oil and petroleum products, such prices have increased and are continuing to increase at an excessive rate.

(b) In order to control inflation, promote a sound economy, and carry out the objectives of this Act as stated in section 102, the Congress urges the President immediately to take such further action as may be necessary to stabilize effectively the prices of crude oil and petroleum products.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. 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. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. What is the pending business?

The PRESIDING OFFICER. The pending question is on the adoption of the amendment by the Senator from New Hampshire, on which the yeas and nays have been ordered. Ten minutes of debate remain, to be equally divided between and controlled by the distinguished Senator from New Hampshire and the Senator from Washington.

Mr. MCINTYRE. I yield myself 4 or 5 minutes.

Mr. President, the amendment before the Senate this morning concerns itself with the significant price increases on petroleum products that we have been experiencing in the past few months.

The amendment is not—and I repeat, is not—mandatory in nature but urges the President to immediately take whatever action is necessary to effectively stabilize prices on crude oil and petroleum products.

At the present time, the 23 largest companies in the oil industry are under mandatory price controls. This control program allows these 23 companies to incease their aggregate prices by not more than 1½ percent this year without receiving prior approval from the Federal Government. It is obvious, however, that the present price procedure has had little effect on individual product prices.

Mr. President, it is only too clear to every Member of this body that one of the primary problems facing this country today is inflation. The exchange value for the dollar as measured against the West German mark fell to an alltime low yesterday while, at the same time, the price of gold rose to a record level of $123.50 an ounce on the London market.

Unemployment nationally has remained constant since November of 1972 at or around 5 percent. The wholesale price index and the consumer price index have both risen at alarming rates. The cost of crude oil and petroleum products have a substantial impact on our economy. This year it is estimated that we will be using approximately 18 million barrels daily. At a time when we are experiencing severe supply problems, it is essential that Congress make clear its determination to actively restrain price increases.

This amendment specifically does not call for decreases of petroleum prices, increases in petroleum prices or a freeze on petroleum prices, but it does make it clear that Congress is extremely concerned over the recent excessive price increases of petroleum products. It does urge the President to take whatever action is necessary to stabilize prices on crude oil and petroleum products.

Mr. President, the underlying issue in considering this amendment is the extent of the commitment that the Senate

has to control inflation and stabilize prices. No one can question the necessity for acting swiftly to stabilize our economy. What we are considering today is a bill recognizing the fact that the Federal Government must establish mandatory allocation procedures to assure that shortages of petroleum products do not cause serious damage to our economy. But there is another side to this question, and that is, that shortages also tend to be reflected through price increases. Under normal economic conditions, this economic interplay, although distasteful, would be expected. However, the fact is that there are controls on wages and prices; and the fact is that we must control inflation; the fact is also that petroleum product prices and crude oil prices are increasing tremendously. We must make sure during this crucial period that those increases that the consuming public are called on to bear must have justification above and beyond the question of supply. This amendment recognizes that fact. I urge its adoption.

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

Mr. McINTYRE. I am happy to yield.

Mr. JACKSON. Mr. President, I again commend the Senator from New Hampshire for the amendment. It is a very sensible amendment. It is advisory in nature and it simply pinpoints the tremendous pressure on prices in this area of supply. I believe it is important as far as the cost of living is concerned. I commend the Senator for offering the amendment and I urge its adoption.

Mr. President, under the announcement of the Chair, one-half of the time is allotted to me. I am in favor of the amendment and support it. I will allocate my time to the distinguished Senator from Arizona (Mr. FANNIN), the ranking minority member of the committee.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. FANNIN. Mr. President, I express my thanks to the distinguished chairman of the committee for giving me this time.

Mr. President, good politics, including good legislation, must have some correspondence with reality. That is to say, when the Congress calls upon the President to do something it is prudent that the request be capable of attainment.

To request the President to stabilize petroleum prices is a request not capable of attainment. It is to ask him to do the impossible.

Let me go into the reasons why.

First, the so-called OPEC agreements forced upon the oil companies all contain clauses which escalate prices. Each new agreement raises prices even further. Other OPEC related activities have resulted in participation agreements which call for 51 percent OPEC control over oil company equity interest by 1983. Some OPEC countries have followed the nationalization route. Libya has recently demanded 100 percent control of oil company interests located in that country. Short of almost impossible negotiations with Middle East oil producing countries the President can do very little, if anything, to stabilize prices of foreign oil.

Second, Mr. President, there is no way to prevent price increases for oil produced in the United States. Here are the reasons why. Nearly all the easy oil has been found and produced. All that is left onshore are marginal reserves which are very expensive to produce. By comparison, Middle East oil wells produce several thousand barrels a day. Only natural pressures are used to "lift" that oil. Thus, the production cost per barrel is only about 20 cents.

By contrast, U.S. onshore production costs about $2 a barrel. The average U.S. onshore well produces less than 5 barrels a day and requires the use of sucker pumps and other expensive equipment employed in secondary and tertiary recovery. As the onshore oil gets scarcer the costs of producing it will continue to rise.

Next, Outer Continental Shelf production is terribly expensive and gets more expensive the deeper we drill and the deeper the water becomes in which we drill. Offshore wells cost over a million dollars a copy. There is no way to prevent costs from increasing in offshore drilling.

Next, Alaskan oil will be expensive not only to produce but also to transport. There is no way to prevent Alaskan oil from being expensive.

Mr. President, Middle East oil, U.S. onshore and offshore oil will become more expensive for the reasons I stated. I did not include the factor of inflation which will add even more to costs and therefore to price.

Third, to try to stabilize prices of oil will result in the short supply situation becoming progressively worse. Let us not forget that the reason we have oil shortages today is because of the natural gas shortage. And the reason we have a natural gas shortage is because the FPC tried to stabilize natural gas prices. The FPC did, indeed, stabilize natural gas prices. They did a beautiful job, so beautiful that the exploration rate for gas dropped so dramatically that last winter the Nation was 500 billion cubic feet short. That amounts to about 83 million barrels of oil.

Now if we can achieve the same wonderful result by stabilizing oil prices, in a few years we can manage to slow down oil production to about zero.

That leaves us coal to burn. Now due to coal mine health and safety restraints and air quality regulations we have only limited opportunity to produce and burn coal.

Mr. President, what I am saying is that if we direct the President to stabilize oil prices we will end up with a shining atmosphere in the daytime but no shining lights at night.

The Senator from New Hampshire recognizes that New England runs on oil. In fact, New England runs mainly on foreign oil, the price of which the Senator recognizes the President cannot control.

Thus, it would seem by his amendment the Senator is either asking the President to do something he is incapable of doing or he is asking the President to insure that the people of New England and elsewhere will not have oil.

Mr. President, no matter how politically creative the Senator's amendment may appear to be at first blush, I would like the RECORD to show that it is impossible to implement; and even if it were possible to implement, its result would be a severely worsened shortage of oil.

I am hopeful that my colleagues will bear these few inescapable points in mind before they cast their votes on the Senator's amendment.

I appreciate the goal of the Senator, but I know that it is not attainable.

Mr. BUCKLEY. Mr. President, I would like to make just two or three observations on why the McIntyre amendment should be defeated.

First of all, we are dealing with commodities that are in short supply. Experience has demonstrated time and again that the one way to make scarce commodities scarcer still is to start tinkering with market forces that tend to eliminate shortages by allowing prices to rise to a point where production is encouraged. The controls imposed by the FPC on the wellhead price of natural gas committed to interstate markets and preconsequent shortage is a case tellingly in point.

Second, the price mechanism, in a competitive market, is one of the best means of assuring that commodities will reach their highest and most efficient economic uses. An attempt to fix prices will, in other words, make more difficult the very difficult job of allocation by governmental edict that this act seeks to mandate.

Finally, unless the Congress is prepared to authorize the dispatch of gunboats to make sure that the OPEC countries do not once again raise the price of the crude oil we must continue to import, we may soon find our refiners squeezed between rising crude prices and the ceilings imposed on refined products. This will inhibit the building of new refinery capacity. It will also further encourage the kind of adjustments in refinery mix in response to price controls that were in large part responsible for last winter's fuel oil shortages.

If the McIntyre amendment is adopted, Mr. President, the inevitable results will be hoarding, black markets, growing shortages in those products which prove least profitable, and a discouragement of exploration—all to the detriment of the very consumer the amendment seeks to protect.

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

Mr. McINTYRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired on the amendment. The question is on agreeing to the amendment of the Senator from New Hampshire. 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 Alabama (Mr.

ALLEN) and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE), is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Wyoming (Mr. HANSEN) is absent by leave of the Senate on official committee business.

The Senator from Idaho (Mr. MCCLURE) is necessarily absent.

The Senator from Massachusetts (Mr. BROCKE), the Senator from New York (Mr. JAVITS), and the Senator from Ohio (Mr. TAFT) are detained on official business.

The result was announced—yeas 63, nays 27, as follows:

[No. 167 Leg.]

YEAS—63

Abourezk	Gurney	Nunn
Bayh	Hart	Packwood
Beall	Hartke	Pastore
Bible	Haskell	Pell
Biden	Hathaway	Percy
Brock	Hollings	Proxmire
Burdick	Hughes	Randolph
Byrd, Harry F., Jr.	Humphrey	Ribicoff
Byrd, Robert C.	Inouye	Roth
Cannon	Jackson	Saxbe
Case	Kennedy	Schweiker
Chiles	Magnuson	Sparkman
Church	Mansfield	Stafford
Clark	Mathias	Stevenson
Cranston	McClellan	Symington
Domenici	McGee	Talmadge
Dominick	McGovern	Tunney
Eagleton	McIntyre	Weicker
Ervin	Metcalf	Williams
Fong	Mondale	Young
Fulbright	Montoya	
	Nelson	

NAYS—27

Aiken	Dole	Huddleston
Baker	Eastland	Johnston
Bartlett	Fannin	Long
Bellmon	Goldwater	Pearson
Bennett	Gravel	Scott, Pa.
Bentsen	Griffin	Scott, Va.
Buckley	Hatfield	Stevens
Cook	Helms	Thurmond
Curtis	Hruska	Tower

NOT VOTING—10

Allen	Javits	Stennis
Brooke	McClure	Taft
Cotton	Moss	
Hansen	Muskie	

So Mr. MCINTYRE'S amendment (No. 152) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Nevada (Mr. CANNON) may have 3 minutes not to be taken out of the time of either side to take up a conference report.

The PRESIDING OFFICER (Mr. HUDDLESTON). Is there objection? The Chair hears none, and it is so ordered.

AIRPORT DEVELOPMENT ACCELERATION ACT OF 1973—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on S. 38, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HUDDLESTON). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 38) to amend the Airport and Airway Development Act of 1970, as amended, to increase the U.S. 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, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of May 24, 1973, at page 16891.)

Mr. CANNON. Mr. President, it is with pleasure that I call up before the Senate the conference report on S. 38, the Airport Development Acceleration Act of 1973.

Recently in a conference with our colleagues from the other body, we reached agreement on a compromise bill which I believe will satisfy the Senate and will provide a strengthened Federal program to assist airport development throughout the United States. The House has recently approved the conference report, and I am sure that Senators will also want to endorse it unanimously.

I will place in the RECORD at the conclusion of my remarks the joint explanatory statement of the committee of conference in S. 38 as passed by the Senate and the House, respectively, and the conference substitute. But, first I would like to briefly outline the provisions of the conference report which is before us.

First, the bill will increase the share of the U.S. assistance to airport development projects from the present 50–50 ratio to 75-to-25 at all airports except the Nation's 22 largest. Second, it will provide Federal grants to airport owners to meet up to 82 percent of their costs for installing equipment and for development work related to antihijacking and airport certification programs. In order to fund this increased Federal assistance, we have increased the minimum annual funding level for airport development grants from $280 million to $310 million. Finally, our bill prohibits discriminatory State and local taxation on airline passengers and on the gross receipts derived from air transportation.

Mr. President, this is a good bill. A similar bill was vetoed last year by the President on the grounds that it was inflationary. We have made a concession to the President by cutting the funding level in this bill back to $310 million per year rather than the $350 million per year provided in the bill which was vetoed. The funds to pay for this program do not come out of general tax revenues; the program is funded entirely by user charges resulting from taxes on users which are kept in trust in the airport and airway trust fund. Therefore, we strongly believe the President should support this additional funding.

Mr. President, I urge Senators to give this improved and expanded airport development program a vote of support. We have every hope that this year the President will approve the enactment of this much needed new program.

Mr. President, I ask unanimous consent that the joint explanatory statement of the committee of conference, to which I have previously referred, be printed at this point in the RECORD.

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

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 38 to amend the Airport and Airway 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, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text and the Senate disagreed to the House amendment.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House, with an amendment which is a substitute for both the Senate bill and the House amendment.

The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below.

Unless otherwise indicated, references to provisions of "existing law" contained in this joint statement refer to provisions of the Airport and Airway Development Act of 1970.

STATE TAXATION OF AIR COMMERCE

Senate bill

Section 7 of the Senate bill provided for a permanent prohibition against the levy or collection of a tax or other charge on persons traveling in air commerce, or on the carriage of persons so traveling, or on the sale of air transportation or on the gross receipts derived therefrom, by any State or political subdivision thereof (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States, or political agencies of two or more States). There were two exemptions from this prohibition.

First, any State which levied such charges before May 21, 1970, would be exempt from the prohibition until *July 1, 1973*.

Second, any airport operating authority which (1) has an outstanding obligation to repay money borrowed and expended for airport improvements, (2) has collected a head tax on air passengers, without carrier assistance, for the use of its facilities, and (3) has

no authority to collect any other type of tax to repay the loan, would be exempt from the prohibition until *July 1, 1973*.

The Senate bill also provided that the prohibition would not extend to the levy or collection of other taxes, such as property taxes, net income taxes, franchise taxes, and sales or use taxes, nor to the levy or collection of other charges such as reasonable rental charges, landing fees, and other service charges from aircraft operators for the use of airport facilities.

House amendment

The House amendment was substantially the same as the Senate bill, except that the exemptions from the prohibition against the levy and collection of the so-called airline passenger head taxes was extended from July 1, 1973, to December 31, 1973, and the exemption with respect to jurisdictitons which impose such charges before May 21, 1970, was limited to those which *levied and collected* such charges rather than those which merely *levied* such charges.

Conference substitute

The conference substitute follows the House amendment in extending to December 31, 1973, the exemptions from the prohibition against the levy and collection of the so-called airline passenger head taxes, and follows the Senate bill in extending the exemptions to jurisdictions which *levied* such taxes before May 21, 1970, rather than limiting the exemptions to those which *levied and collected* such taxes before such date.

AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

ANNUAL AUTHORIZATIONS FOR AIRPORT DEVELOPMENT GRANTS

Senate bill

Section 3(a) of the Senate bill amended section 14(a) of existing law—

(1) to increase the minimum annual authorization for airport development grants to air carrier and reliever airports fom $250 million per year to $375 million per year for each of the fiscal years 1974 and 1975; and

(2) to increase the minimum annual authorization for airport development grants to general aviation airports from $30 million per year to $45 million per year for each of the fiscal years 1974 and 1975.

House amendment

No provision. Existing law contains minimum annual authorizations for each fiscal year 1974 and 1975 of $250 million per year for air carrier and reliever airports and $30 million per year for general aviation airports.

Conference substitute

The conference substitute follows the Senate bill except that—

(1) the minimum annual authorization for airport development grants to air carrier and reliever airports is increased from $250 million per year to $275 million per year for each of the fiscal years 1974 and 1975; and

(2) the minimum annual authorization for airport development grants to general aviation airports is increased from $30 million per year to $35 million per year for each of the fiscal years 1974 and 1975.

OBLIGATIONAL AUTHORITY FOR AIRPORT DEVELOPMENT GRANTS

Senate bill

Section 3(b) of the Senate bill amended section 14(b) of existing law—

(1) to increase from $840 million to $1.68 billion the authority of the Secretary of Transportation to incur obligations to make airport development grants;

(2) to provide a corresponding increase from $840 million to $1.68 billion in the authority of the Secretary to liquidate such obligations and provide that not more than $1.26 billion in such obligations could be liquidated before June 30, 1974, and not more than $1.68 billion in such obligations could be liquidated before June 30, 1975; and

(3) to extend from June 30, 1975, to June 30, 1978, the authority of the Secretary to liquidate obligations incurred before July 1, 1975.

House amendment

The House amendment was substantially the same as the Senate bill, except that—

(1) the authority of the Secretary to incur obligations was increased from $840 million to $1.4 billion;

(2) the authority to liquidate obligations was increased by a similar amount, from $840 million to $1.4 billion, with the limitation that not more than $1.12 billion in such obligations could be liquidated before June 30, 1974, and not more than $1.4 billion in such obligations could be liquidated before June 30, 1975; and

(3) there was no extension of authority to liquidate obligations after June 30, 1975.

Conference substitute

The conference substitute amends section 14(b) of existing law—

(1) to increase from $840 million to $1.46 billion the authority of the Secretary of Transportation to incur obligations to make airport development grants;

(2) to provide a corresponding increase from $840 million to $1.46 billion in the authority of the Secretary to liquidate such obligations and provide that not more than $1.15 billion in such obligations can be liquidated before June 30, 1974, and not more than $1.46 billion in such obligations can be liquidated before June 30, 1975; and

(3) to extend from June 30, 1975, to June 30, 1978, the authority of the Secretary to liquidate obligations incurred before July 1, 1975.

UNITED STATES SHARE OF PROJECT COSTS

IN GENERAL

Senate bill

Paragraph (1) of section 5 of the Senate bill amended section 17(a) of existing law to provide that the United States share of allowable project costs of any approved project *shall be*—

(1) 50 percent for sponsors whose airports enplane not less than one percent of the annual total of passengers enplaned by all certificated air carriers (large hubs); and

(2) 75 percent for sponsors whose airports enplane less than one percent of the annual total of passengers enplaned by all certificated air carriers (medium hubs, small hubs, non-hubs, and general aviation airports).

Under existing law, the United States share *may not exceed* 50 percent, regardless of the passenger enplanements.

House amendment

Section 5 of the House amendment was substantially the same as the Senate bill except that—

(1) the Federal share *may not exceed* 50 percent with respect to airports classified as large hubs and *may not exceed* 75 percent for smaller airports, and

(2) the language relating to the Federal share allowable on account of any approved airport development project was modified to make it clear that the amount allowable for a project would be determined by the number of passengers enplaned at the airport with respect to which the grant is made.

Under the Senate bill, the Federal share would be determined by the total number of passengers enplaned for all airports operated by the same sponsor.

Conference substitute

The conference substitute follows the House amendment in providing that the Federal share of allowable project costs *may not exceed* 50 or 75 percent, as the case may be with respect to any given airport development grant.

The conference substitute follows the Senate bill in providing that the Federal share will be determined by the total number of passengers enplaned for all airports operated by the same sponsor, except that the language of the Senate bill was modified to make it clear that the Federal share allowable for a project would be determined by the total number of passengers enplaned for all *air carrier* airports operated by the same sponsor and that sponsors of general aviation or reliever airports (which have no passenger enplanements by certificated air carriers) will be eligible to receive a Federal share of 75 percent without regard to the number of such passenger enplanements at *air carrier* airports operated by the same sponsor.

EQUIPMENT FOR SAFETY CERTIFICATION AND SECURITY EQUIPMENT

Senate bill

Paragraph (2) of section 5 of the Senate bill added a new subsection (e) to section 17 of existing law to provide that the United States share of allowable project costs of an approved project *shall be*—

(1) 82 percent of that portion which represents the cost of safety equipment required for airport certification under section 612 of the Federal Aviation Act of 1958 and incurred under a grant agreement entered into after May 10, 1971; and

(2) 82 percent of that portion which represents the cost of security equipment required by rule or regulation of the Secretary of Transportation and incurred under a grant agreement entered into after September 28, 1971.

Under existing law, such costs would be governed by the general provision that the United States may not exceed 50 percent.

Section 2 of the Senate bill also amended section 11(2) of existing law, relating to the definition of "airport development", to specify that required security equipment is a part of airport development.

House amendment

The House amendment was the same as the Senate bill except that it provided that the Federal share may not exceed 82 percent of the allowable costs of safety equipment required for airport certification and 82 percent of the costs of security equipment.

Conference substitute

The conference substitute is the same as the House amendment.

TERMINAL FACILITIES

Senate bill

The Senate bill contained three provisions designed to make airport terminal facilities eligible for Federal financial assistance. These provisions amended section 11(2) of existing law (relating to the definition of "airport development"), section 17 (relating to United States share of project costs), and section 20(b) (relating to costs not allowed).

Under these provisions, airport development would include the construction, alteration, repair, or acquisition of airport passenger terminal buildings or facilities directly related to the handling of passengers or their baggage at the airport and the United States share would be 50 percent of the allowable cost thereof.

Under existing law such facilities are not eligible for Federal financial assistance.

House amendment

No provision.

Conference substitute

The provisions of the Senate bill relating to terminal facilities are omitted from the conference substitute.

AIRPORT DEVELOPMENT

Senate bill

Section 2 of the Senate bill amended the definition of the term "airport development" contained in section 11(2) of existing law to

include language relating to the construction of terminal facilities and to security equipment required by rule or regulation for the safety and security of persons and property on the airport, discussed above in this joint statement.

It also added language providing that the acquisition, removal, improvement, or repair of navigation facilities at airports would be a part of "airport development" and thus eligible for Federal aid.

In addition, this section revised the language of the definition to make several technical changes designed to clarify existing law consistent with current practices under the airport development program. In doing so, however, the Senate bill inadvertently omitted language contained in existing law under which the United States could furnish financial assistance for the acquisition of land for future airport development.

House amendment

The only change in the definition of "airport development" contained in existing law made by the House amendment was to add language relating to security equipment required by rule or regulation for the safety and security of persons and property on the airport.

Conference substitute

The conference substitute is the same as the House amendment.

IMPOUNDMENT OF FUNDS

Senate bill

Section 9 of the Senate bill stated the sense of the Congress that no funds authorized to be appropriated for expenditures under this legislation should be subject to impoundment by any officer or employee in the executive branch of the Government. This section further provided that, for purposes of this legislation, impoundment included withholding or delaying the expenditure or obligation of funds and any time of executive action would preclude the obligation or expenditure of funds.

House amendment

No provision.

Conference substitute

The provisions of the Senate bill relating to the impoundment of funds are omitted from the conference substitute.

HARLEY O. STAGGERS,
JOHN JARMAN,
BROCK ADAMS,
DAN KUYKENDALL,
DICK SHOUP,
Managers on the Part of the House.

WARREN G. MAGNUSON,
HOWARD W. CANNON,
PHILLIP A. HART,
NORRIS COTTON,
JAMES B. PEARSON.
Managers on the Part of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

ALLOCATION OF CRUDE OIL AND REFINED PETROLEUM PRODUCTS

The Senate continued with the consideration of the bill (S. 1570) to authorize the President of the United States to allocate energy and fuels when he determines and declares that extraordinary shortages or dislocations in the distribution of energy and fuels exist or are imminent and that the public health, safety, or welfare is thereby jeopardized; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes.

Mr. TOWER. Mr. President, when S. 1570, the emergency fuel allocation bill, is presented to the Senate for final passage today, I shall reluctantly vote for the measure. I do so, because I recognize the importance of allocations. It is clear that there are numerous vital consumers in this Nation that must be supplied with fuel. Farmers must be able to plant, harvest, and process their produce. We have already seen what the tremendous increase in demand for wheat has done, in part, to the price of wheat domestically. Evidence is growing that the farms of the Nation will be blessed with bumper crops this year. But this will be of no avail should fuels for harvesting and processing these crops and for transporting them to ports or markets be unavailable. Lack of fuel for planting will aggravate future farm produce prices. In order to avoid rapid increases in the prices of agricultural products, I supported the Curtis amendment.

There are additional consumers of fuel that deserve special attention in any system of allocation priorities. Prime among these are the men who produce our energy. It should be indeed ironic should the very group which holds the promise of our salvation from future energy shortages, be denied the fuels with which to carry out the expensive and risky exploration for, and development of our energy resources.

There are the public service sectors, particularly State and local governments, which will deserve special attention. We cannot afford to reduce police patrols, or to ration fuels for our fire departments. Ambulances must be given adequate service as well, even though, in many instances, these are privately owned.

The list could be extended. But, despite the fact that there may be disagreements between my colleagues on the importance of particular sectors in this ranking, the basic need for some system of allocations becomes clear.

I am voting for S. 1570 with some reservations, however. Prime among these is that this legislation is repetitive. It provides the President with no additional authority over the Eagleton amendment to the Economic Stabilization Act. It in fact forces the President, because of the Biden amendment, to make allocations mandatory. There is some considerable question in my mind whether Congress has the constitutional power to force the President to do this. Irrespective of questions of constitutionality, the question remains whether it is useful to pass legislation that is redundant and possibly restrictive of the Executive's power.

On this latter point, I would simply mention that it is my philosophical preference to have a voluntary system of allocations. Despite some claims of noncompliance, I believe we should give this system a chance to work. The administration will be holding hearings on whether to move to a mandatory system of allocations. But until that verdict is in, I believe it is unwise to prejudge whether any noncompliance associated with a voluntary system warrants the "risks" involved in having a mandatory system.

I would, in fact, prefer that we have no need for an allocation system at all, for traditionally the free enterprise system has been the best system for allocating goods and services among the various sectors of the economy. And I would urge that the President move away from these allocations at the earliest practicable date.

My reluctance to vote for S. 1570 is compounded by the fact that the bill does nothing to end the energy crisis or to avert a worsening of it. S. 1570 does not deregulate the price of natural gas sold in interstate commerce. S. 1570 does not provide an investment tax credit for exploration and development of petroleum resources. It does not facilitate the construction of offshore terminals to help unload the foreign petroleum upon which this Nation is becoming dangerously dependent. The bill does not help the exploration for a development of offshore Continental Shelf resources on the Atlantic coast. S. 1570 in no way speeds petroleum from the North Slope of Alaska to Chicago, Los Angeles, or any other city. It does not ease construction of nuclear generating plants.

In short, this legislation does virtually nothing to help solve or ease the energy problems facing this country. S. 1570 is a "business as usual" bill. The simple fact is that America can no longer afford to conduct business as usual. Every remedy to the energy crisis facing us is long-term answer, requiring years before the energy is actually available. And I realize the need to insure certain sectors of the Nation with adequate fuel supplies during this crisis. But, I am afraid people, including legislators, will view this bill as a solution, rather than an interim measure.

Spreading the pain around to everyone is not the way to solve the energy crisis. Its solution requires immediate, concrete action on a wide variety of issues. But other than steps outlined in the President's energy message, we have seen no action toward increasing the supply of, or decreasing the demand on our energy resources.

I will vote for S. 1570. But I would ask the distinguished Senator from Washington, and indeed all Americans. When will we take steps toward solving our energy crisis?

AMENDMENT NO. 167

Mr. BAYH. Mr. President, I call up my amendment No. 167 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 4, line 7 of amendment No. 145, strike "September 1, 1974." and insert in lieu thereof "March 1, 1975."

Mr. BAYH. Mr. President, the able chairman of the Committee on Interior and Insular Affairs deserves our appreciation and respect for the speed with which he has brought this thorough and important legislation to the floor of the Senate. Once again he has demonstrated the attention and concern about our

energy shortage for which he is becoming increasingly distinguished.

My amendment is simple—to change the expiration date of the Emergency Petroleum Allocation Act from September 1, 1974, to March 1, 1975.

If we permit the allocation authority to lapse on September 1, we run the risk of causing serious disruption of fuel supply patterns at a crucial time of the year. Such a disruption could cause farmers to find themselves without needed fuel near harvest time. It might also work severe hardships on truckers during one of their busier times of the year. Moreover, a September expiration could play havoc with the distribution patterns of home heating oil at the outset of the winter season.

On the other hand, if the expiration date is fixed at March 1, we will find energy demand at a relatively low level.

At that time, farmers will be between the fall harvest and the spring planting. Truckers will be in the midst of their slower winter schedule. The peak purchasing period for home heating oil will have passed. And we will not be confronting the increased demand for gasoline which comes in the spring and summer.

The transition from the allocation system to uncontrolled distribution will be smoothest at this time of the year.

Moreover, should the 94th Congress, having studied the effectiveness of the allocation program and the situation at that time, want to extend the authority under this act there would be an opportunity to do so after that Congress convened.

I understand and appreciate the desire of the Interior Committee not to extend the allocation authority for too long a period. However, I think we all recognize that the problems which prompt this legislation will not be resolved within the next 18 months and, therefore, an extension of the expiration date to March 1, 1975, will not impose allocation rules beyond the time when they will be needed.

A word is in order, Mr. President, regarding the overall necessity of this legislation. When we as a nation face fuel shortages, as now is the case, we must never let those shortages fall inequitably on any region of this country or any sector of our economy. Yet, even under the existing voluntary allocation program, this is precisely the situation that confronts us.

Farmers must have fuel during the short planting season, or face economic ruin. Not only would this be a disaster for our farming population; all Americans would suffer in the form of higher prices in the supermarket. While the current voluntary allocation program has helped farmers, their difficulties are not resolved. This bill would resolve the situation by affording farmers the priority consideration they need on a seasonal basis.

Another sector of the economy—independent oil refineries, jobbers, and service station operators—has also been made to bear an unfair burden during the current shortage. The bill would assure these valued independent businessmen, thousands of whom are struggling to operate small businesses, a proportionate share of available crude and refined oil.

Looking to the regional problem, existing delivery patterns have worked severe hardships on the Midwest which has suffered greater shortages than other parts of the country. Once again, the bill would solve this problem through its system of proportionate distribution.

Mr. President, I am pleased to support the Emergency Petroleum Allocation Act, and I hope the Senate will adopt this amendment extending the expiration date to a more appropriate time.

Mr. President, the amendment pretty well speaks for itself. It simply changes the effective date of the Emergency Petroleum Allocation Act from September 1, 1974, to March 1, 1975. I have spoken with the manager of the bill, and I think he is prepared to accept the amendment.

The reason for the change is that we feel that March 1 is a date on which there is much less demand for petroleum commodities than September 1. Thus, the consideration of the extension at that time can be done in a more dispassionate and studied manner.

Mr. JACKSON. Mr. President, we have cleared the amendment on both sides of the aisle. It is a worthwhile, constructive amendment. I urge that the Senate adopt it.

Mr. FANNIN. Mr. President, the amendment would provide additional time to operate an allocation program. I certainly support the amendment.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. JACKSON. I yield back the remainder of my time.

Mr. FANNIN. I yield back the rest of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I send to the desk an amendment and ask that it be read, and I also ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated

The assistant legislative clerk read as follows:

At the end of the bill insert a new section as follows:

ESTABLISHMENT OF STATE FUELS AND ENERGY CONSERVATION OFFICES

SEC. —. It is the sense of the Congress that each Governor of each State is requested to establish a State Office of Fuels and Energy Conservation, such Office immediately to develop and promulgate a program to encourage voluntary conservation of gasoline, diesel oil, heating oil, natural gas, propane, other fuels, and electrical energy.

Mr. HUMPHREY. Mr. President, the amendment is very simple. It asks for cooperation at the State level. I have visited with the Governor of the State of Minnesota and discussed this particular amendment with him. He believes there is great merit to asking each of the Governors to establish an appropriate board, commission, or office to act in a voluntary manner so as to encourage voluntary compliance. I know that this amendment could be of some help in providing for the conservation of our fuel resources.

Mr. JACKSON. Mr. President, again, I wish to say that this is a most helpful amendment. We want as many of the States as we can to go along with conservation practices That is the whole purpose of the Humphrey amendment.

I think it is a very helpful and very constructive amendment, and urge its adoption.

Mr. FANNIN. Mr. President, I support the amendment, but I had just one question about the voluntary programs. It is not the intent to interfere in any way with any of the Federal programs, which under this bill would preempt State programs is it?

Mr. HUMPHREY. Mr. President, I appreciate the question. Absolutely not. The mandatory allocation is entirely different. This is strictly a policy program that relates to recommendations to the Governors.

Mr. JACKSON. This is a supplementary program.

Mr. HUMPHREY. It is supplemental.

Mr. President, as I have stated my amendment urges the Nation's Governors set up offices in their States for fuels and energy conservation.

The purpose of such offices would be to immediately develop and promulgate a program to encourage voluntary conservation of gasoline, diesel oil, heating oil, natural gas, propane, other fuels, and electrical energy.

In my estimation, such offices are urgently needed as an important tool in blunting the energy crisis. These offices would have the responsibility for studying and putting into effect voluntary energy conservation measures which could go a long way to help alleviate the current gasoline and fuel oil shortages.

Mr. President, we must realize that the era of cheap and plentiful supplies of energy is over, and we must all realize that we are entering an era where energy conservation is a necessity. An Office of Fuels and Energy Conservation in each State would help to promote ways to conserve energy and to use available supplies efficiently.

In recent weeks I have been holding hearings on gasoline and fuel oil shortages before the Consumer Economics Subcommittee of the Joint Economic Committee. Many of the witnesses at these hearings testified regarding the urgent need for energy conservation measures, especially as it relates to gasoline.

For example, Mr. Wayne Anderson, an automotive specialist and member of a Department of Transportation Fuel Economy Panel, stated that it may be possible to alter the conventional type of automobile within the next 5 years in ways that could save 30 percent on gas consumption.

He said that introduction of steel belted radial tires will yield 10 percent more gas mileage by reducing rolling resist-

ance. Mr. Anderson also had a number of other suggestions for large gas savings, such as the use of smaller cars and engines.

Mr. President, it is my view that we must now get serious about gasoline economy. Transportation—moving people and freight—accounts for about 25 percent of the energy consumed in the United States. I contend that Americans can move in reasonable comfort with far less fuel than is burned today if they are made aware of the problem and take a few simple, voluntary measures.

According to the Automobile Manufacturers Association, about 56 percent of the cars on the road contain only the driver. The underutilization of cars can be reduced in many cases, especially in metropolitan areas. Car pools and public transportation should be substituted when possible for single occupant cars.

Other measures that could be introduced include reducing the use of automobile air conditioning, keeping tires properly inflated, cutting off motors when stalled in traffic and reducing speed on the highway. Statstics show that the average car driven between 75 and 80 miles per hour will consume almost twice as much fuel as the car driven at 50 miles an hour.

Mr. President, I have only enumerated possible conservation measures in one field, that of transportation. Naturally, the same sort of measures must be taken in the heating and cooling of homes, and in the use of household appliances. Through energy conservation we can help to remove the unhappy consequences of the present fuel shortages.

Conservation is one of our most important tools for alleviating the energy problem. My amendment will encourage voluntary State action to promote it.

Mr. JACKSON. I yield back the remainder of my time.

Mr. HUMPHREY. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. PEARSON and Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 183

Mr. BARTLETT. Mr. President, I call up my amendment No. 183 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Section 104 is amended by adding the following new subsection:

(e) In recognition of the vital role small producers perform in the exploration and development of new reserves of crude oil and in order (1) to promote the conservation of petroleum through abatement of the abandonment of stripper wells and the crude oil reserves thereunder, (2) to encourage expanded exploration and development activity by small producers in search for new reserves, and (3) to reduce the cost and facilitate the administration of this Act; those oil leases whose daily average production per well is not greater than a stripper well of not more than ten barrels per day and small producers of crude oil who produce not more than the average of three thousand five hundred barrels per day shall be exempt from any allocation or price restraints established by or pursuant to this Act.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays on amendment No. 183.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I yield myself such time as I may require.

We have heard a great deal in the last several days about the plight of the small businessman, the independent, particularly the independent who operates a filling station or the one who is an oil jobber, or the independent refiner.

We have heard practically nothing about the independent oil producer. To satisfy the needs of the independent jobber, refiner, and service station man, we have used allocation proposals. This, of course, means that there would be a specific amount of oil, hopefully, available to every jobber and every refiner, and then the products available to the jobbers and service station operators.

I am proposing to exempt the independents who produce 3,500 barrels or less from the allocation formula, to permit the free enterprise system to operate fully for the independent.

The independents only 15 years ago numbered about 20,000. Today there are only 10,000. They have had tremendous difficulty in staying viable and being competitive. In 1957, there were 2,429 rigs operating. Today there are only 1,107, less than half the number. In wildcats drilled, of which the independents drilled many of them, there were in 1957 14,000-plus, and now there are about half that number, 7,587.

The independent oil producer has been the explorer for oil. He has been the finder; 75 percent of new reserves have been credited to independents.

Mr. President, we have a choice today. We are going to pay more in either case, but we are either going to import more oil and have more shortages and pay foreigners for that oil, or we are going to have a stronger domestic industry and pay more for oil in this country.

The domestic reserves and production of oil need to be strengthened. We have been producing much more gas than we have been finding, and we now find ourselves in a position where oil is dropping back, and we are producing less each year than the year before.

Let me state an example of how I think the mechanism of this allocation bill might work if there were not the possibility for a free enterprise aspect, I think we can look at what has happened to natural gas. I realize that natural gas is not a part of this bill, but natural gas, in Oklahoma, Louisiana, and Texas sells for about 19.5 cents per thousand cubic-feet. If it is shipped interstate to the East or elsewhere, then perhaps 35 cents is added for transportation. But in our State, the price we pay ourselves is 60 cents. So the market for intrastate gas in Oklahoma is three times that charged the people elsewhere.

Surely I think the people in the Southwest want to share their energy, but they would also like to share the price that others pay for that energy.

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

Mr. BARTLETT. I am glad to yield to my friend from Louisiana.

Mr. JOHNSTON. I congratulate the Senator from Oklahoma on this proposal.

Many Members of this body are probably not familiar with the problems of the small oil producers, the producers who sometimes do not get more than two or three barrels a day from a well.

My part of the country lies in an area that used to be very rich in oil production. Now its fields, for the most part, are drying up.

For example, we have one formerly high producing field, known as the Caddo-Pine Island field, that now produces only one to three barrels of oil a day per well. It is expensive to extract oil in such a marginal field. If there is anything that we can do for those people in Caddo-Pine Island and other areas like that around my State and the Southwest, we ought to do it.

If they can make a deal with the refiner to get a little higher price and thereby be able to produce that oil, we ought to let them do it, because if we do not do something for these small producers, they are not going to be able to stay in business.

We have a formation characteristic to our part of the South called Travis Peak, which has a relatively small amount of oil and gas in it. Under present conditions, it is not economical to explore and develop many Travis Peak formations because it costs about as much money, under the present system, to get the oil out of the ground as you can sell the oil for. The only way they are going to be able to produce those Travis Peak formations in most areas is to have a little bit of a rise in price.

All we are saying by this amendment is that if you are one of these small producers, if you do not produce any more than 10 barrels a day from your particular oil well, or, in the aggregate, no more than 3,500 barrels on the average, you are a small producer, and if you can get a little better price and help this country by producing the marginal oil wells in marginal formations and marginal areas, we are saying you ought to be able to do it. We can safely take these small people, a decided minority, exempt them from the act, and not do any violence to the regulatory scheme as set out in the act. We can thereby actually help America conquer its energy shortage.

I am very hopeful that the distinguished chairman of the Committee on Interior and Insular Affairs will see the merits of this amendment and will accept it. I congratulate my colleague from Oklahoma on his amendment.

Mr. BARTLETT. Mr. President, if I may continue—I thank the Senator from Louisiana for his explanation of how the amendment would be of benefit—I was pointing out the problem created by price controls for gas. We now have in the bill the McIntyre amendment, which

would require a strict review of prices. This would have a very depressant effect on the mechanism of the marketplace.

Without a viable industry, or the opportunity for a viable industry, we are going to be in a position where we will be subjecting ourselves to political and economic blackmail. We need strong national security, and that will be dependent, not upon an import program, but upon a strong domestic energy industry.

Today the drilling of wells is costing more. The people are going deeper and farther offshore. Artificial lift methods and secondary and tertiary recovery are the tools of the industry that are costly. The independent is finding it continually harder and harder to play his very important role. This bill if a plan was devised where all the crude oil production was allocated, would then have a depressing effect on the marketplace because there would be no incentive whatsoever for a crude oil purchaser or refiner to make any extra effort to raise the price he pays for crude, or to provide any extra incentive for exploration or drilling.

So, we find this bill is not only a bill to allocate shortages, but a bill to perpetuate and to increase shortages on the American people and not to provide an element of dealing with the shortages.

We find that this amendment would eliminate some 10,000 small producers from consideration by the administration in dealing with this problem because it exempts——

Mr. BUCKLEY. Mr. President, will the Senator from Oklahoma yield to me for one or two minutes?

Mr. BARTLETT. I am happy to yield to the Senator from New York.

Mr. BUCKLEY. I do want to make a couple of comments. The Senator from Oklahoma represents a producing State, as does the Senator from Louisiana who has just finished speaking. I represent a consumer State.

I want to emphasize that what the Senator is saying is something that is not for the parochial benefit of the people in Oklahoma or in Texas or the Rocky Mountain region but, rather, the Senator hits right at the heart of what we must do to encourage continued exploration; to continue to take economic high risks for the benefit of all Americans.

In my State, we rely heavily on foreign crude oil. In my State, we are paying among the highest prices for energy in the United States. It is therefore in the interest of my constituents, especially the small independent operator who has historically been the most aggressive and venturesome explorer, that he be able to secure the financing required to enable him to continue to carry on that essential risk-taking. We know that, because of the economics of drilling these days, and the more difficult the oil deposits are to be uncovered, the greater the economic return required justify the risk. In other words, the rewards must be higher commensurate with higher risks. I know of no mechanism more flexible to keep prices at a minimum level to the consumer than to encourage the risk-taking in the marketplace.

Much of the impetus behind this legislation has been the fear that a handful of large corporations who effectively control the great bulk of the distribution of petroleum products, could, in effect, be working against market forces. But, surely, this cannot be said of those individuals, those small firms, which would be affected by the exemption which the Senator from Oklahoma would provide in his amendment.

There is another factor, and that is that the system of national allocation for fuel resources as the governmental mechanism to cope with the fuel shortage whereby the Government seeks to direct every single barrel of oil, every single barrel of refined petroleum product across the country. Without the "lubricant" of the price system, we will inevitably find shortages arising, because the most sophisticated and fair-minded planners cannot anticipate all the conditions which operate in the marketplace.

It occurs to me, and I believe it is one of the strengths of the amendment of the Senator from Oklahoma, the fact that it would exempt a significant portion of our total production now in the hands of the smallest producers which would then be available to shift towards the area of greatest need in accordance with the stimuli of the marketplace.

I therefore thank the distinguished Senator for introducing his amendment, and I certainly will be voting in favor of it.

Mr. BARTLETT. I thank my distinguished colleague from New York for his objective and enlightened remarks. It is important to realize the impact that this would have not only on the producing States but also on the consumer States. It is interesting right now to reflect on the Libyan sweet crude price of $5.35, on the Arabian sweet crude of $5.51, and the Louisiana sweet crude of $4.56. What we are seeing there is that the cheap crude is the domestic crude oil. We certainly want to keep it that way.

This bill would, as the Senator from New York has just said, and the Senator from Louisiana has just said, exempt the stripper well production.

The stripper well is a small marginal well, just above the breakeven point, economically, that averages 10 barrels per day or less. These wells provide 1.25 million barrels of oil per day. Eliminating the stripper well would eliminate a substantial part of our producible reserves. Stripper well production accounts for 8.3 percent of our current consumption. The amount of oil that is produced by the independents, of 3,500 barrels or less per day amounts to 24.5 percent of our total consumption. Much of this oil, particularly that in the stripper category, is not going to be allocated from one area to another. I realize that. But having it subject to allocation, stymies the independent from the free marketplace to do the job he knows needs to be done to alleviate the shortages.

In 1972, a 25-cent-a-barrel increase in the price of crude oil would have continued 15,000 wells in production that were plugged because of cost, because they were losing money producing the oil. This would have meant that the wells, had they continued, would have produced an extra 235 million barrels of oil, I say to the Senator from Louisiana.

In 1972, this was the equivalent of two major oil fields which we would like to find in the United States today and which we are not finding because we are not having sufficient exploration.

This amendment would permit 24½ percent of the demand to be free of price and allocation restraints; otherwise, in allocating the fuels, we will not only be allocating the shortages but perpetuating them and increasing them.

This amendment is a small step in the direction of free enterprise, a small step in the direction of a stronger American oil industry.

Mr. LONG. Mr. President, will the Senator from Oklahoma yield?

Mr. BARTLETT. I yield.

Mr LONG. If we pass the bill as proposed, do I correctly understand the Senator that the bill would give the power of allocation over where this small producer would sell his oil, so that if he is a small independent, just barely managing to pay expenses and maybe making a small, minuscule profit, then this bill could allocate it all, is that correct?

Mr. BARTLETT. Under the bill, without this amendment, the production of the small producer could be allocated and there could be price restraints affecting that production. The purpose of this amendment is to exempt that small producer, the marginal producer, the one who finds 3,500 barrels of oil, from the restraints of allocation, from the restraints of any price effect in the bill.

Mr. LONG. What I had in mind was that, as it stands now, as I understand it, this Government has no power to control the price of foreign oil. If we do this, the foreign nations like Saudi Arabia, Kuwait, Iran, and Iraq, will boycott us or sell us no oil. So we do not have any power to control the price of oil production in Nigeria or Venezuela or in the Near East or any of those places. I would assume that the price control amendment proposed by the Senator from New Hampshire (Mr. McINTYRE) could be applied so that the refiners would be permited to advance the price enough to cushion the oil price of Arabian or Venezuelan oil that we would have to pay. That would be implicit in the price controls. Without the Senator's amendment, would it not be true that there would be no way they could pay a small independent any more for his oil than they were paying all the majors for their oil?

Mr. BARTLETT. There are small independents today—I imagine in the Senator's State as well as other States—who are receiving more than the posted price. In this way, some of the small refiners have satisfied their needs, or a substantial part of their needs, by paying more for oil and encouraging that much more

exploration. This is operating today because they are not coming under the price control mechanism of the Federal Government.

The point I am trying to make here is that there is a very active depressing effect to the allocations if all the crude oil is allocated, because then every purchaser of crude oil is allocated, because then every purchaser of crude oil or refiner is going to be relatively satisfied that he is having his share of the crude oil available. These will be no incentive for him to encourage small independents to look for, to find, and to produce more oil.

So it is going to have a depressant effect on the oil available. It is going to do just as the matter of price control in gas has done. In the State of the Senator from Louisiana, people probably are paying as much for gas as we are—60 cents a thousand—but they are selling it to Washington, D.C., for one-third of that. I do not think this is fair. I think we should have a mechanism in this bill which would permit the marketplace to take effect. If we do not have this, then it is going to be just down the hill very quickly in allocating shortages and perpetuating shortages.

Mr. LONG. My impression is that the way the average independent decides whether to cap his well and pour concrete into the pipe and be done with it is to see how much it cost him last time he reworked his well and how much money he has made since that time.

For example, let us assume that the last time he cleaned out the well, cleaned out the sand and the paraffin so the well could produce efficiently, it cost him $5,000 to rework his well, and the well has made $5,000 of income since that time. Then, if the question is, should he rework the well, the answer at that point would be no, because the chances are that he will not make $5,000. Since the last time he worked it, he would not make enough money to justify cleaning out that well, clearing out the sand at the bottom, cleaning out the paraffin lining the pipes. So it would be better to leave the oil in the ground and forget about it. So the well is taken out of production. It is not reworked, and it produces nothing.

If we are paying—I am told we are—for Near East oil in some places as much as $6 a barrel, does it make any great amount of sense to take out of production American wells which cannot produce at $3 or $4 but could at $5? Would it not make better sense to permit these American wells to continue to produce and rework them and operate them efficiently rather than to take them off stream? The answer is obvious. What point is there to close down American production, to cap over a well and cement a well out of production? If you permit them to charge the same price the Arabians are getting for their oil, these wells would be adding to the strength of the country.

Mr. BARTLETT. The Senator makes a good point.

This amendment would permit the independent who has a marginal well, who might be operating at a small loss and is going to plug it or abandon it, to seek out a refiner and ask him, "Are you willing to pay me a little additional to have this extra amount of oil? Is it worth it to you?" If he can do this, he is going to make available additional oil that would otherwise have to be offset and replaced by foreign oil. We would be paying foreigners for this oil, helping their industry, not helping ours.

I believe this amendment is very important to continue just a small segment of free enterprise, to have it in existence in the oil industry. That is all this amendment would do. It would be a small step in the right direction, not a big one.

Mr. LONG. This bill tends to create a shortage and to place a price control on something we will not have.

It is something like the story about the lady who went to buy tomatoes. She asked the grocer how much the tomatoes would cost; and he said, "30 cents a pound."

She said, "Schultz, down the street, sells them for 20 cents a pound."

He said, "Why don't you buy them from Schultz?"

She said, "Schultz doesn't have any tomatoes."

He said, "If I didn't have any tomatoes, I would sell them for 10 cents a pound."

Taken with the McIntyre amendment, this would give us a very cheap price for oil that would not exist. I think it is far better to let the public have some fuel and pay a little more for it, if need be, and obtain it, rather than put people out of business and let the consumers think you are doing them a big favor by providing cheap fuel when they cannot get it.

An example of this is where a lot of cars are bunched up in town and cannot go to the next county seat because no oil is available, because we provide them with a very cheap price for something they cannot get.

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

Mr. BARTLETT. I yield.

Mr. BENTSEN. Mr. President, I wish to say a few brief words in behalf of the amendment offered by the Senator from Oklahoma.

I am deeply concerned about the problems faced by independent marketers of gasoline and distributors of fuel oil and other petroleum products. I voted for the language in the Economic Stabilization Act to allow the President to make allocations of petroleum products to prevent regional shortages and anticompetitive practices.

I voted for the Moss amendment to insure that independent distributors and retailers are supplied.

But I am also deeply concerned about the independent petroleum producer. In Washington, when the oil industry is discussed, too often the important role of small independent producers is ignored. Last year these small independent producers drilled more than 70 percent of new exploratory wells. They are also involved with keeping the old margin wells in operation—wells which major companies would otherwise abandon. These independents are important to the producing industry. Just as independents are important to the marketing and distribution industry.

This amendment would exempt from allocation these small producers but still keep 75 percent of available oil subject to allocation. This would provide sufficient crude oil to keep the inland refineries at full capacity. But it would also insure that there would be no need for the President to concern himself with allocating production of approximately 10,000 small producers. I think this amendment makes sense in terms of the administrative burden resulting from this legislation as well as preserving as much freedom in the market as possible and still meeting the goals of this bill.

I am pleased to support the amendment, and I hope it is agreed to by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, how much time remains to the proponents of the amendment?

The PRESIDING OFFICER. The proponents have 5 minutes, and the opposition has 30 minutes.

Mr. JACKSON. First, I should like to propound a unanimous-consent request which would be applicable after the conclusion of action of the Senate on the pending amendment.

I ask unanimous consent that the unanimous-consent order previously entered into be modified as follows: that all amendments to the Jackson amendment in the nature of a substitute be limited to 15 minutes.

The PRESIDING OFFICER. To each side?

Mr. JACKSON. Fifteen minutes total.

Mr. LONG. Mr. President, I object.

Mr. JACKSON. Mr. President, may I point out to the Senate, in the interest of fairness, that we have some 15 amendments pending. We are going to be in a difficult parliamentary situation. We are going to vote at 4 p.m. Amendments simply will be offered, and there will be no discussion because we have all these amendments pending.

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

Mr. JACKSON. I yield.

Mr. LONG. My objection was directed to the fact that only a few Senators are in the Chamber, and there may be someone who wants more time on an amendment.

If the Senator would offer his proposal after the next rollcall vote, I would not object.

Mr. JACKSON. Very well, I will propound it after the rollcall vote on the pending amendment.

Mr. President, I am going to be very brief. This amendment sounds like motherhood. Everyone is for small business. We want to help the small producer. I want to help the small producer. The whole thrust of this legislation is to help the independent operator, the refiner, the distributor, the retailer. We want to help small enterprise, but let us face the facts. What are we talking about when we read section (3) of the Bartlett amendment on page 2:

(3) To reduce the cost and facilitate the administration of this Act; those oil leases whose daily average production per well is not greater than a stripper well of not more than ten barrels per day and small producers of crude oil who produce not more than the average of three thousand five hundred barrels per day shall be exempt from any allocation or price restraints established by or pursuant to this Act.

First of all, there are no price restraints in this act. We are only talking about allocation. But how much are we talking about when we are talking about exempting the small producer? Here are the facts. We are talking about one-third of all the production of petroleum in the United States. Now, are we going to have an allocation bill exempt that one-third? This is the issue before the Senate. I think I can see a loophole when it is presented, and if this is not a loophole in the allocation system, I do not know what it is.

I would point out, as far as price is concerned, and I am sympathetic with the problems of the little fellow in this game, I think this is one of the big issues facing the country: How to protect the little fellow and free competitive enterprise.

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

Mr. JACKSON. I shall yield to the Senator in just a minute.

As far as the price problem is concerned, we faced that in the Fannin amendment. Here is what it stated, and that amendment was agreed to by the Senate yesterday:

"No allocation plan, regulation or order, nor mandatory price, price ceiling or restraint, shall be promulgated pursuant to this Act, whose net effect would be a substantial reduction of the total supply of crude oil or refined petroleum products available in or to markets in the United States."

Presently under this bill the President is given the authority to handle the problem of the smaller producers. It is not mandatory that he ignore this problem. He has a discretion. But is anyone going to say that we have a mandatory fuel allocations bill when you turn around, Mr. President, and exempt one-third of all the oil produced in the United States from the regulation? It is all cloaked in the language I just mentioned, under the guise of taking care of the stripper, who does not produce more than 10 barrels a day, and the small producer who produces not more than 3,500 barrels a day.

I like those figures. Do Senators know what I like about them? It shows that one-third of the oil produced in the United States is produced by the little fellow, but just because he is a little fellow does not mean that he should be exempt from the laws of the United States. I want to be sure that one-third increases so that we will have more independents, but to turn around and grant a loophole, an exemption from any allocation system—this is what we are talking about—would make a mockery of what we are trying to do and any Senator concerned about getting oil to the outlets throughout the country on an equitable basis would have to recognize that we would not be doing the job, we would go up the hill and then go down the hill with this kind of amendment.

Mr. President, when you exempt one-third of the production, you might as well forget about passing any bill that would be meaningful.

I am glad to yield to the junior Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would like to ask my distinguished colleague if it is not a fact that this bill already makes exemptions for small refiners, those who refine less than 30,000 barrels a day.

Mr. JACKSON. Will the Senator restate his question?

Mr. JOHNSTON. Is it not a fact that we already have allowed an exemption in the case of refiners, those who refine less than 30,000 barrels a day? Do they not have an exemption?

Mr. JACKSON. They represent 4 to 6 percent of the refining capacity of the United States.

Mr. JOHNSTON. But they are exempted.

Mr. JACKSON. Yes, but only from section 105.

Mr. JOHNSTON. But also small dealers are exempt.

Mr. JACKSON. No, they are not.

Mr. JOHNSTON. Did not the Senator from Massachusetts (Mr. KENNEDY) have an exemption for small dealers?

Mr. JACKSON. Mr. President, in response to the question propounded by the junior Senator from Louisiana, the Kennedy amendment did not exempt the retailers, as I understand the amendment.

Mr. President, I reserve the remainder of my time. I am prepared to yield back the time.

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

Mr. JACKSON. I yield.

Mr. LONG. Mr. President, I wish to ask the Senator if he would feel more kindly to this proposal if the proposal of 3,500 barrels were changed to 1,500 barrels. I would like to ask for the assistance of the Senator's staff in preparing the amendment to the amendment because he has the technicians. It did not seem to this Senator that we were talking about exempting as much production as the Senator seems to feel is involved. I was under the impression that only 25 percent of present production would be involved, but even that is large for the producer producing 3,500 barrels a day.

I do not feel the Senator would feel so strongly about this matter if we amended it to make it a mere 1,500 barrels a day. I would like to ask the Senator if he would find more appeal in that proposal?

Mr. JACKSON. May I say to the Senator, on the figures, that I was busy yesterday and I asked the Senator from Oklahoma to get from the Department figures on the impact on the bill. I will ask the Senator from Oklahoma to give the figures and I will give the industry figures.

We have the total from the industry this morning. I will ask the Senator from Oklahoma what he found from his source as to the impact of this bill on total consumption.

I think the information is that the production of those who produce 3,500 barrels or less is 24 percent of the total consumption of the United States. Total consumption last year in the United States was 6 billion barrels, so 24 percent is 1.5 billion barrels. In terms of production in the United States it is over one-third.

But I wish to ask the Senator what the figure was on stripper production.

Mr. BARTLETT. 8.3 percent. The figure for producers of 3,500 barrels or less is 24.5 percent of consumption. On the strippers, it is 8.3 percent of consumption. I would like to point out that all of this is not subject to allocation.

It would not be allocated because it occurs in such small amounts. So the amount that would actually be available would be a much smaller amount.

I appreciate the Senator's concern over the small independent businessman, and I think this measure aims at reaching some of the problems that he experiences, particularly if he is a refiner or if he is a jobber or if he is an operator of a filling station; but it does not direct itself at all to the problems of an independent producer.

There are going to be some 10,000 producers whose records would have to be kept by the Government and who would have to keep records themselves in this allocation. I think that is going to be an undue burden. I believe this proposal would provide the semblance of a free enterprise system which would work to the betterment of this country, because this measure is going to be counterproductive when it comes to solving or alleviating the energy crisis and the shortage.

I do not think our goal is to perpetuate or increase the shortages, but, hopefully, to solve some of the shortages. That is the purpose of the amendment.

Mr. JACKSON. If the Senator will look at line 7 on page 2 of his amendment—I will ask him for his interpretation—it says "those oil leases whose daily average production per well is not greater than," and so on. Those oil leases, if I read the law correctly, can be oil leases that would be held by the largest American companies. These are large strippers. This is not even confined to the small operator, because the big oil companies are in the stripping business. They also have small operations. And, under the Senator's amendment, he has exempted them. It is very clear.

Mr. BARTLETT. I would like to point out that those stripper leases are strippers regardless of who owns them. They are marginal leases that are going to be plugged out, in many cases, unless there is relief. If we do not have relief for this kind of production, then we are going to have replacement by foreign production when they are plugged out.

Mr. JACKSON. May I ask the Senator—and I respect his judgment, because I do not know anything about the production of oil; I have not been exposed to it except in the course of the energy study—what percentage of the

leases referred to in his amendment, in his judgment, are held by major oil companies as compared with the little fellow.

Mr. BARTLETT. I would like to inform the Senator that I do not know, but I would also like to inform him that——

Mr. JACKSON. That is very important.

Mr. BARTLETT. Often oil wells are produced into a common tank battery on a leasehold, and it is useless to have separate provision for that. It cannot be done by the Senator's amendment. So the purpose of the amendment is to have leases reduced to tank batteries of wells that are in a stripper category.

Mr. JACKSON. First, I think it is quite clear that the bill as drafted covers a big operator as well as a small, although it is alleged to help the smaller strippers. The oil leases in line 7 referred to all who hold leases. That is very clear. And it is clear that it is an attempt to exempt from the authority to allocate, during a time of shortages, one-third of all petroleum produced in the United States.

Second, and I want to emphasize this again, the language as it stands does not mandate the President to make the allocations. He is given the power to do it, but we have not mandated it. If there is a hardship, it can be dealt with.

If we are going to have an effective allocation system, we ought not to manufacture here on the floor one of the biggest loopholes that we could possibly put in a bill designed to bring about the equitable allocation of petroleum products to meet the needs of this Nation.

I reserve the remainder of my time.

Mr. LONG. Mr. President, will the Senator from Oklahoma yield to me?

Mr. BARTLETT. I yield.

Mr. LONG. It seems to me when the Senator places a cutoff at 3,500 barrels a day, that could conceivably be a substantial producer. In other words, I calculate it to be approximately $4 million gross value of oil. It seems to me it would be a better amendment if the Senator would limit his proposal to producers who produce 1,500 barrels of oil a day. That translates down to about $1 million gross value of oil, which would mean somebody making about $100,000 a year, which, after tax on the income, would be about $50,000.

I wonder if the Senator would be willing to either accept or vote for an amendment to limit the size to 1,500 rather than 3,500, because I would like to suggest such an amendment. In fact, I had one of the technicians draft it so it could be considered.

Mr. BARTLETT. I would like to thank the Senator from Louisiana. I find that to be an amendment I can accept. It provides for 1,500 barrels a day, which I assume would occur on page 2, line 10, by changing "3,500" to "1,500." That change would be acceptable.

Mr. LONG. Mr. President, since the yeas and nays have been ordered, it would be necessary to ask unanimous consent to have the modification accepted.

Mr. President, I ask unanimous consent that it be in order to so modify the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the modification is accepted.

Mr. LONG. I thank the Senator. It seems to me that carries out the Senator's desire to limit this to those who are clearly small independents and it takes out those that could be described as "large independents." I think the small independents, who are going out of business in droves, should be preserved in this competitive system of ours so that they can add the oil they produce to the production of the country, rather than liquidate them, as they are being liquidated, all to the detriment of this country.

I shall certainly vote for the Senator's amendment.

Mr. FANNIN. Mr. President, how much time is there remaining? The Senator from Louisiana said he would yield an amount of time necessary.

The PRESIDING OFFICER. The Senator from Oklahoma has used up all his time, and the Senator from Arizona, in opposition, has 12 minutes.

Mr. FANNIN. 12 minutes?

The PRESIDING OFFICER. Yes.

Mr. FANNIN. I thank the Senator.

I support the amendment by the Senator from Oklahoma.

The amendment is designed to promote the conservation of petroleum through abatement of the abandonment of stripper wells and the crude oil reserves thereunder. Second, it is to encourage expanded exploration and development activity by small producers in search for new reserves. Third, it is to reduce the cost and facilitate the administration of this act.

I realize there are some complexities to this particular amendment, but let us look at what we are trying to do.

This amendment would protect the small producers, as other amendments, already adopted, protect the small refiner and marketer. I think this is important. We are seeking expanded petroleum exploration. We are seeking new drilling. We are trying to develop increased domestic fuels production in our country.

What has happened over the years as far as exploration is concerned?

If we look back to the year 1952, there were 8,923 geophysical crew months worked in that year. In 1953 there were 8,675 crew months worked. If we go down to 1960, we find the crew months worked had dropped to 5,207.

So we see that the trend is downward. It is important that we stop that trend, and that we increase the drilling rate and increase exploration in the continental United States.

In 1965, there were 4,471 geophyscial crew months worked. In 1967, there were 3,496. The trend was continuing downward. In 1968, there were 3,390. There were 3,259 in 1969. There were 2,521 in 1970. There was just a small increase in 1971, to 2,760.

We must realize that the number has gone down from nearly 9,000 in 1952 to 2,760 in 1971. There just has not been the incentive to go out and look for oil.

Let us look at the drilling, rotary rigs active and total well completions. That bears on the situation.

The number of such wells in 1953 was 2,613. In 1960, it was 1,746. In 1968 it was 1,170.

If we continue down through the years we see that this has been this downward trend portended of the shortages we have today.

Mr. President, I realize that many of these rigs have gone overseas. But we are now trying to stimulate drilling done here in the continental United States.

We are in a very serious shortage insofar as our petroleum production is concerned. Those opposing the Bartlett amendment would seem to favor not giving every incentive possible to the industry for a stepped-up exploration program.

I hope that we will take the broader view and realize that we want to do everything we can to increase exploration. Incentives must be provided as the distinguished chairman of the committee has brought out, for the major companies and the small companies.

I trust that the Senate will support the amendment.

Mr. JACKSON. Mr. President, I shall just detain the Senate for a moment.

Mr. President, the distinguished senior Senator from Louisiana has offered a modification which has been agreed to unanimously to change the exemption figure to 1,500 barrels a day instead of 3,500 barrels.

Mr. President, with this kind of proposal, I do not know how much of the total will be exempted by the amendment. This is not a way to legislate. And it may still be a substantial part of the total production exempted.

I want to emphasize again, Mr. President, that the President of the United States under the pending bill has the authority to provide for the small operators whom we all want to encourage. I want to see the total production by small strippers increased. The amendment appears to be of assistance to the little fellow. However, it also includes the big ones. It would have exempted one-third of the production of the United States. We have now cut that figure down in terms of the exemption from 3,500 barrels to 1,500 barrels. I do not know whether that is 35 percent or 25 percent of the total production. However, if there is to be equity, I want to emphasize again that the President of the United States has the authority to deal with these special problems and to help the smaller operators.

I want to see the kind of environment in the energy industry so that the small operator can grow and prosper and be able to become a larger part of the total.

The amendment does violence to the effort we are trying to make to provide for a fair and equitable allocation of fuels in short supply.

I hope that the amendment will be rejected.

Mr. FANNIN. Mr. President, the distinguished Senator from Washington

mentioned what he thought his bill would achieve. I have a letter that was sent to me from the Deputy Secretary of the Treasury concerning the position of the administration on this bill.

Mr. President, I will read its entire text in order to reveal to my colleagues the well considered views of the administration:

We have a number of comments on the Amendments to S. 1570, "The Emergency Petroleum Allocation Act of 1973," proposed by Senator Jackson. We are opposed to the Act, as amended, for the following reasons:

(1) It is not necessary. The authority to require allocation of petroleum and petroleum products already exists.

(2) It is ambiguous, which could complicate implementation and could lead to delaying law suits.

(3) It provides the Administration with less flexibility than may be necessary to equitably allocate future supplies.

(4) It would require a mandatory allocation system before it is determined that the voluntary program will not work.

The Administration believes that it has adequate authority to allocate petroleum and petroleum products under the Eagleton Amendment to the Economic Stabilization Act and further legislation is unnecessary. We have already implemented a voluntary program that we believe will allow an equitable redistribution of crude oil and products to independent refiners, marketers, and priority classes of customers. The Oil Policy Committee will hold public hearings June 11–13 to determine whether the voluntary program is effective and whether a mandatory program is required.

I have the following specific comments about the proposed bill, as amended:

(1) Section 102(f) should be deleted. The term "economic efficiency" adds ambiguity to the objectives and possibly conflicts with objectives 102(a), (b), and (c).

(2) Section 104(a) requires "due notice and public hearing" at least "within sixty days" of the enactment of the Act. We have already published notice and will hold a public hearing on the need for a mandatory allocation plan under the authority granted by the Economic Stabilization Act. If S. 1570 is enacted after the date of such hearing, then the inclusion of the above added clause in the Act would necessitate repeating the hearing. Such repetition is neither desirable nor necessary.

(3) Also, Section 104(a) is ambiguous with regard to what finding is necessary, if any, to declare a product in short supply and with regard to which products should be allocated.

(4) Section 104(c) lacks a definition of what constitutes an "exorbitant price." The following sentence should be added to Section 104(c). "Price increases representing increasing costs, or reflecting operating costs plus a normal operating profit, shall not be deemed exorbitant."

(5) Section 104(d) is a new provision in the Act. The section directs the President to "use his authority under the Act and under existing law to assure that no petroleum refinery in the United States is involuntarily required to operate at less than its normal full capacity because of the unavailability to said refinery of suitable types of grades of crude oil."

The PRESIDING OFFICER. Time on the amendment has expired.

Mr. FANNIN. I yield myself 5 additional minutes on the bill.

The letter continues:

Because of the shortage of low sulfur crude oil, the only way to assure that all refineries can run at full capacity with suitable types of crude oil is to relax environmental emissions standards and sulfur restrictions on petroleum products. Consequently, Section 104(d) could lead to a conflict with the Clean Air Act and National Environmental Protection Act. Any attempt to utilize Section 104(d) will almost certainly lead to litigation.

(6) Section 105(b), subparagraph 2 is applicable to any refiner of petroleum products who refined in the United States and/or imported more than 30,000 barrels per day (rather than 200,000 barrels per day as in the previous draft of the Act). This change eliminates some but not all of the objections to Section 105. It should cover all refiners.

(7) Section 105(b), subparagraph 1 covers oil producers producing or importing more than 200,000 barrels per day. This does not cover many large producers and should be changed to cover all producers.

(8) Section 105(c) assures that Section 104 takes precedence over Section 105. It would be better if all of Section 105 were deleted. It is not necessary and leads to ambiguity. One further objection to Section 105 was pointed out in my letter to you of May 16, 1973.

While S. 1570 as amended represents an improvement, the Act still is not necessary. It provides for authority already existing under the Economic Stabilization Act of 1973 and would require a mandatory allocation program which may not be desirable. Further, the proposed Act still has many failings and is ambiguous concerning many details. For instance:

(1) It contains no provision or criteria for finding which fuels are in short supply and which should be regulated.

(2) It provides no provision or criteria for finding when allocations are no longer necessary and for removing controls, prior to termination of authority in September 1974.

(3) It provides no criteria for establishing what constitutes an exorbitant price increase which would be unlawful under the bill.

(4) It will cause duplication of hearings previously held under the Economic Stabilization Act for the same purpose.

(5) It is unclear whether the submission to Congress specified in Section 106(a) is primarily for Congressional oversight or is a requirement prior to implementing any allocations under the Act.

(6) Section 105 is unnecessary and its inclusion will cause ambiguity in interpreting the meaning in Section 104.

We feel that S. 1570 should not be passed. However, if such an Act is deemed necessary, we feel it should take the form of the suggested revisions contained in my letter to you dated May 16, 1973, a copy of which is enclosed, plus changes suggested in this letter.

Sincerely yours,

WILLIAM E. SIMON,
Deputy Secretary of the Treasury.

Mr. President, I realize that amendments have been made to this bill since this letter was written, so all of its recommendations would not necessarily apply. But at the same time, Mr. President, there are the objections that I have stated, and I trust that the Senate will take into consideration the recommendations of the administration.

How much time remains of the 5 minutes?

The PRESIDING OFFICER. The Senator has a minute and a half remaining.

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

Mr. FANNIN. I am pleased to yield to the manager of the bill.

Mr. JACKSON. Who is the author of that letter?

Mr. FANNIN. Mr. William E. Simon.

Mr. JACKSON. I was interested in one comment he made. He did not want any exemption for refineries. I wonder what his position is on exemptions for strippers and people with low production rates. If he is following that policy and is consistent, I assume he is opened to the Bartlett amendment. He does not want any exemptions.

Mr. FANNIN. I would just say to the distinguished chairman of the committee, the floor manager of the bill, that perhaps he did not have the evidence that he would need to consider the Bartlett amendment. But I know that the administration is interested in more exploration and in additional drilling, and that we do whatever is necessary that is within reason and that is economically sound to go forward with a vigorous and ambitious exploration and development program.

I think, evidently, he did not have the instant amendment available to him at the time the letter was written. It would be difficult to surmise what position he would have taken otherwise.

Mr. JACKSON. Mr. President, I have a high personal regard for Bill Simon. He is a top-flight investment banker, but he is caught up in a difficult situation at the moment.

It is not easy to manage this situation, but I am confident that Bill Simon, smart as he is, knows that there will have to be mandatory allocations. How can oil be moved from one group to another by contract except by action at the Federal level? The Federal Government does have power to affect existing contracts in this situation with a mandatory allocation system. I would point out that that is why the current program is in deep trouble because it is not mandatory. There must be a mandatory program to be effective.

I would point out further that without the antitrust provisions in the bill before the Senate, the oil companies cannot get together to work out a proper allocation of petroleum. Any oil company that has good legal counsel is not going to listen to some administrator who tells it to get together voluntarily with other companies and do this. If they got together voluntarily to do this, they could be indicted.

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. JACKSON. I will yield myself a couple of minutes on the bill. However I have time on the amendment, do I not?

The PRESIDING OFFICER. The Senator yielded it to the Senator from Arizona.

Mr. JACKSON. Then I yield myself a couple of minutes on the bill.

I point out the nonsense of talking about voluntary allocations. Surely the oil companies know that if they sit down to work out a scheme to allocate their products voluntarily, they are subject to the antitrust laws. The fact that the President asks them to do it, the fact that an administrator of an agency asks them to do it, does not change the situation. They can be indicted subsequently for

such conduct; and it is no defense, obviously, that some Government officials asked them to do it. We deal with that problem in the bill, and do it fairly and objectively. We set forth mandatory provisions in the bill so that throughout the country there will not be unnecessary rationing.

So I simply hope that the sooner we face up to the reality of the situation, the sooner we will be able to get some action.

Mr. President, I have nothing further to say.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. 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 Utah (Mr. Moss) is necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Wyoming (Mr. HANSEN) is absent by leave of the Senate on official committee business.

The Senator from Idaho (Mr. MCCLURE) is necessarily absent.

The Senator from Ohio (Mr. TAFT) is detained on official business.

The result was announced—yeas 42, nays 51, as follows:

[No. 168 Leg.]

YEAS—42

Allen	Dole	Mathias
Baker	Domenici	McClellan
Bartlett	Dominick	McGee
Beall	Eastland	Packwood
Bellmon	Fannin	Pearson
Bennett	Fong	Percy
Bentsen	Fulbright	Randolph
Brock	Goldwater	Roth
Buckley	Griffin	Scott, Pa.
Burdick	Gurney	Scott, Va.
Byrd, Harry F., Jr.	Helms	Thurmond
	Hruska	Tower
Byrd, Robert C.	Johnston	Young
Cook	Long	
Curtis	Mansfield	

NAYS—51

Abourezk	Haskell	Nelson
Aiken	Hatfield	Nunn
Bayh	Hathaway	Pastore
Bible	Hollings	Pell
Biden	Huddleston	Proxmire
Brooke	Hughes	Ribicoff
Cannon	Humphrey	Saxbe
Case	Inouye	Schweiker
Chiles	Jackson	Sparkman
Church	Javits	Stafford
Clark	Kennedy	Stevens
Cranston	Magnuson	Stevenson
Eagleton	McGovern	Symington
Ervin	McIntyre	Talmadge
Gravel	Metcalf	Tunney
Hart	Mondale	Weicker
Hartke	Montoya	Williams

NOT VOTING—7

Cotton	Moss	Taft
Hansen	Muskie	
McClure	Stennis	

So Mr. BARTLETT's amendment (No. 168) as modified was rejected.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the amendment of the House to the bill (S. 49) to amend title 38 of the United States Code in order to establish a National Cemetery System within the Veterans' Administration, and for other purposes.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 7447) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MAHON, Mr. WHITTEN, Mr. EVINS of Tennessee, Mr. NATCHER, Mr. FLOOD, Mr. STEED, Mr. SLACK, Mrs. HANSEN of Washington, Mr. MCFALL, Mr. CEDERBERG, Mr. RHODES, Mr. MICHEL, Mr. WYMAN, Mr. TALCOTT, and Mr. MCEWEN were appointed managers on the part of the House at the conference.

ALLOCATION OF CRUDE OIL AND REFINED PETROLEUM PRODUCTS

The Senate continued with the consideration of the bill (S. 1570) to authorize the President of the United States to allocate energy and fuels when he determines and declares that extraordinary shortages or dislocations in the distribution of energy and fuels exist or are imminent and that the public health, safety, or welfare is thereby jeopardized; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes.

Mr. JACKSON. Mr. President, I ask unanimous consent that the previous unanimous-consent order limiting amendments to the Jackson amendment to 1 hour be modified so that such amendments be limited to a total of 15 minutes, the time to be equally divided between and controlled by the mover and the opponent.

I make this request in light of the fact that we have quite a number of amendments pending and we have 1 hour and 45 minutes remaining until the final vote, which is mandatory, at 4 o'clock. It is in the interest of fairness that I propound this unanimous-consent request, and I hope it will be agreed to.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill is open to further amendment.

AMENDMENT NO. 180

Mr. PEARSON. Mr. President, I call up my amendment No. 180, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The amendment, as modified, was read, as follows:

On page 7, after line 2, add the following subsection:

(d) The President is hereby directed to use his authority under this Act and under existing law to assure that petroleum and petroleum products are allocated in such a manner as to assure adequate production, processing, and distribution of food and fiber.

Mr. PEARSON. I yield myself 3 minutes.

Mr. President, I ask unanimous consent that the names of the distinguished Senators from Oklahoma (Mr. BELLMON and Mr. BARTLETT) and the distinguished Senator from Nebraska (Mr. CURTIS) be added as cosponsors of the amendment.

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

Mr. PEARSON. Mr. President, it is increasingly clear that the President's voluntary fuel allocation program is inadequate to meet the problems at hand. The fuel shortage is of such magnitude and such complexity and the economic interests affected are so intense that a voluntary schedule regardless of how well conceived and intentioned, simply is not going to do the job.

On the other hand, it is clear as the debate on S. 1570 has demonstrated, that it is extremely difficult to design and administer an equitable allocation program. Certainly it is imperative that any allocation program will have a clear sense of priority needs. In a scarcity situation, we have to be frank and recognize that a consumer who buys fuel for pleasure boating cannot be placed in the same category as a city fire department.

To say that we must identify priority users is easier said than done because, in the process, almost every consumer group tends to become a priority user. However, I want to address myself to what I consider to be the single most important class of priority users—that being those who produce, process, and distribute our food supplies. And it seems to me that it is absolutely essential that any allocation program assign to agriculture the highest of priority.

To make such an argument is not a special plea for favored treatment for farmers. Rather, it is an argument that if farm production is in any way crippled because of inadequate fuel supplies the Nation as a whole suffers. A reduction in food production or an inability to process and distribute that food to our supermarkets will dramatically affect all Americans because it will certainly mean

sharply higher food prices. The American consumer already complains of high food prices and consumer boycotts have been initiated. Over the past few months, increases in food prices have been a major factor in the spiraling inflation.

Thus, at the very time when it is to the interests of all Americans that our farmers increase food production, we run the danger of curtailing production because of inadequate fuel supplies. I would add that any significant crippling of our food production and distribution system would not only mean higher supermarket prices but may very well mean actual shortages in food—thus raising the specter of food rationing. This can and must be avoided.

However, we are very likely to see such a development if we do not design our fuel allocation program in such a way so as to assure adequate supplies to the agricultural industry. Farmers in Kansas and throughout the great food producing areas of the middle west are already at this date running desperately short of gasoline, diesel, and LP gas. A number of farmers have had to temporarily cease their field work because they can obtain no fuel. In the next 2 months unless something is done this is going to get significantly worse.

The agricultural situation is complicated by the nature of the farm fuel distribution system. In the city if a particular station runs out of gasoline, the driver can go on to the next block or so and have an alternate source of supply. This is not the case in rural areas. Only relatively few of the oil companies have bulk delivery systems to farmers. If a particular farm distributor runs out of fuel the farmers have limited opportunities to find an alternative source. So even under the best of conditions, shortages by only one dealer may have extremely adverse consequences. But this is particularly true at this time and because of the overall shortage none of the dealers in rural areas are able to take on new customers.

Mr. President, for all these reasons it seems to me that it is essential that there is no higher priority use than agriculture. No other set of producers are so vital to the well-being of the Nation. We cannot afford to cripple food production. Indeed, national interest requires that we increase it. To do this, we simply must have an allocation program that assures that the farmer and those who distribute his products receive adequate fuel.

Mr. President, this amendment gives direct attention to the needed priority for agricultural production today. I have discussed the amendment with the distinguished manager of the bill, the Senator from Washington (Mr. JACKSON), and the distinguished Senator from Arizona (Mr. FANNIN). They find themselves in agreement with the amendment, and I think they will accept it.

Mr. JACKSON. Mr. President, I am pleased to support the amendment offered by the distinguished Senator from Kansas. It was our endeavor to do what he seeks to do in this amendment. I think his amendment further clarifies and strengthens the objective of dealing with the special problem we face in connection with food and fiber.

I strongly urge that the amendment be accepted by the Senate.

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

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Kansas, as modified.

The amendment, as modified, was agreed to.

Mr. NUNN. Mr. President, I ask unanimous consent that a technical amendment to the Moss amendment be in order at this time, that it be in order to offer this amendment at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. NUNN. The amendment is at the desk. It is a technical amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 4, line 11, after the word "a", insert the phrase, "similarly situated".

On page 4, line 12, after the word "retailer", insert the phrase "on the same level of commerce (wholesale or retail)".

Mr. NUNN. Mr. President, I have talked to the manager of the bill, the Senator from Washington (Mr. JACKSON), and the Senater from Arizona (Mr. FANNIN) about this amendment. It is a technical amendment and simply makes clearer the language in the Moss amendment by specifically setting forth that it deals with similar levels of distribution; that we are not talking about apples and oranges but about apples and apples and oranges and oranges. I think it really makes that point clear.

Mr. JACKSON. Mr. President, I think the amendment does clarify what the Moss amendment intended to do.

There is a special relationship between the retailer and the wholesaler, and as the bill now stands, there may be some confusion as to the requirements imposed on each. Therefore, I am very pleased to accept the amendment, and I yield back the remainder of my time.

Mr. NUNN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

AMENDMENT NO. 184

Mr. BELLMON. Mr. President, I have an amendment at the desk, No. 184, as modified.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered and, without objection, the amendment, as modified, will be printed in the RECORD.

The amendment, as modified, is as follows:

On page 8, line 13, of Amendment No. 145, after the word "products" strike the language beginning with the word "who" through the word "period" in line 16.

In line 12, page 8, change the word "any" to "all", change "refiner" to "refiners", and insert "or importers" after the word "refiners".

Mr. BELLMON. Mr. President, the purpose of this amendment is very simple. The bill as now drawn would allocate the production of refined products from the major refineries, but the bill would exempt the production from a large number of refineries which collectively produce a great deal of the products that are used by the people of this country.

In my opinion, the bill as now drawn is an open invitation to these refiners to hold back their products from the market in order to store them up and, whether intentionally or inadvertently, to add to the seriousness of the energy crisis we face in many parts of the country and then to be in a position to market those products to customers who would be desperate, and receive a higher price for them than the going market price.

The PRESIDING OFFICER. The Chair would ask that Senators who wish to converse retire to the cloakroom. The Senator is entitled to be heard.

The Senator may proceed.

Mr. BELLMON. Mr. President, it seems to me if this bill is going to accomplish the objectives the Senator has in mind we should amend it so we will allocate all across the board, so that all products from all refiners will be sold under the same regulations.

The bill has a second purpose, which I believe was dealt with by the amendment just adopted, which was proposed by my distinguished colleague from Kansas.

The problem here is that line 22 relates to a base period and requires that dealers be furnished the same amount of products in the quarter of 1973 as used in the same quarter of the base period. The problem is that in my State and in many other parts of the country we had serious droughts that reduced the production of agricultural products which, therefore, reduced the fuel the farmer needed for harvest and for transportation of his products. This year we have had fine weather in my State and we are looking forward to one of the largest wheat harvests in our history.

If this bill limits agriculture to the same amount received last year it means there will not be enough for the farmers. I believe the amendment of the Senator from Kansas takes care of the problem but we want to be certain there will be enough flexibility so that the needs of agriculture can be met even though they are not the same as they were during the base period.

My amendment was discussed with the author of the bill. I believe he is in general agreement that the bill would be strengthened by the adoption of this language.

Mr. JACKSON. Mr. President, I believe the Senator has stated the purpose of the amendment very well. What he is saying is that all refiners or importers

shall sell or exchange to nonaffiliated independent dealers, and so on, as provided in the bill. His concern is there could be a situation in which a definer could withhold from the marketplace supplies that are sorely needed. I believe this amendment deals with that potential problem. I support the amendment. I am prepared to yield back my time.

Mr. FANNIN. Mr. President, I commend the distinguished Senator from Oklahoma. I believe his amendment is beneficial and that it deserves support. I am pleased to do so.

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

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

Page 3, line 10; strike Section 102(b) and substitute: "(b) Maintenance of all public services, including also private air transportation in areas in which there is no public air transportation available;"

Mr. STEVENS. Mr. President, I understand we have 7½ minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I yield such time as the Senator from Oregon may need for a clarification, not related to this amendment.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I thank the Senator from Alaska for yielding.

Mr. President, I wish at this time to seek clarification of one of the specific objectives in the legislation pending before us today.

Section 102(c) of S. 1570 declares the "maintenance of essential agricultural operations, including crop plantings, harvesting; and transportation and distribution," a stated goal of the legislation.

I want to insure, Mr. President, that the intent of this language is to retain timber harvesting activities as "other essential agricultural operations."

I know that the Senator from Washington is well aware of the timber supply crisis we are facing. Diesel fuel is necessary to operate logging equipment and logging is the first step in supplying timber to meet domestic needs. Inadequate fuel supplies for such a basic industry would exacerbate the timber supply crisis and compound the problems the Congress is grappling with in seeking solutions.

Forest fires must also be considered in this light. They sometimes require a great deal of energy in their suppression and the forest fire season is already approaching. Many areas of western forests are suffering from unusually dry conditions.

Provisions should be made for adequate amounts of fuel, not only to meet fire emergencies, but to provide reserves in the area to meet other energy requirements that would be drained for fighting fires.

Therefore, I request the Senator from Washington's clarification on this matter. It is my view that "essential agricultural operations" would include timber harvest and protection. Is this also his interpretation of the language?

Mr. JACKSON. The Senator is correct. There is no doubt that the harvesting of timber comes within the scope and responsibility, of course, of the Department of Agriculture. We have adopted the Pearson amendment which related to food and fiber. As the Senator knows, fiber also is based primarily on the timber industry—the fiber that is available from timber products. So in my opinion it is included within the section the Senator referred to.

Mr. HATFIELD. I thank the Senator from Washington. I also express my gratitude to the Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment I have sent to the desk includes private air transportation in areas in which there is no public air transportation as a priority objective.

This is extremely important in remote areas of the United States, such as portions of Alaska. Bush line operators have already indicated they are faced with potential problems, especially with new lines which were not operating prior to this year. Private pilots will have much greater difficulties. Physicians and dentists must often travel by a private plane. The bishop of Alaska utilizes a private plan to minister to rural communities. Trappers and guides, governmental officials, and policemen also use private planes. In many areas of Alaska, the only way in or out is by private plane. These parts of the State will be cut off from the outside world if private pilots cannot obtain fuel on a priority basis. Oil companies have already indicated they can make no provision for increased equipment or emergency fuel needs. With many areas of interior Alaska just now opening up and with the prospect of increased geologic exploration and development, the economic and sociological development of interior Alaska is vitally dependent upon private air transportation. Many parts of southeast Alaska and coastal Alaska are also equally dependent upon air transportation.

Increased FAA safety requirements also may require additional fuel. Lives can be saved if our pilots can obtain the fuel they need. Private pilots as well as public airlines should have access on a priority basis.

As the Senator knows, I am trying to make a record that there is something involved beyond purely public carriers in a certificated sense. We are dealing with areas where there are no roads, buses, or scheduled airlines, and it is through the utilization of private planes that we maintain a transportation system in an area which is one-fifth the size of the United States.

Mr. JACKSON. Mr. President, it is the intent of the legislation to include within that section of the bill which refers to "Maintenance of all public services" private air transportation in areas in which there is no public air transportation available.

I am fully conversant with the tremendous transportation problems that exist today in Alaska. Previously on this floor I responded to a question relating to whether or not private taxicabs are covered. The answer is yes, because they provide a public service. They meet the convenience and the necessity of the public. The argument can be made that it helps conserve energy by having those services available. In Alaska where there are private aircraft to move people around, it is much more economical than to use a large system to meet the requirements of the public.

In my judgment, the language of the amendment offered by the Senator from Alaska is already included in that category which I referred to, namely, the maintenance of all public services.

Mr. STEVENS. I thank my good friend from Washington.

Mr. President, I withdraw that amendment and offer another amendment, in view of the statement made by the Senator from Washington.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. FANNIN. Mr. President, I just want to commend the Senator from Alaska for his explanation of this amendment and to concur with the distinguished manager of the bill. At the same time, I think it is very wise that the Senator withdraws his amendment because the bill provides for the contingences concerning which the Senator from Alaska is concerned.

The PRESIDING OFFICER. The next amendment of the Senator from Alaska will be stated.

The assistant legislative clerk read the amendment, as follows:

Page 3, line 18, strike the semi-colon and substitute: ", and including also the fuel needs of energy producing areas;"

Mr. STEVENS. Mr. President, the recent priority list of the Office of Oil and Gas embodied in the new regulations states that allocations are to be made based upon historical consumption patterns. In many areas of the country, particularly new fuel-producing areas, it is impossible to establish a historical pattern. For example in Alaska, regardless of whether a trans-Alaska pipeline, or a trans-Canada pipeline, or both are built, fuel needs will multiply many times in a number of new communities along the right-of-way. Fuel needs in present communities will also expand greatly. It is impossible to predict the extent of such expansion now, although it has been estimated that nearly 30,000 persons and up to 10,000 families will be coming to Alaska to assist in the construction and maintenance of the trans-Alaska pipeline.

These people will need fuel for transportation, heating, and the other necessities of life.

My amendment specifically states that it is an objective of this act to provide for the fuel needs of energy-producing areas such as Alaska.

The rest of the United States will

suffer greatly if it cannot obtain fuel from domestic oil-producing areas. My amendment will permit citizens in these parts of the country to survive and provide fuel for the rest of the country.

Mr. JACKSON. May I say that, in my judgment, section 102(d) does include those areas where the fuel needs exist in energy-producing States.

Again, I am familiar with the situation in Alaska. It is a new area, but it does come, in my judgment, within that category of subsection (d), and I see no need for the amendment, because the fuel needs of energy-producing areas are included already within the language of 102(d).

Mr. STEVENS. I thank the Senator from Washington for that explanation. I think it is necessary to make a clear record on this subject, however, because of the action of the Office of Oil and Gas in the past in basing the voluntary system upon a history of consumption of particular areas of this country in the past.

We have had very little oil and gas consumption in northern Alaska to date, but certainly, with people moving in to construct either of these pipelines—and of course I am an advocate of the Alaskan pipeline, but in the case of either line—it is going to require a tremendous amount of energy. They have moved into the State in order that we may tap the North Slope reserves.

It is true, as the Senator from Washington has said, that section 102(d) includes the language "preservation of an economically sound and competitive petroleum industry." I think it is necessary to read into that the necessity to ignore historical use patterns where it is necessary to give an area the ability to expand its capability of producing energy supplies for the rest of the country.

With the statement of the Senator from Washington, I withdraw that amendment also, and would like to send to the desk a third amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The clerk will read the third amendment by the Senator from Alaska.

The assistant legislative clerk read the amendment, as follows:

Page 3, line 9; strike Section 102(a) and substitute: "(a) Protection of public health, safety, and welfare, and the national defense;"

Mr. STEVENS. Mr. President, this is an amendment to add an additional objective to the bill—national defense.

It may be, as the Senator from Washington has pointed out to me privately in conversation here, that this is an intent of the bill, but I think it is necessary to have the objective of national defense spelled out in this fuel allocation bill.

I have been informed by a number of different sources that this is a particular problem, especially in Alaska.

Four mine sweepers will not be able to refuel in Juneau this summer, since they did not put in to that port to refuel in 1972.

The first line of defense for the North American Continent is triggered by a number of remote radar outposts. These form the DEW line system—distant early warning line. Many DEW line stations are scattered throughout Alaska. A number are on the coast. These are supplied by barge in the summer. The barges, towed by large oceangoing tugs, come up from Seattle. Their supplies and servicing are absolutely vital for the national defense. Without these barges, it would be extremely difficult and more costly, requiring much greater amounts of fuel. This summer, for the first time, a number of tug operators have informed me they have been unable to secure the fuel to transport these barges to the DEW line stations without a great deal of difficulty. One operator, Alaska Hydro-Train, required 500,000 gallons for two tugs for the trip. They were only able to obtain adequate supplies by depleting their entire Seattle allocation for 5 months for one tug and 3 months for the second tug.

These are but two examples. I understand that the President already has authority to allocate fuel for the national defense under existing Federal statutes. In order, however, to insure there is no question or any suggestion of a conflict, I believe this requirement should be spelled out in S. 1570. I understand it will not change existing statutory authority, and it is intended solely to clarify the situation. This bill does not change existing Presidential authority in this respect. It is the intent of Congress merely to reaffirm that authority.

I request unanimous consent to insert in the CONGRESSIONAL RECORD at this point my telegram of May 17 to Deputy Secretary of the Treasury, William Simon, urging that the Oil Policy Committee's priority list be amended to provide a special priority category for industries serving the national defense. This telegram was also sent to the Office of Oil and Gas.

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

MAY 17, 1973.

Mr. WILLIAM SIMON,
Chairman, Oil Policy Committee, Deputy Secretary of the Treasury, U.S. Department of the Treasury, Washington, D.C.:

Oil Policy Committee's eight category priority list for Office of Oil and Gas oil distribution causes two serious problems for Alaska.

First, there is no priority category for industries serving the national defense. Category six covers certain freight transporters. Category seven covers state and local government activities. Tug and barge operators servicing Delo Line activities in Alaska are having difficulty obtaining diesel fuel. The national defense requires they be given priority.

Second, category five covers certain surface land transportation systems—bus, rail, and mass transit.

Air and sea public transportation systems should also be included. Air transportation is the only means to travel in much of Alaska. If public air carriers cannot receive fuel on a priority basis, much of Alaska will be completely cut off. All, repeat all, other cities and towns in Alaska are also dependent on air carriers for passenger transportation. Sea passenger transportation, such as State of Alaska ferry system is also essential, especially in Southeastern and Southcentral Alaska. Category six should be amended by adding "air, sea," after the word buses.

The list of priorities does not indicate whether there are priorities within the list—for example whether category five is prior to category six. Could you please clarify this?

TED STEVENS,
U.S. Senator for Alaska.

Mr. STEVENS. I think it is important, as we look at the bill that has been brought before this body—and I think it is a bill of very great national importance—that we make certain that national defense is of the same standing, as far as the objectives that are set forth in section 102(a) are concerned, as is the protection of public health, safety, and welfare. Perhaps the term "safety" would include national defense, but I think it is important to make that clear.

I was informed, for example, that a barge that had pulled into Seattle to load fuel for installations on the Aleutian chain had to go to three separate places to get a full load of fuel oil in order to leave for the Aleutian chain because there was some question as to the use to which the oil was sought to be put, and whether it was of a priority nature. As far as the voluntary system was concerned, they were trying to insure that the barges that took oil to our distant early warning stations in Alaska could only take the same amount of oil or fuel this year that they took last year within the same base period.

This is quite similar to the situation raised in the other amendment, but I think the Senator from Washington will realize that this one is a much more difficult problem for our State than it is for any other State.

Mr. JACKSON. Mr. President, the position taken by the Senator from Alaska is a sound one. Again, I am familiar with the special problems, particularly in the logistics-supply area in Alaska. It seems to me that his amendment is a helpful one. Rather than try to handle it another way, I think the Senate should adopt the amendment, and I am prepared to accept the amendment offered by the able Senator.

Mr. FANNIN. Mr. President, I concur in the statement of the distinguished floor manager and feel that the amendment is a necessary one. I think it provides a protection that is needed. I am very pleased to concur in the statement and support the amendment.

Mr. STEVENS. Mr. President, I thank both the Senator from Washington and the Senator from Arizona not only for clarifying the record with regard to the past two amendments but in connection also with this amendment, which vitally affects the national defense effort in my State.

I move the adoption of the amendment, and I yield back my time.

Mr. JACKSON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I call up my amendment No. 182.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read the amendment (No. 182) as follows:

On page 7, line 1, amend section 104(c) (1) by striking the word "or" and adding "which compensation shall be not less than the price obtained or lawfully obtainable in a free competitive market".

Mr. BARTLETT. Mr. President, this amends section 104(c) so that it will read:

The regulations required by subsection (a) herein shall include standards and procedures for determining or reviewing prices of fuels allocated by the President under the provisions of this Act to prevent (1) appropriation of private property without due compensation which compensation shall be not less than the price obtained or lawfully obtainable in a free competitive market or (2) exorbitant price increases reflecting temporary shortage conditions.

Mr. President, the manager of the bill, the chairman of the committee, has indicated earlier that there are no price restraints in the bill. I hope that is correct.

I have concern that the prior amendment would provide a price review which would be a restraint.

I also have concern that the allocations that could be provided under the pending bill with respect to the allocation of crude oil could have a depressing effect on the market and prevent the supply and demand mechanism in the market from working to provide a sufficient supply.

So this amendment clearly states that there is not or should not be any restraint of price and that due compensation would be that price which had been obtainable or was lawfully obtainable in a free competitive market.

If we do not have an unrestrained price, then we are going to see the whole purpose of the bill, which is the allocation of shortages, become a bill which will definitely perpetuate and increase those shortages.

I am hopeful that the amendment will be agreed to.

Mr. JACKSON. Mr. President, as I interpret the Senator's amendment, it would take the companies that are now under Cost of Living Council regulation right out from under it, because the amendment as I read it says:

which compensation shall not be less than the price obtained or lawfully obtainable in a free competitive market.

That last part, of course, if I read the language correctly, is simply saying that any kind of price restraint which now applies to 23 major oil companies will be removed and they will be exempt. Obviously, when we put in the language "lawfully obtainable in a free competitive market", we have changed the law, because the free competitive market is not working in this particular area at this time. There are price ceilings in effect pursuant to the law we passed authorizing the President to do this.

Under the circumstances, I think that I have to advise my colleagues that this amendment would take those companies out from under the price controls. If that is what the Senator wants to do, fine. However, I do not think that is what the Senate wants to do.

In effect, the amendment would amend the Economic Stabilization Act—that we have already passed—in a most indirect manner.

I would hope that we do not back away from this problem and that, on the contrary, we try to maintain some sensible price restraint.

I think what is happening in the world today ought to be sufficient warning to everyone. Gold today reached the price of $126 an ounce.

Mr. President, it is clear that what is happening to the dollar is that our friends abroad, who hold some $82 billion in Eurodollars, are saying that the United States is not going to get tough on inflation. And with the problems we face in a very tight market, a tight market that will exist for at least 3 years, I think it would be fundamentally unsound to talk about cutting back on existing price restraints by adopting this amendment.

I regret that I will have to oppose the amendment.

Mr. BARTLETT. Mr. President, the amendment provides that just compensation shall be that compensation which shall not be less than the price obtained or lawfully obtainable in a free competitive market.

The chairman mentioned that there are and could be in the proposal restraint upon prices. This is what I am attempting to avoid. I think it is obvious that we cannot have our cake and eat it, too. If we are going to have any mechanism at all working in the marketplace, it is going to have to work in a way to increase the price. If we are going to have to pay high prices for energy when we are living in an era with high-powered cars and want to go to an area of high availability of energy at high costs, it is a question of whether we pay foreigners for the extra energy or whether we pay ourselves and whether we strengthen our domestic industry or weaken it and become beholden to the small countries in the Mideast who can blackmail us and harm our economy.

The chairman mentioned the high value of the dollar today. This becomes aggravated with more and more purchases of foreign crude and provides additional problems for us.

So, Mr. President, I move the adoption of the amendment.

I yield back the remainder of my time.

Mr. JACKSON. Mr. President, I just reiterate my serious concern over this amendment. It is an indirect attempt to decontrol the price controls imposed by the President's Cost of Living Council on petroleum products. And that is the basic question before the Senate. I do not know whether there is going to be a rollcall vote on this amendment or a voice vote.

Mr. President, I suggest the absence of a quorum, and I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. 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. JACKSON. Mr. President, before yielding, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JACKSON. I now yield 5 minutes on the bill to the Senator from Louisiana.

Mr. JOHNSTON. I thank the distinguished floor manager of the bill.

Mr. President, I have been concerned about the absence in this bill of any provision for an appeal; that is to say, when someone is aggrieved, under the administrative proceeding taken under the provisions of the bill, it concerned me that there was no provision for appeal from that decision.

Accordingly, I had drafted a provision which would guarantee an appellate proceeding, and I am prepared to offer that amendment to the bill. However, after discussions with the distinguished floor manager and with the staff, it appears that there are in fact provisions in the bill, or implicit in the bill, for the right of appeal pursuant to the Administrative Procedures Act, and I would like to ask the distinguished floor manager if that is a correct understanding.

Mr. JACKSON. The Senator is correct. It is the judgment of the junior Senator from Washington that the Administrative Procedure Act does apply to this bill.

Therefore, I see no need for a special section on appellate review. If there is any misunderstanding about the matter, I assure the Senator further that in conference we will make sure that it is clarified. But it is my judgment that the regular provisions of the Administrative Procedure Act apply fully to all aspects of the pending bill.

Mr. JOHNSTON. I thank the distinguished Senator. With that understanding, I shall not offer my amendment.

Mr. JACKSON. I thank the Senator from Louisiana.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BARTLETT). 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 Arkansas (Mr. FULBRIGHT) and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Wyoming (Mr. HANSEN) is absent by leave of the Senate on official committee business.

The Senator from Idaho (Mr. McCLURE) is necessarily absent.

The result was announced—yeas 21, nays 72, as follows:

[No. 169 Leg.]

YEAS—21

Baker	Curtis	Helms
Bartlett	Dole	Hruska
Bellmon	Domenici	Scott, Va.
Bennett	Dominick	Taft
Brock	Eastland	Thurmond
Buckley	Fannin	Tower
Cook	Goldwater	Young

NAYS—72

Abourezk	Hart	Montoya
Aiken	Hartke	Nelson
Allen	Haskell	Nunn
Bayh	Hatfield	Packwood
Beall	Hathaway	Pastore
Bentsen	Hollings	Pearson
Bible	Huddleston	Pell
Biden	Hughes	Percy
Brooke	Humphrey	Proxmire
Burdick	Inouye	Randolph
Byrd, Harry F., Jr.	Jackson	Ribicoff
	Javits	Roth
Byrd, Robert C.	Johnston	Saxbe
Cannon	Kennedy	Schweiker
Case	Long	Scott, Pa.
Chiles	Magnuson	Sparkman
Church	Mansfield	Stafford
Clark	Mathias	Stevens
Cranston	McClellan	Stevenson
Eagleton	McGee	Symington
Ervin	McGovern	Talmadge
Fong	McIntyre	Tunney
Gravel	Metcalf	Weicker
Griffin	Mondale	Williams
Gurney		

NOT VOTING—7

Cotton	McClure	Muskie
Fulbright	Moss	Stennis
Hansen		

So Mr. BARTLETT's amendment was rejected.

Mr. KENNEDY. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

In section 105(b)(1) after the words "the corresponding quarter of the base period;" add:

"Provided that, to the extent practicable, all such refiners previously supplied by such producer or importer shall continue to be supplied on an equitable basis taking into consideration past supply relationships and unused refinery capacity.

In section 105(b)(2) after the words "the corresponding quarter of the base period;" add:

"Provided that, to the extent practicable, all such dealers previously supplied by such refiner shall continue to be supplied on an equitable basis taking into consideration past supply relationships."

Mr. KENNEDY. Mr. President, the amendment I am now proposing seeks merely to underscore a basic thrust of the legislation before us which is to promote equity in the distribution of scarce petroleum products.

Section 105 of the Emergency Petroleum Allocation Act seeks to restrain major companies from denying supplies to the independent sector of the industry.

I have no quarrel with the section as it now stands except to suggest that in its consideration of independents as a class it may fail to carry out the legislation's intent to protect individual independent companies.

While recognizing that there have been administrative difficulties raised to establishing a rigid firm-to-firm standard, I believe that my amendment will retain the necessary administrative flexibility while protecting individual independent companies at the same time.

Thus, the amendment states that "to the extent practicable" all previous refiners should be assured continued supplies of crude oil on an equitable basis taking account of historical supply relationships and unused refinery capacity and all dealers "to the extent practicable" should be assured continued supplies from refiners on the same basis.

In this way, I believe we can further the purpose of the legislation.

A case in point is New England where there are now only seven independent terminal operators in business. At one point prior to the imposition of the import quota system there were 24. In the intervening years, 17 have been swallowed up by the majors.

Under the current language, a major supplier who traditionally has supplied 20 or 30 percent of the supply of each of the seven terminal operators could provide the same total amount of petroleum and petroleum products to only one of the seven, thereby killing six competitors and creating a virtual hostage out of the remaining independent.

It is to avoid this situation and the inequity it represents that I have offered the pending amendment.

I would hope that it could be accepted.

Mr. President, let me underline why I believe the inevitable result of failure to protect the individual companies will produce a serious inequity.

I have received today questionnaires sent out to members of the New England Fuel Institute, all independent home heating oil suppliers.

Although we only have a partial reply thus far, a summary indicates how serious the situation is going to be next winter.

In Vermont, 2 dealers have had their contracts totally canceled.

In Rhode Island, 11 dealers have had their contracts totally canceled.

In Connecticut, 11 dealers have had their contracts totally canceled.

In Maine, 10 dealers have had their contracts totally canceled.

And in my own State, 17 dealers have had their contracts totally canceled.

A substantial number of the remaining several hundred dealers who have replied have had their supplies reduced or have been told to expect reduced supplies.

Taking into account the contracts totally canceled alone, this means a loss of 76 million gallons of heating oil to New England residents.

And these are companies which have been in business, serving New England towns and communities, for 20, 30, and 40 years.

My concern in reading section 105 is that perhaps the majors would be able to fulfill the mandate of that provision by making available to a single independent the total requirement that the major had previously supplied to other independents; and rather than distributing equitably to each one, they could distribute all their oil to one independent. In this way, they could use this device as a whipsaw to play one independent against another.

I have here a questionnaire filled out by the Marinelli Fuel Co., Roslindale, Mass., which has been in business for 28 years and has been supplied approximately 410,000 gallons of oil from Mobil Oil and Atlantic Richfield. This is what Mr. Joseph Marinelli writes to me:

Sometime in March, Atlantic Richfield Company notified me via registered mail that my contract would terminate on May 31, 1973. It was a 60-day notice before the contract ran out.

That is a family company. It has been in operation for 28 years.

Here is what another company said. This is from the Blue Flame Oil Service, Somerville, Mass. It has been in business for 43 years. In the period from 1972 to 1973 it has distributed 3 million gallons of heating oil. This is what they state to me:

After my father was doing business with Gulf for 15 years, they walked into my office to tell me that all inland terminals are closed. That the deal with Gulf was off as of May 1973; that any oil that I have picked up at the waterfront is good for next year. That was 4,000 gallons. So what a hell of a thing for Gulf to do to everyone.

Gulf had been supplying them with 600,000 gallons and now they are being cut off.

I have received a number of such questionnaires.

What we want to make sure of is that the small independents that have been doing business for 40 or 50 years are not destroyed. One company, the Buckingham Co., of Southport, Conn., has been in business for 81 years and they were canceled by all suppliers. That is why we are writing into this bill a protection for individual companies while we have avoided a rigid, firm-to-firm standard. We have written into the bill practical protection. It would give protection to the independents and would alleviate the serious situation which these questionnaires reveal.

More than 85 percent of the home heating oil is distributed by independent outlets. We want to make certain that they receive an adequate supply of oil.

That is the only purpose of the amendment. I am hopeful that it will be accepted by the manager of the bill.

Mr. JACKSON. Mr. President, I am in full accord with the objective outlined by the able Senator from Massachusetts. What he is trying to do is, I think, most commendable. I think the amendment will be helpful. It is intended to preserve the historical relationships that have existed among producer-refiner and marketer and distributor, right down to the retail outlet.

I have discussed the amendment with the distinguished senior Senator from Arizona, and we are both in accord with the belief that the amendment will

strengthen the bill. I urge the adoption of the Kennedy amendment.

I am prepared to yield back the remainder of my time.

Mr. FANNIN. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I know of no further amendments to the pending amendment. I move that the Jackson amendment in the nature of a substitute together with the amendments thereto be agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment of the Senator from Washington (Mr. JACKSON), as amended.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BUCKLEY. Mr. President, the Emergency Petroleum Allocation Act of 1973 (S. 1570) is a response to the possibility that the United States will experience a serious shortage of petroleum products in the next few months; a shortage so serious that a drastic "emergency" bill is required. Moreover, there have been persistent problems of the supply of petroleum products to our independent refiners and marketers. The question at hand is, whether or not S. 1570 represents an appropriate response to the serious problems at hand, and whether or not the implementation of S. 1570 will make matters better or worse. It is my view that the bill is not needed, and if implemented will exacerbate fuel shortages and result in hurting many of those independent refiners and marketers the bill is designed to help.

The Committee on Interior and Insular Affairs of which I am a member took evidence that the fuel supply would be extremely tight this summer. No evidence was presented to the committee, however, that would justify the notion "than an extraordinary shortage in the distribution of particular fuels exists or is imminent" as the drafters of the bill suggest. No evidence was presented which suggested the nature of possible shortages so that an appropriate congressional response could be framed.

In fact, the administration has argued that the authority provided for in the Economic Stabilization Act of 1973 was entirely adequate to cope with a fuel shortage, should such a shortage arise. One of the amendments passed by the Congress authorized the President to:

> Provide after public hearing, conducted with such notice, under such regulations and subject to such review as the exigencies of the case may, in his judgment, make appropriate for the establishment of priorities of use and for systematic allocation of supplies of petroleum products including crude oil in order to meet the essential needs of various sections of the Nation and to prevent anticompetitive effects from resulting from shortages of such products.

The administration has already initiated a voluntary program, and has adequate legal authority to institute a mandatory program if one should be required. The Oil Policy Committee will begin taking testimony shortly on the extent to which the present voluntary program should be supplemented with mandatory controls. Adequate machinery already exists to insure that the intrusion of the Federal Government into the allocation process for fuel need be no larger than necessary. S. 1570 would substitute a discriminate mechanism allowing for wide interference in private decisionmaking with a meat-ax form of Government controls that would be likely to deprive some users of fuels for the benefit of others with no mechanism to assure equity in the rationing process.

The bill is fraught with built-in arbitrary distribution schemes which would deprive many consumers of gasoline and other petroleum products while allowing other users to bask in lush supplies. For example, the bill provides that independent refiners shall be defined as those who produce less than 30,000 barrels of petroleum products per day, and further provides that producers of more than 200,000 barrels of petroleum products must provide their independent refiners with no less crude oil than they did during the July 1, 1971–June 30, 1972 base period.

Sixteen large oil companies produce more than 200,000 barrels per day, but nine large producers fall in the 100–200,000 barrels per day category. The latter group, so important in the northeastern and midwestern portions of the country, would not be required to share their crude oil with independent producers. Thus, those consumers who are fortunate to live in an area served by independent producers supplied by a major oil company whose production exceeds 200,000 barrels per day will be supplied with petroleum, those who are served by the nine smaller producers are simply out of luck.

A similar arbitrary distribution scheme exists between refiners of crude oil and independent dealers. The bill provides that refiners who produce more than 200,000 barrels of refined petroleum products per day must not supply less refined products to their independent dealers than they did during the base period. Seventeen large refiners produce more than 200,000 barrels per day, but 11 produce between 30,000 and 200,000 barrels per day. Once again, consumers who depend on the 11 smaller producers could be cut off.

The utterly arbitrary and capricious character of the allocation formula imposed on the petroleum industry will hurt the consumers who do not happen to fall within one of the arbitrary categories established by the bill. I should think the Congress would not want to repeat the experience of arbitrary government controls and the disastrous effects such controls can have on consumers that we experienced with phase I of wage price controls. It was those controls, so arbitrary in their impact, that to a large extent caused the shortage of heating oil we experienced in the Northeast and Midwest last year, entirely because arbitrary price controls made it impossible for petroleum refiners to allocate sufficient resources to the production of heating oil. As a result, the Nation was awash in gasoline and desperately short of heating oil last winter. If the provisions of S. 1570 are implemented, the Nation may again have to suffer the consequences of ill-conceived and arbitrary attempts at congressional rulemaking.

S. 1570 will hurt producers and consumers alike, and make less likely the early resolution of any energy shortage which may develop this summer. I urge that the Senate reject the bill.

PRIMARY (OR HEALTH) AMBIENT AIR QUALITY STANDARDS MUST BE MAINTAINED AS WE STRIVE TO COPE WITH FUEL SHORTAGES

Mr. RANDOLPH. Mr. President, over the last 2 years, the Senate's National Fuels and Energy Policy Study has been extensively involved in evaluating the status of our national quest for sufficient energy supplies to meet our country's economic requirement—consistent with Federal and State environmental policies.

Throughout this investigation, the issue has been raised of the adequacy of the commitment by Government, industry, and the public toward simultaneous achievement of environmental and energy goals. However, today we find ourselves in a situation where national environmental policies could be jeopardized because of inadequate energy supplies, generally, as well as inadequate environmentally acceptable energy supplies.

Admittedly, we in the United States, have not done well in finding a suitable or equitable balance between energy and the environment. There is blame on all sides. However, there also has been a failure by both Government and industry to assure our country adequate energy supplies, even should environmental policies be modified. In other words, the long-term success of Federal environmental policies is threatened. Equally, the vital energy base of our economy and our security—our national security—is seriously endangered.

At this time, we must be cautious not to overreact to the current energy crisis to the extent that we unduly jeopardize the long-term success of environmental policies. The overriding concern must be finding a suitable and equitable balance between energy and the environment.

Reading from S. 1570, the first objective to assure the "protection of public health, safety and welfare." The protection of public health also is the primary objective of the Federal Clean Air Act, as amended, which the Congress, enacted in 1970. In the 1970 amendments the Congress also proposed that the States provide for the protection of public welfare at a reasonable time after 1975 to 1977. However, the majority of the States interpreted this to mean the same time schedule for achievement of secondary ambient air quality standards.

The impact of this action by the States to also protect public welfare, in their aggregate, has noticably compli-

cated our energy supply problem; however, I repeat, it did not cause the problem.

This in reality was the subject of my April 4 speech before the First Government Affairs Seminar of the Air Pollution Control Association, meeting in Washington, D.C. In his April 18 message concerning energy resources, the President also commented on this situation, stating:

The Clean Air Act of 1970, as amended, requires that primary air quality standards—those related to health—must be met by 1975, while more stringent secondary standards—those related to the "general welfare"—must be met within a reasonable period. The States are moving very effectively to meet primary standards established by the Clean Air Act, and I am encouraged by their efforts.

At the same time, our concern for the "general welfare" or national interest should take into account considerations of national security and economic prosperity, as well as our environment.

If we insisted upon meeting both primary and secondary clean air standards by 1975, we could prevent the use of up to 155 million tons of coal per year. This would force an increase in demand for oil of 1.6 million barrels per day. This oil would have to be imported, with an adverse effect on our balance of payments of some $1.5 billion or more a year. Such a development would also threaten the loss of an estimated 26,000 coal mining jobs.

If, on the other hand, we carry out the provisions of the Clean Air Act in a judicious manner, carefully meeting the primary, health-related standards, but not moving in a precipitous way toward meeting the secondary standards, then we should be able to use virtually all of that coal which would otherwise go unused.

The Environmental Protection Agency has indicated that the reasonable time allowed by the Clean Air Act for meeting secondary standards could extend beyond 1975. Last year, the Administrator of the Environmental Protection Agency sent to all State governors a letter explaining that during the current period of shortages in low-sulphur fuel, the States should not require the burning of such fuels except where necessary to meet the primary standards for the protection of health. This action by the States should permit the desirable substitution of coal for low-sulphur fuel in many instances. I strongly support this policy.

However, this viewpoint requires voluntary action by the States, which has not been forthcoming.

Under S. 1570 the President, in an extreme situation, may have sufficient authority to grant variances to secondary ambient air quality standards. Extension of the time schedules for compliance with secondary ambient air quality standards would provide considerable improvement in making available increased energy supplies. However, this can be accomplished under existing law at the request of a Governor.

The Subcommittee on Air and Water Pollution is currently undertaking oversight hearings on the Clean Air Amendments of 1970. Consideration will be given to the impact of State implementation of both primary and secondary ambient air quality standards on available fuel supplies. Should Federal authority be needed to extend the secondary ambient air quality standards such legislation should be enacted as an amendment to the Clean Air Act. The authority contained in S. 1570 is of an interim nature, expiring on September 1, 1974.

Mr. President, it is my belief that the legislation before us should be passed, and become law. We must, however, realize that there is a real relationship between energy problems and the programs intended to alleviate air pollution in our country.

FUEL PRIORITY FOR AGRICULTURE

Mr. DOLE. Mr. President, in considering all the discussion and concern expressed over the fuel crisis, I believe it is of the utmost importance to keep two basic factors clearly in mind. First, we must understand which uses of energy are absolutely essential to the well-being of the country. Second, we must take the necessary steps to assure the energy supplies for these essential activities.

MANY IMPORTANT USES

Of course, many industrial, commercial, and public service operations are important. Most of them use energy in some form, and taken together they use it in huge quantities. The great majority take it from a primary source such as coal, natural gas, or oil. A smaller number rely on electricity generated by one of these other sources. But, out of all these activities—certain ones must be recognized as more important than others.

But the point is clear: some things in this country's usage of energy are more important—to everyone—than others. And if we are to devise an effective policy to meet the present fuel shortages these most important activities should be identified and singled out for the priority consideration so we can avoid the already serious impact of fuel shortages from taking on disasterous proportions.

AGRICULTURE IS THE MOST IMPORTANT

As I indicated a number of fuel uses are important. Emergency services, activities to assure health, safety and communications, the production of energy itself. But, to my mind, one sector stands out above all others—not only in its importance to the Nation—but in terms of its complete dependence on having fuels at the exact times they are needed. Of course, I am speaking of American agriculture.

UNIQUE REQUIREMENTS

Unlike a regular business or industrial user of fuel and energy, the agricultural sector of our economy is uniquely tied to strict schedules set by climate, rainfall, sunlight and temperature.

Agricultural operations—planting, plowing, fertilizing, harvesting—must be carried out according to nature's timetable, not man's. They cannot be put off to suit a farmer's convenience or to compensate for outside circumstances. There is no flexibility or room for corrective action.

And this is the danger of the present fuel situation. The summer wheat harvest is under way in Texas and will start in Kansas in a few days. Custom harvesters must have fuel to transport their equipment to the fields. When the grain is ready, the tractors must roll and operations must begin.

If fuel shortages keep the tractors and combines from running, there will be no crops harvested. Farmers cannot wait a week or two weeks to receive their fuel. They must have it when they need it, or it is of no use to them.

And if farmers cannot plant their crops or if the harvest is not completed, then we will face a monumental crisis in America. As just one example, a short corn and feed grain crop brought about by fuel shortages at either planting or harvest time will send meat prices soaring beyond the worst nightmares of today's shoppers.

NATIONAL PROBLEM

This is not simply a regional problem or a situation facing one sector of the economy. It is a problem which concerns every American—from the farmer in Kansas who wants to plant and harvest his crops to the housewife in New York City who wants a variety of products and reasonable prices at the supermarket.

VOLUNTARY ALLOCATION PROGRAM

A program for the allocation of crude oil and refinery products on a voluntary basis has been in effect for approximately 4 weeks. So far the results have been better than I had expected. But I feel this program falls far short of meeting the full impact of fuel shortages which appear to be in prospect for the end of June and early July. At that time—with the wheat harvest being completed and planting operations moving into full sway—a tremendous agricultural fuel demand will be created. In addition the anticipated recreation and vacation demands of mid-summer will create even stronger competition with agricultural requirements. And under such circumstances, I fear a voluntary allocation system simply cannot assure the availability of fuels farmers must have.

The farmers of America cannot burn voluntary guidelines and suggested priorities in their tractors. They must have fuel—gasoline, diesel oil, and LP gas—and they must have it at the right time. I cannot place much faith in bureaucratic assurances—even if made in the utmost good faith.

Voluntary guidelines and the threat of more stringent measures cannot guarantee the fuel our farmers need. A Washington bureaucracy cannot know from hour to hour whether farmers are receiving the supplies they need when they need them. And even if violations of the voluntary guidelines were to be detected, I do not see how remedial action could come in time to do any good.

America's food supplies are too important to depend on a voluntary fuel allocation plan. This plan requires strong teeth to assure compliance.

MANDATORY CONTROLS REQUIRED

Congress has provided the authority for these controls in legislation passed earlier this year, but to date this authority has only been exercised to establish the voluntary program.

Therefore I support the provision of the bill which would place the allocation program on a mandatory basis.

As a matter of general principle, I do not believe the Federal Government should intrude too deeply into the private economic affairs of the Nation. However, in this case the stakes are too high to take a chance that farmers—and other important economic sectors as well—will be guaranteed the fuel supplies they need.

As I said, laws now on the books do provide the authority to establish a mandatory system for fuel allocations, but they have not been utilized. Thus, the time has come—while it is still not too late—to require the establishment of a strong, mandatory and effective fuel allocation program. Congress has a real responsibility to act in this matter, and I urge that it fulfill its responsibility in passing this act.

Mr. KENNEDY. Mr. President, I rise to speak in favor of S. 1570, as amended, and to urge its immediate adoption by the Senate in the face of the current crisis.

The fact of a crisis is unavoidable. Yesterday's Oil Daily carried the following stories: the President of the National Jobbers Council predicted a shortage of diesel and fuel oil of "gargantuan proportions next winter." The Associated General Contractors stated that construction work would be halted in 30 to 60 days by the lack of diesel fuel.

These headlines merely add currency to the testimony that the Senate Interior Committee, the Commerce Committee, the Small Business Committee, and the Joint Economic Committee have heard in recent weeks. They reflect as well continued warnings by the Office of Emergency Preparedness of a decreasing gasoline stockpile and refineries failing to keep pace with rising demand.

They also reflect the warnings that Members of the Senate issued not only a few months ago but as far back as last September when the current crisis was set in motion by the administration's feeble decisions affecting the import quota system. Unwilling at that time to recognize the pending shortage, and relying totally on the major companies' assurances of an adequate supply, the administration's actions worked to insure first a home heating oil shortage last winter and today a gasoline shortage.

The latest figures show that our stockpile of gasoline has dropped 3 million barrels as of May 25 from what it was a week earlier and now is some 19 million barrels below the 4-week average of a year ago.

The results of this shortage are seen in the closed doors of independent service stations and in the list of independents whose contracts have been canceled or whose future supply has been cut drastically by the major companies. It is seen too in the continuing refusals of suppliers to bid on year-long contracts for gasoline and heating oil with cities, for States, with school districts and with other vital public facilities.

When a town in my State must send its firetrucks into a local gas station to fill its tanks because no oil marketer will provide city pumps with gasoline, then the situation is critical and congressional action is essential.

The bill before us responds to that crisis. It represents the end product of a legislative process which has had the benefit of lengthy hearings by four committees. The amendments accepted and supported by the chairman on the floor reflect improvements in the legislation based on testimony before other Senate committees.

I am particularly pleased that the chariman endorsed the amendment I introduced which assures preference to those independents supplying essential public services and a priority to those public services themselves.

The Moss amendment, which I was pleased to cosponsor, and which represented an amalgam of Senator Moss' bill, S. 1694, Senator SAXBE's bill, S. 1599, and my bill, S. 1723, also was a crucial addition. It now assures individual companies the right to go directly to court to obtain immediate injunctive release against a supplier who attempts to deny access to an adequate supply of oil.

The bill also now contains a comprehensive antitrust provision which will insure both short-term and long-term monitoring of possible violations of antitrust laws by the actions of the major oil companies. The Senate Antitrust Subcommittee also has announced hearings into this subject.

But the responsibility for the basic legislation before us rests with the chairman and the Interior Committee. It will insure that within 30 days a comprehensive and mandatory system of allocation will be established to insure the equitable distribution of crude oil and petroleum products in the public interest. Independent refiners will be assured an adequate suply of crude oil and independent marketers and dealers on the wholesale and retail levels will be assured the supply of products they need to stay in business.

Clear from the outset, and now strengthened by the amendment of the Senator from Delaware, this measure will not rest on the whim of the major oil companies or the jawboning of the administration. It will have the force of law.

When independent refiners and marketers are threatened with extinction, when the retail prices to the consumers are rising, when essential activities in the public interest are jeopardized and when the earnings of the major oil companies rise over 25 percent in a single quarter, then it seems clear that a voluntary system of correction is doomed to inadequacy.

A voluntary system insures an uneven result in which some participate and some decline.

A voluntary system insures that the final decisionmaking power resides not with responsible public leaders, but with private interests.

A voluntary system insures conflicts with local and State mandatory allocation plans.

Ultimately, therefore, if the Congress is to fulfill its responsibilities to assure vital public services with adequate fuel and if it is going to act to prevent the elimination of the independent fuel market, it is going to have to require the establishment of a mandatory program.

I believe the legislation before us establishes an equitable and workable mandatory program which will achieve those objectives, and I urge its adoption by the Senate.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

Mr. JACKSON. 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.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Washington yield to me for 1 minute?

Mr. JACKSON. I yield 1 minute to the Senator from West Virginia on the bill.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Do I understand from the distinguished manager of the bill (Mr. JACKSON) and the distinguished ranking member, the Senator from Arizona (Mr. FANNIN) that they are prepared to have a vote on final passage at this time?

Mr. FANNIN. Mr. President, I would object to a vote at this time. I will try to work out a time for the vote.

Mr. JACKSON. I understand one Senator relied on the 4 o'clock time previously agreed to. He may arrive prior to 4 o'clock and that is being checked now.

Mr. FANNIN. The Senator is correct. I hope we can vote prior to 4 o'clock. I would reserve the right to object unless that stipulation is agreed to.

Mr. ROBERT C. BYRD. I understand. I suggest that the respective cloakrooms send a message out on their telephones to all Senators, inquiring whether or not there is any objection by any Senator to voting on final passage of the pending bill prior to 4 o'clock, as previously agreed to.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum, on my time.

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.

Mr. ROBERT C. BYRD. Mr. President, the staffs of both cloakrooms having telephoned all Senators, alerting their offices to the effect that a vote on final passage may occur prior to the 4 o'clock time which was specified by the agreement, and no objection having been returned, I ask unanimous consent that the vote on passage of the bill occur within 1 minute from now and that rule XII be waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 1136

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, immediately following the vote on final passage, the Senate proceed to the consideration of the message from the House of Representatives on S. 1136; that there be a time limitation thereon of 10 minutes, to be equally divided between the Senator from New York (Mr. JAVITS) and the Senator from Massachusetts (Mr. KENNEDY); and that time on any amendment be limited to 10 minutes, to be equally divided between the mover of such and the manager of the bill.

Mr. JAVITS. Mr. President, does that include amendments to amendments?

Mr. ROBERT C. BYRD. Yes, amendments to amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on any additional rollcall today be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ALLOCATION OF CRUDE OIL AND REFINED PETROLEUM PRODUCTS

The Senate continued with the consideration of the bill (S. 1570) to authorize the President of the United States to allocate energy and fuels when he determines and declares that extraordinary shortages or dislocations in the distribution of energy and fuels exist or are imminent and that the public health, safety, or welfare is thereby jeopardized; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes.

THE PRESIDING OFFICER. The question now occurs on passage of the bill. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Utah (Mr. Moss) is necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent on official business.

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 Utah (Mr. Moss) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE) is necessarily absent.

The result was announced—yeas 85, nays 10, as follows:

[No. 170 Leg.]

YEAS—85

Abourezk	Ervin	Montoya
Aiken	Fong	Nelson
Allen	Griffin	Nunn
Baker	Gurney	Packwood
Bayh	Hart	Pastore
Beall	Hartke	Pearson
Bellmon	Haskell	Pell
Bennett	Hatfield	Percy
Bentsen	Hathaway	Proxmire
Bible	Hollings	Randolph
Biden	Hruska	Ribicoff
Brooke	Huddleston	Roth
Burdick	Hughes	Saxbe
Byrd, Harry F., Jr.	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott, Pa.
Cannon	Jackson	Sparkman
Case	Javits	Stafford
Chiles	Johnston	Stevens
Church	Kennedy	Stevenson
Clark	Long	Symington
Cook	Magnuson	Taft
Cranston	Mansfield	Talmadge
Curtis	Mathias	Thurmond
Dole	McClellan	Tower
Domenici	McGee	Tunney
Dominick	McGovern	Weicker
Eagleton	McIntyre	Williams
Eastland	Metcalf	Young
	Mondale	

NAYS—10

Bartlett	Fulbright	Helms
Brock	Goldwater	Scott, Va.
Buckley	Gravel	
Fannin	Hansen	

NOT VOTING—5

Cotton	Moss	Stennis
McClure	Muskie	

So the bill (S. 1570), was passed, as follows:

S. 1570

An act to authorize the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Petroleum Allocation Act of 1973".

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress hereby determines that extraordinary shortages of crude oil (including natural gas liquids) and refined petroleum products (including liquid petroleum gas), caused by unprecedented demand, inadequate domestic production of crude oil and refined petroleum products, environmental constraints and the unavailability of imports sufficient to satisfy domestic demand, now exist or are imminent. The Congress further determines that such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods. The Congress further determines that such hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy crisis that is a threat to the public health, safety, and welfare and can only be averted or minimized through prompt action by the executive branch of Government.

(b) The purpose of this Act is to grant to the President of the United States temporary authority to deal with a national energy crisis involving extraordinary shortage of crude oil and petroleum products or dislocations in their national distribution system. The authority granted under this Act shall be exercised for the purpose of dealing with said national energy crisis by minimizing the adverse impacts of such fuel shortages or dislocations on the American people and the domestic economy and achieving the objectives set forth in section 102. No allocation plan, regulation or order, nor mandatory price, price ceiling or restraint, shall be promulgated pursuant to this Act, whose net effect would be a substantial reduction of the total supply of crude oil or refined petroleum products available in or to markets in the United States.

OBJECTIVES

SEC. 102. In implementing the authority granted under this Act the President shall take such actions as are necessary to insure the attainment of the following specific objectives—

(a) protection of public health, safety, and welfare, and the national defense;

(b) maintenance of all public services;

(c) maintenance of all essential agricultural operations including farming, ranching, dairy and fishing activities and services directly related to the cultivation, production and preservation of food;

(d) preservation of an economically sound and competitive petroleum industry, including the competitive viability of the independent producing, refining, marketing, distributing, and petrochemical sectors of that industry;

(e) equitable distribution of fuels at equitable prices among all regions and areas of the United States and all classes of consumers: *Provided,* That priority shall be given to supplying essential activities in the public interest and to independent marketers, jobbers, and refiners who supply those priorities. Whenever possible, preference shall be given to independent refiners and marketers (1) in the carrying out of such priorities, and (2) in other cases where all other conditions are equal and a choice must be made between allocation of supplies to an independent or to a major company;

(f) economic efficiency; and

(g) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

AUTHORITY

SEC. 103. (a) The President may delegate all or any portion of the authority granted under this Act to the Secretary of the Interior or to the head of any other Federal agency he deems appropriate.

(b) The authority granted under this Act shall terminate on March 1, 1975.

(c) The President shall designate an agency to supervise compliance with the requirements of this Act and promulgate regulations hereunder. The head of said agency shall have authority to require periodic reports from the producers, importers, refiners, dealers, and all others subject to the requirements of this Act in such form as may be necessary to determine whether the requirements of this Act have been or are being met.

(d) The head of an agency exercising authority under this Act, or his duly authorized agent, shall have authority, for any purpose related to this Act, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this Act shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this Act, the head of the agency authorizing such subpena, or his delegate, may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents before the agency.

(e) Whenever it appears to the head of the agency exercising authority under this Act, or to his delegate, that any individual or organization has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of this Act, or any order or regulation thereunder, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any individual or organization to comply with this Act, or any order or regulation thereunder.

(f) OFFICE OF EMERGENCY FUEL ALLOCATION.—An office shall be established within the Federal agency designated pursuant to section 103(a) to receive complaints from officers of State and local governmental units who cannot obtain supplies of gasoline or fuel oil or whose supplies have been substantially reduced or prices increased in violation of this Act. The Office shall be authorized to act in emergency situations where communities are threatened with the disruption of essential public services. The Office shall be empowered to order that adequate supplies be made available to these communities.

(g) The provisions of this Act, and the authority granted therein, shall take precedence over any program for the emergency allocation of crude oil or petroleum products established by any State or local government, and any conflict between such a program and any program, plan, regulation, or order established pursuant to this Act shall be resolved in favor of the latter.

FUELS ALLOCATION

SEC. 104. (a) Within thirty days of the date of enactment of this Act, the President shall after due notice and public hearings cause to be prepared and published, priority schedules, plans, and regulations for the allocation or distribution of crude oil and any refined petroleum product which is or may be in short supply nationally or in any region of the United States in accordance with the objectives of this Act: *Provided*, That should the President find that on either a nationwide or regional basis a shortage has reached, or may imminently reach, emergency proportions, he may order temporary allocations as necessary to accomplish the objectives of this section, pending promulgation of priority schedules, plans and regulations as otherwise required by this Act.

(b) In order to accomplish the objectives of section 102 of this Act, and subject to the provisions thereof, the President shall allocate or distribute or cause to be allocated and distributed, pursuant to the schedules, plans, and regulations required by subsection (a) hereof, any liquid fuel, whether crude or processed, and whether imported or domestically produced, currently or prospectively in extraordinarily short supply nationally or in any region of the United States.

(c) The regulations required by subsection (a) herein shall include standards and procedures for determining or reviewing prices of fuels allocated by the President under the provisions of this Act to prevent (1) appropriation of private property without due compensation or (2) exorbitant price increases reflecting temporary shortage conditions.

(d) President is hereby directed to use his authority under this Act and under existing law to assure that petroleum and petroleum products are allocated in such a manner as to assure adequate production, processing, and distribution of food and fiber.

SALES TO INDEPENDENT REFINERS AND DEALERS

SEC. 105. (a) The President is hereby directed to use his authority under this Act and under existing law to assure that no petroleum refinery in the United States is involuntarily required to operate at less than its normal full capacity because of the unavailability to said refinery of suitable types or grades of crude oil.

(b) DEFINITIONS.—For the purpose of this section, (1) the "base period" is the period from October 1, 1971, to September 30, 1972, inclusive; (2) "nonaffiliated" refers to a buyer (seller) who has no substantial financial interest in, is not subject to a substantial common financial interest of, and is not subject to a substantial common financial interest with, the seller (buyer) in question; (3) "independent refiner" means a refiner who produced in the United States less than one hundred thousand barrels per day of petroleum products during the base period; (4) "independent dealer" means a terminal operator, jobber, dealer, or distributor, at wholesale or retail, who obtains refined petroleum products either on term contract or in spot markets, and who purchased during the base period at least half of such products from nonaffiliated sellers.

(c) In order to achieve the objectives of this Act, (1) any producer or importer of crude petroleum and/or natural gas liquids who produced in the United States and/or imported more than two hundred thousand barrels per day of crude oil and natural gas liquids during the base period shall sell or exchange to nonaffiliated independent refiners or to any other reasonable and appropriate class of refiners established by regulation, in accordance with the objectives and priorities established under section 102(e) of this Act, in the aggregate during each quarter during the effective term of this Act a proportion of his domestic production and imports no less than the proportion he sold or exchanged to such refiners during the corresponding quarter of the base period; *Provided*, That, to the extent practicable, all such refined previously supplied by such producer or importer shall continue to be supplied on an equitable basis taking into consideration past supply relationships and unused refinery capacity; and (2) all refiners or importers of petroleum products shall sell or exchange to nonaffiliated independent dealers or to any other reasonable and appropriate class of purchasers established by regulation, in accordance with the objectives and priorities established under section 102(e) of this Act, in the aggregate in each quarter during the effective term of this Act, a proportion of his refinery production and imports of said products no less than the proportion he sold or exchanged to such dealers during the corresponding quarter of the base period: *Provided*, That, to the extent practicable, all such dealers previously supplied by such refiner shall continue to be supplied on an equitable basis taking into consideration past supply relationships.

(d) The allocation program established pursuant to this section may be replaced or amended by, or incorporated into, the priority schedules, plans, and regulations promulgated under section 104 hereof.

REPORTS TO CONGRESS

SEC. 106. (a) The President shall submit to both Houses of Congress, and cause to be published in the Federal Register any schedules, plans, and regulations promulgated for implementing the provisions of this Act.

(b) The President shall make to the Congress quarterly reports, and upon termination of authority under this Act a final report, including a summary and description of all actions taken under the authority of this Act, an analysis of their impact, and an evaluation of their effectiveness in implementing the objectives of section 102 hereof.

ACTIONS TAKEN UNDER THE ECONOMIC STABILIZATION ACT

SEC. 107. All actions duly taken pursuant to clause (3) of the first sentence of section 203(a) of the Economic Stabilization Act of 1970, as amended, in effect immediately prior to the date of enactment of this Act, shall continue in effect until modified or rescinded by or pursuant to this Act.

FAIR MARKETING OF PETROLEUM PRODUCTS

GENERAL PROVISIONS

SEC. 108. (a) SHORT TITLE.—Sections 108 through 110 may be cited as the "Fair Marketing of Petroleum Products Act".

(b) DEFINITIONS.—As used in this Act—

(1) "Commerce" means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

(2) "Base period" means the period from October 1, 1971, to September 30, 1972.

(3) "Franchise" means any agreement or contract between a petroleum refiner or a petroleum distributor and a petroleum retailer or between a petroleum refiner and a petroleum distributor under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or the sale for purposes other than resale of petroleum products.

(4) "Market area" means any State or any area so defined by the Secretary of the Interior.

(5) "Notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of section 109 of this Act.

(6) "Person" means an individual or a corporation, partnership, joint-stock company, business trust, association, or any organized group of individuals whether or not incorporated.

(7) "Petroleum distributor" means any person engaged in commerce in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(8) "Petroleum refiner" means any person engaged in the importation or refining of petroleum products.

(9) "Petroleum product" means any liquid refined from petroleum and usable as a fuel.

(10) "Petroleum retailer" means any person engaged in commerce in the sale of any petroleum product for purposes other than resale in any State, either under a franchise or independent of any franchise or who was so engaged at any time after the start of the base period.

(11) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any organized territory or possession of the United States.

PROTECTION OF DEALERS

SEC. 109. (a) PROHIBITED CONDUCT.—Except as otherwise provided pursuant to this Act, the following conduct is prohibited:

(1) A petroleum refiner or a petroleum distributor shall not deliver or tender for delivery in any quarter to any petroleum distributor or petroleum retailer a smaller quantity of petroleum products than the quantity of such products delivered by him or his predecessor or predecessors during the corresponding quarter in the base period, unless he delivers to each petroleum distributor or petroleum retailer doing business in commerce the same percentage of the total amount as is delivered to all such distributors or retailers in the market area who are supplied by such refiner or distributor.

(2) A petroleum refiner or a petroleum distributor shall not sell petroleum products to a nonfranchised petroleum distributor or petroleum retailer at a price, during any cal-

endar month, which is greater than the price at which such petroleum products are sold to a similarly situated franchised petroleum distributor or petroleum retailer on the same level of commerce (wholesale or retail) in the market area except that a reasonable differential which equals the value of the goodwill, trademark, and other protections and benefits which accrue to franchised distributors or retailers is not prohibited.

(b) REMEDY.—(1) If a petroleum refiner or a petroleum distributor engages in prohibited conduct, a petroleum retailer of a petroleum distributor may maintain a suit against such refiner or distributor. A petroleum retailer may maintain such suit against a petroleum distributor whose actions affect commerce and whose products he purchases or has purchased, directly or indirectly, and a petroleum distributor may maintain such suit against a petroleum refiner whose actions affect commerce and whose products he purchases or has purchased.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of such prohibited conduct, including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and punitive damages where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

(c) PROCEDURE.—A suit under this section may be brought in the district court of the United States for any district in which the petroleum distributor or the petroleum refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be brought by any person unless he has furnished notice of intent to file such suit by certified mail at least ten days prior thereto with (1) each intended defendant, (2) the attorney general of the State in which the prohibited conduct allegedly occurred, and (3) the Secretary of the Interior.

PROTECTION OF FRANCHISED DEALERS

SEC. 110. (a) PROHIBITED CONDUCT.—The following conduct is prohibited:

(1) A petroleum refiner or a petroleum distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each petroleum distributor or petroleum retailer affected. Such notification shall be in writing and shall be accomplished by certified mail to such distributor or retailer; shall be furnished not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated; and shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this Act together with a summary of the provisions of this section.

(2) A petroleum refiner or a petroleum distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the petroleum retailer or petroleum distributor whose franchise is terminated failed to comply substantially with essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

(b) REMEDY.—(1) If a petroleum refiner or a petroleum distributor engages in prohibited conduct, a petroleum retailer or a petroleum distributor may maintain a suit against such refiner or distributor. A petroleum retailer may maintain such suit against a petroleum distributor whose actions affect commerce and whose products he sells or has sold under a franchise and against a petroleum refiner whose actions affect commerce and whose products he sells or has sold, directly or indirectly, under a franchise. A petroleum distributor may maintain such suit against a petroleum refiner whose actions affect commerce and whose products he distributes or has distributed to petroleum retailers.

(2) The court may grant an award for actual damages resulting from the cancellation, failure to renew, or termination of a franchise together with such equitable relief as is necessary, including declaratory judgments and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief and punitive damages where indicated in suits under this section, and may, unless such suit is frivolous, direct that costs, including a reasonable attorney's fee, be paid by the defendant.

(c) PROCEDURE.—A suit under this section may be brought in the district court of the United States for any district in which the petroleum distributor or the petroleum refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No suit shall be maintained under this section unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

HIGHWAY SPEED REDUCTIONS TO CONSERVE GASOLINE

SEC. 111. It is the sense of the Congress that, in order to conserve gasoline supplies which in some areas of the Nation are approaching critical shortages—

(1) speed limits for motor vehicles traveling on Federal-aid highways presently at or in excess of fifty-five miles per hour should be reduced immediately to fifty-five miles per hour, or ten miles per hour lower than the speed limit posted on the affected portion of such Federal-aid highway prior to the enactment of this section, whichever is the greater;

(2) Federal, State, and local governmental agencies should take appropriate actions to achieve and enforce such reductions in vehicle speed; and

(3) Federal, State, and local governmental agencies should take such actions as may be necessary to increase public awareness of the need to conserve gasoline and the means for doing so, including the connection between decreasing gasoline consumption and decreasing vehicle speed, excessive idling, unnecessary travel, and abrupt acceleration and deceleration.

PREVENTION OF UNFAIR COMPETITIVE PRACTICES IN THE PETROLEUM INDUSTRY

SEC. 112. (a) Except as specifically provided herein, no provision of this Act shall be deemed to convey to any individual, corporation, or other business organization subject thereto immunity from civil or criminal liability or to create defenses to actions under the antitrust laws.

(b) As used in this section, the term "antitrust laws" includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended.

(c) Any priority schedule, plan, regulation, or allocation program proposed pursuant to section 104(a) hereof shall be forwarded to the Attorney General and to the Federal Trade Commission, who shall be given a reasonable opportunity of not less than seven days before such schedule, plan, regulation, or allocation program takes effect to comment as to whether it would tend to create or maintain anticompetitive practices or situations inconsistent with the antitrust laws, and to propose an alternative or alternatives which would avoid or overcome such effects while achieving the purposes of this Act.

(d) Whenever it is necessary, in order to execute the provisions of this Act or of plans, regulations, or orders issued pursuant thereto, for owners, officers, agents, or representatives of two or more producers, importers, refiners, or resellers of crude oil or refined petroleum products subject to this Act to meet, confer, or communicate in such a fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, they may do so only upon an order of the agency designated by the President to administer the provisions of this Act specifying and limiting the subject matter and objectives of such meeting, conference, or communication. Moreover, such meeting, conference, or communication shall take place only in the presence of a representative of the Antitrust Division of the Department of Justice, and a verbatim transcript of such meeting, conference, or communication shall be taken and deposited with the Attorney General and the Federal Trade Commission, where it shall be made available for public inspection.

(e) There shall be available as a defense to any section brought under the antitrust laws or comparable State pricing or restraint of trade statutes, or for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange crude oil or refined petroleum products, that such delay or failure was caused solely by compliance with the provisions of this Act or with mandatory priority schedules, regulations, or orders issued pursuant to this Act.

(f) There shall be available as a defense to any action brought under the antitrust laws or comparable State pricing or restraint of trade statutes arising from any meeting, conference, or communication or agreement resulting therefrom, held or made solely for the purpose of executing the provisions of this Act or of plans, regulations, or orders issued pursuant thereto, that such meeting, conference, communication, or agreement was carried out or made in accordance with the requirements of subsection (d) hereof.

(g) The Attorney General and the Federal Trade Commission shall monitor the actions taken pursuant to this Act by the agency designated to administer the provisions thereof and by persons subject to the provisions thereof, and shall report to the President and to the Congress any provision of this Act, action taken pursuant thereto, or condition created thereby, which would tend to create or maintain anticompetitive practices or situations inconsistent with the antitrust laws or have a lasting adverse impact upon competition or upon any of the objectives set forth in section 102 (d), (f), or (g) of this Act.

(h) The Federal Trade Commission shall prepare and transmit to the Congress, not later than 30 days after the enactment of this section an interim report on the following, and not later than 6 months after such date—

(1) a report on the relationship between the structure, behavior, and operational characteristics of the petroleum industry (including the vertical integration of production, transportation, refining, and marketing; and joint ventures among petroleum companies) and the causes of the present shortages of crude oil and refined petroleum products; and

(2) a report on petroleum industry practices and trends in the marketing of gasoline and other petroleum products including the use of credit cards, the promotion of second and third brand name products, the terms and conditions of franchise agreements and the protection they afford the franchisee, and the role of the independent retailer.

(i) The Federal Trade Commission shall

have the authority, notwithstanding the exceptions in section 6 (a) and (b) of the Federal Trade Commission Act (ch. 311, 38 Stat. 721), to gather and compile such information concerning, and to require the furnishing of such information by, all corporations including common carriers subject to the Act, as may be required to implement the provisions of this section.

NATIONAL VOLUNTARY ENERGY CONSERVATION PROGRAM

SEC. 113. In order to more effectively carry out the purpose of this Act to solve a national energy crisis the President shall (1) develop a National Voluntary Energy Conservation Program calling for and suggesting means of terminating unnecessary use of energy for power or lighting, and (2) call upon State and local officials, public and private entities, and the public generally, by means of television, radio, newspaper, and other appropriate manner, to cooperate in promoting and carrying out such program.

GOVERNMENT USE OF ECONOMY CARS AND LIMOUSINES; PROMOTION OF CARPOOLS

SEC. 114. (a) That, as an example to the rest of our Nation's automobile users, the President of the United States is requested to take such action as is necessary to require all agencies of Government, where practical, to use economy model, automobiles, pickups, and trucks.

(b) That the President take action to require that no Federal official or employee below the level of cabinet officer be furnished a limousine because such automobiles are particularly expensive, gas consuming and pollution producing.

(c) That the President is requested to take such action as is necessary to begin a national program of public information to inform the commuter of the benefits of carpools and economy cars and that the President report to Congress on legislative incentives to promote such a program.

ESTABLISHMENT OF STATE FUELS AND ENERGY CONSERVATION OFFICES

SEC. 115. It is the sense of the Congress that each Governor of each State is requested to establish a State Office of Fuels and Energy Conservation, such office immediately to develop and promulgate a program to encourage voluntary conservation of gasoline, diesel oil, heating oil, natural gas, propane, other fuels, and electrical energy.

PETROLEUM PRICE CONTROLS

SEC. 116. (a) The Congress finds and declares that, notwithstanding the imposition of mandatory controls by the Cost of Living Council on March 6, 1973, on the prices of crude oil and petroleum products, such prices have increased and are continuing to increase at an excessive rate.

(b) In order to control inflation, promote a sound economy, and carry out the objectives of this Act as stated in section 102, the Congress urges the President immediately to take such further action as may be necessary to stabilize effectively the prices of crude oil and petroleum products.

The title was amended, so as to read: "A bill to authorize the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which S. 1570 was passed.

Mr. GRIFFIN. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 1570 be printed as it passed the Senate, and that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossed copy of the bill.

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

HEALTH PROGRAMS EXTENSION ACT OF 1973

The PRESIDING OFFICER (Mr. SCOTT of Virginia). Under the previous order, the Chair lays before the Senate a message from the House of Representatives on S. 1136.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1136) to extend the expiring authorities in the Public Health Service Act and the Community Mental Health Centers Act which were to strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Programs Extension Act of 1973".

TITLE I—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

REFERENCES TO ACT

SEC. 101. Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

HEALTH SERVICES RESEARCH AND DEVELOPMENT

SEC. 102. Section 304(c)(1) is amended (1) by striking out "and" after "1972,", and (2) by inserting before the period at the end thereof a comma and the following: "and $42,617,000 for the fiscal year ending June 30, 1974".

NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 103. Section 305(d) is amended (1) by striking out "and" after "1972," and (2) by striking out the period and inserting in lieu thereof a comma and the following: "and $14,518,000 for the fiscal year ending June 30, 1974".

PUBLIC HEALTH TRAINING

SEC. 104. (a) Section 306(a) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $10,300,000 for the fiscal year ending June 30, 1974,".

(b) Section 309(a) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following ", and $6,500,000 for the fiscal year ending June 30, 1974".

(c) Section 309(c) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $6,500,000 for the fiscal year ending June 30, 1974".

MIGRANT HEALTH

SEC. 105. Section 310 is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $26,750,000 for the fiscal year ending June 30, 1974".

COMPREHENSIVE HEALTH PLANNING SERVICES

SEC. 106. (a)(1) Section 314(a)(1) is amended (A) by striking out "and" after "1972,", and (B) by inserting after "1973" the following: ", and $10,000,000 for the fiscal year ending June 30, 1974".

(2) Section 314(b)(1)(A) is amended (A) by striking out "and" after "1972,", and (B) by inserting after "1973" the following: ", and $25,100,000 for the fiscal year ending June 30, 1974".

(3) Section 314(c) is amended (A) by striking out "and" after "1972,", and (B) by inserting after "1973" the following: ", and $4,700,000 for the fiscal year ending June 30, 1974".

(4) Section 314(d)(1) is amended (A) by striking out "and" after "1972,", and (B) by inserting after "1973" the following: ", and $90,000,000 for the fiscal year ending June 30, 1974".

(5) Section 314(e) is amended (A) by striking out "and" after "1972,", (B) by inserting "and $230,700,000 for the fiscal year ending June 30, 1974," after "1973,", and (C) by adding at the end thereof the following: "No grant may be made under this subsection for the fiscal year ending June 30, 1974, to cover the cost of services described in clause (1) or (2) of the first sentence if a grant or contract to cover the cost of such services may be made or entered into from funds authorized to be appropriated for such fiscal year under an authorization of appropriations in any provision of this Act (other than this subsection) amended by title I of the Health Programs Extension Act of 1973."

(b) The first sentences of sections 314(b)(1)(A) and 314(c) are each amended by striking out "and ending June 30, 1973" and inserting in lieu thereof "and ending June 30, 1974".

ASSISTANCE TO MEDICAL LIBRARIES

SEC. 107. (a) Section 394(a) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $1,500,000 for the fiscal year ending June 30, 1974".

(b) Section 395(a) is amended by inserting after the first sentence the following new sentence: "To enable the Secretary to carry out such purposes, there is authorized to be appropriated $95,000 for the fiscal year ending June 30, 1974."

(c) Section 395(b) is amended by inserting after the first sentence the following new sentence: "To enable the Secretary to carry out such purposes, there is authorized to be appropriated $900,000 for the fiscal year ending June 30, 1974."

(d) Section 396(a) is amended (1) by striking "and" after "1972,", and (2) by inserting after "1973" the following: ", and $2,705,000 for the fiscal year ending June 30, 1974".

(e) Section 397(a) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $2,902,000 for the fiscal year ending June 30, 1974".

(f) Section 398(a) is amended by inserting after the first sentence the following new sentence: "To enable the Secretary to carry out such purposes, there is authorized to be appropriated $340,000 for the fiscal year ending June 30, 1974.".

HILL-BURTON PROGRAMS

SEC. 108. (a)(1) Section 601(a) is amended to read as follows:

"(a) for the fiscal year ending June 30, 1974—

"(1) $20,800,000 for grants for the construction of public or other nonprofit facilities for long-term care;

"(2) $70,000,000 for grants for the construction of public or other nonprofit outpatient facilities;

"(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;".

(2) Section 601(b) is amended (A) by striking out "and" after "1972,", and (B) by inserting after "1973" the following: ", and $41,400,000 for the fiscal year ending June 30, 1974".

(3) Section 601(c) is amended (A) by striking out "and" after "1972,", and (B) by inserting after "1973" the following: ", and $50,000,000 for the final year ending June 30, 1974".

(b)(1) Section 621(a) is amended by striking out "through June 30, 1973" in paragraphs (1) and (2) and inserting in lieu thereof "through June 30, 1974".

(2) Section 625(2) is amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973, and June 30, 1974".

TRAINING IN THE ALLIED HEALTH PROFESSIONS

SEC. 109. (a) Section 792(b) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $20,000,000 for the fiscal year ending June 30, 1974".

(b) Section 792(c)(1) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $18,245,000 for the fiscal year ending June 30, 1974".

(c) Section 793(a) is amended (1) by striking out "and" after "1972;", and (2) by inserting after "1973" the following: "; and $6,000,000 for the fiscal year ending June 30, 1974".

(d) Section 794A(b) is amended (1) by striking out "and" after "1972;", and (2) by inserting after "1973" the following: "; and $100,000 for the fiscal year ending June 30, 1974".

REGIONAL MEDICAL PROGRAMS

SEC. 110. Section 901(a) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $159,000,000 for the fiscal year ending June 30, 1974,".

POPULATION RESEARCH AND FAMILY PLANNING

SEC. 111. (a) Section 1001(c) is amended (1) by striking out "and" after "1972;", and (2) by inserting after "1973" the following: ", and $111,500,000 for the fiscal year ending June 30, 1974".

(b) Section 1003(b) is amended (1) by striking out "and" after "1972;", and (2) by inserting after "1973" the following: "; and $3,000,000 for the fiscal year ending June 30, 1974".

(c) Section 1004(b) is amended (1) by striking out "and" after "1972;", and (2) by inserting after "1973" the following: "; and $2,615,000 for the fiscal year ending June 30, 1974".

(d) Section 1005(b) is amended (1) by striking out "and" after "1972;", and (2) by inserting after "1973" the following: "; and $909,000 for the fiscal year ending June 30, 1974".

TITLE II—AMENDMENTS TO THE COMMUNITY MENTAL HEALTH CENTERS ACT

REFERENCES TO ACT

SEC. 201. Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Mental Health Centers Act.

CONSTRUCTION ASSISTANCE FOR MENTAL HEALTH CENTERS

SEC. 202. (a) Section 201(a) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $20,000,000 for the fiscal year ending June 30, 1974".

(b) Section 207 is amended by striking out "1973" and inserting in lieu thereof "1974".

STAFFING ASSISTANCE FOR MENTAL HEALTH CENTERS

SEC. 203. (a) Section 221(b) is amended by striking out "1973" each place it occurs and inserting in lieu thereof "1974".

(b) Section 224(a) is amended (1) by striking out "and" after "1972,", (2) by inserting after "1973" the following: ", and $49,131,000 for the fiscal year ending June 30, 1974", and (3) by striking out "thirteen succeeding years" and inserting in lieu thereof "fourteen succeeding years".

ALCOHOLISM PROGRAMS

SEC. 204. (a) Section 246 is amended by striking out "1973" and inserting in lieu thereof "1974".

(b) Section 247(d) is amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the fiscal years ending June 30, 1973, and June 30, 1974".

DRUG ABUSE PROGRAMS

SEC. 205. (a) Section 252 is amended by striking out "1973" and inserting in lieu thereof "1974".

(b) Section 253(d) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $1,700,000 for the fiscal year ending June 30, 1974".

(c) Section 256(e) is amended by striking out "$75,000,000" and inserting in lieu thereof "$60,000,000".

OTHER AUTHORIZATIONS FOR ALCOHOLISM AND DRUG ABUSE PROGRAMS

SEC. 206. (a) Section 261(a) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $36,774,000 for the fiscal year ending June 30, 1974".

(b) Section 261(b) is amended (1) by striking out "nine fiscal years" and inserting in lieu thereof "ten fiscal years", and (2) by striking out "1973" and inserting in lieu thereof "1974".

MENTAL HEALTH OF CHILDREN

SEC. 207. (a) Section 271(d)(1) is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $16,515,000 for the fiscal year ending June 30, 1974".

(b) Section 271(d)(2) is amended (A) by striking out "eight fiscal years" and inserting in lieu thereof "nine fiscal years", and (B) by striking out "1973" and inserting in lieu thereof "1974".

TITLE III—AMENDMENTS TO THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

AUTHORIZATION OF APPROPRIATIONS FOR SERVICES AND PLANNING

SEC. 301. (a) Section 122(b), of the Developmental Disabilities Services and Facilities Construcion Act is amended (1) by striking out "and" after "1972;", and (2) by inserting after "1973" the following: "; and $9,250,000 for the fiscal year ending June 30, 1974".

(b) Section 131 of such Act is amended (1) by striking out "and" after "1972,", and (2) by inserting after "1973" the following: ", and $32,500,000 for the fiscal year ending June 30, 1974".

(c) Section 137(b)(1) is amended by striking out "the fiscal year ending June 30, 1973" and inserting in lieu thereof "each of the fiscal years ending June 30, 1973, and June 30, 1974".

TITLE IV—MISCELLANEOUS

MISCELLANEOUS

SEC. 401. (a) Section 601 of the Medical Facilities Construction and Modernization Amendments of 1970 is amended by striking out "1973" and inserting in lieu thereof "1974".

(b) The receipt of any grant, contract, loan, or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Services and Facilities Construction Act by any individual or entity does not authorize any court or any public official or other public authority to require—

(1) such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions; or

(2) such entity to—

(A) make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or

(B) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedure or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

(c) No entity which receives a grant, contract, loan, or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Services and Facilities Construction Act after the date of enactment of this Act may—

(1) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel, or

(2) discriminate in the extension of staff or other privileges to any physician or other health care personnel,

because he performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting sterilization procedures or abortions.

And amend the title so as to read: "An act to extend through fiscal year 1974 certain expiring appropriations authorizations in the Public Health Service Act, the Community Mental Health Centers Act, and the Developmental Disabilities Services and Facilities Construction Act, and for other purposes."

The PRESIDING OFFICER. In accordance with the unanimous-consent agreement, there will be 10 minutes of debate, to be equally divided between the Senator from New York (Mr. JAVITS) and the Senator from Massachusetts (Mr. KENNEDY). Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 5 minutes. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. What is the matter before the Senate?

The PRESIDING OFFICER. The message from the House of Representatives has been laid before the Senate. The Chair assumes that a motion will be made to concur in the House amendments.

Mr. KENNEDY. That is S. 1136?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask unanimous consent that Mr. Lee Goldman, Mr. John Steinberg, Ms. Louise Ringwalt, and Mr. Jay Cutler be permitted to be present in the Chamber during the course of the debate on this measure.

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

Mr. KENNEDY. Mr. President, today the Senate has the opportunity to take final action on the bill which will extend for 1 year all of the expiring provisions of the Public Health Service Act, the Community Mental Health Centers Act, and the Developmental Disabilities Act. You will recall that the programs

contained within these acts include health services research and development, health statistics, public health training, migrant health, comprehensive health planning, medical libraries, Hill-Burton, allied health training, regional medical programs, family planning, mental health centers, and developmental disabilities.

The Senate Health Subcommittee, which I chair, has been engaged in an effort to completely rewrite, restructure, and simplify these authorities. This is a very large and complicated undertaking. And it cannot be reasonably completed by the time the act expires on June 30, 1973. Therein lies the rationale for the simple 1-year extension bill. If the Congress is to carry out its constitutionally guaranteed function with regard to legislation, there must be sufficient time to permit that effort to be conducted responsibly. This requirement is all the more pressing given the fact that the administration has recommended that five of these programs be terminated and that others of them be fundamentally altered.

S. 1136, Mr. President, was introduced in March with bipartisan cosponsorship which included 15 of the 16 members of the Senate Committee on Labor and Public Welfare. After public hearings on the bill in which more than 34 groups testified in strong support of the bill—except the administration—the committee ordered the bill reported to the Senate by a vote of 15 to 1. And on March 27, 1973, the Senate passed the bill by a vote of 72 to 19.

Companion legislation has now emerged from the House of Representatives. In the House the bill was supported unanimously by the Members of the House Committee on Interstate and Foreign Commerce. And last week the House approved the bill by a vote of 372 to 1.

Mr. President, there are a few differences between the Senate and House bills. And I want to now describe for my colleagues those differences. While I believe that the bill that passed the Senate is preferable, I also believe that it is essential that this legislation be expedited and that a lengthy conference between the Senate and the House be avoided. Since none of the differences between the two bills does irreparable violence to the basic purpose the Congress seeks to achieve; namely, the extension of the act, I am recommending that the Senate concur in the House Amendment to S. 1136. There are three differences between the bills. The first is in respect to the overall cost of the bill. The Senate bill used as its guidepost the 1973 authorization levels for the programs. This resulted in a bill with an overall cost of $2.28 billion. The House used as its guidepost the program levels contained within the second 1973 HEW appropriations bill. This produced a bill whose overall cost was $1.27 billion. Therefore by concurring in the House amendment we are reducing the cost of the legislation by about $1 billion.

Second, the Senate bill made no substantive changes whatever in the programs covered by the bill. The House amendment makes one substantive and beneficial substantive change. It restricts the use of the project grants for health services under section 314(e) of the PHS Act to programs respecting neighborhood health centers, family health centers, lead-based paint poisoning prevention, and rodent control.

Ideally, Mr. President, the Congress should not be forced to legislate in this manner. But it has become necessary, given the flagrant disregard of congressional intent regarding health programs by the current administration. Third, the House amendment has modified the language respecting the conscience amendment which was added to the Senate bill on the floor by my friend and colleague from Idaho, Senator CHURCH. The House modification restricts the applicability of the Church amendment, as modified by the Javits amendment, to the receipt of Federal assistance under the PHS Act, the Mental Health Act or the Developmental Disabilities Act. This modification was necessary under the germaneness rules of the House of Representatives. In addition, the House amendment provides that no court or public official is authorized, based upon the receipt of funds under the acts mentioned above, to require health personnel or health entities to require abortion or sterilization services if such services are contrary to the persons' or entities' religious or moral beliefs. I believe the House amendment is satisfactory. In addition I have been advised that the language of the House amendment is also satisfactory to the author of the amendment in the Senate, Mr. CHURCH, and to the U.S. Catholic conference.

Mr. President, by concurring in the House amendment, we can be assured that this legislation will go to the President with sufficient time for him to sign it into law or for the Congress to override a veto prior to the expiration of the act on June 30. I am hopeful that it will not be necessary for the Congress to have to override a veto. I am hopeful that with the clear, unmistakable, and overwhelming view of the Congress regarding this legislation that the President will promptly sign it into law. And I am hopeful that, as my committee proceeds over the next several months with the effort to restructure the act, that the committee will have the cooperation of the Department of Health, Education, and Welfare.

Mr. President, I urge the Senate to support this urgently needed health legislation.

In summary, I would just explain to the Members of the Senate that the action we are taking here this afternoon is to extend the Public Health Service Act for 1 additional year. This legislation has been accepted by the Senate 2 months ago, by a 72 to 19 vote.

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

Mr. KENNEDY. I yield.

Mr. CHURCH. This conference report includes under the general title of the Public Health Service Act migrant health, comprehensive health planning services, assistance for medical libraries, Hill-Burton programs, regional medical programs, population research and family planning, as well as construction assistance for mental health centers, alcoholism programs, drug abuse programs, other authorizations for alcoholism and drug abuse programs, mental health of children, authorization of appropriations for services and planning—all of these various programs come within the scope of the legislation; is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. CHURCH. And the amendment which I sponsored earlier in the Senate, which passed with only one dissenting vote, would be applicable to all of these Federal medical programs, including the Hill-Burton program which has been so important in connection with the construction, expansion, and modernization of hospitals throughout the country; is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. CHURCH. So the abortion provision contained in my amendment would apply in connection with all of these programs; the only two that have been excluded would be medicare and medicaid, and that was because of the procedural problems that the House of Representatives faced had those two items been included as well?

Mr. KENNEDY. The Senator would be correct, with the addition of the Department of Defense and the VA medical care programs.

The PRESIDING OFFICER. The time of the Senator has expired. All time of the Senator from Massachusetts has expired. The Senator from New York has 5 minutes.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. I thought I had 10 minutes, and I had yielded myself 5.

The PRESIDING OFFICER. Five minutes to each side.

Mr. KENNEDY. Five minutes to each side?

Mr. JAVITS. Mr. President, I ask unanimous consent, with Senator BYRD's approval, that each side have 5 minutes more, because we could file an amendment to the amendment.

Mr. President, I withdraw the request, and yield 1 minute to the Senator from Massachusetts.

Mr. KENNEDY. With the DOD and VA programs, the Senator would be correct. The DOD, the VA, medicare, and medicaid.

Mr. CHURCH. I understand the procedural problem faced in the House of Representatives. I just want to say I think at an appropriate time a similar provision should be added to the law in connection with those medical programs that do not come within the scope of this legislation, and I shall offer amendments as appropriate legislation comes before this body.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

I agree with the Senator from Massachusetts (Mr. KENNEDY) that the Senate should accept the House amendments. I might point out that this is not a conference report. The bill will not and should

not go to conference, in view of our substantial agreement.

Mr. President, the bill now under consideration—the omnibus 1 year extension of the expiring appropriation authorizations of the Public Health Service Act, the Community Mental Health Centers Act, and the Developmental Disabilities Services and Facilities Construction Act, as amended by the House—is an essential bill and has one purpose: Executive budget action, which has certain health programs wither, vanish, or be effectively terminated by lack of adequate funding, is not the appropriate mechanism to determine the fate of vital substantive health programs affecting millions of Americans.

The essential differences between the bill, as amended by the House, and as it passed the Senate are:

First. The total authorization would be $1,270,566,000—the funding level contained in the second vetoed, fiscal year 1973 HEW appropriations bill—rather than $2,228,000,000, which were the fiscal year 1973 authorizations extended for 1 year.

Second. It restricts the authorization under section 314(e) of the PHS Act to support of programs for which no other authority is provided by the bill. When I first spoke on the Senate floor in support of this measure I expressed my deep concern that the Executive determination to utilize expiring section 314(e) of the Public Health Service Act for funding programs the Executive chooses to support has failed to recognize what Congress has made crystal clear in regard to such proposed action—its opposition. Only last year the Congress passed and the President signed into law, Public Law 92–449. The legislative history of section 314(e) is enunciated in Senate Report 92–285, where in discussing this section of the law it cites the House Committee on Interstate and Foreign Commerce in its report on the Communicable Disease Control Amendments of 1970:

> In each of its budget presentations each year since the enactment of section 314(e), the Department of Health, Education, and Welfare has earmarked specific amounts of the 314(e) fund request for specific programs for the coming year. In other words, the categorical grant approach has continued since the enactment of Public Law 98–749, except that instead of the Congress setting the categories, the categories have been set by the Department of HEW.

This provision will restore control to Congress of the categories of health programs for which project grant funds are to be made available.

Third. The "conscience amendment," offered by Senator CHURCH on the floor of the Senate and modified by me, now prohibits any court or public official from using receipt of assistance under the laws amended by the bill—as a basis from requiring an individual or institution to perform or assist in the performance of sterilization procedures or abortions, if such action would be contrary to religious beliefs or moral convictions—rather than any federally financed program. Also, I am pleased that my modification—that institutions may not discriminate against those who participate in such procedures—was accepted as an amendment by Congressman HEINZ on the floor of the House.

The Department of Health, Education, and Welfare's legislative proposals or lack of proposals—which would redirect Federal efforts in the health area and have serious implications for the health needs of millions of Americans—deserve careful and complete congressional consideration. The passage of this bill insures the time necessary for Congress to review the complex issues involved in these health programs, and to consider thoroughly the administration's proposed new departure for Federal health efforts. Then the programs that Congress agrees are no longer necessary or appropriate or have failed may be phased out or restructured, while any programs necessary may be continued, revitalized or supported with increased resources.

Congress should pass this bill and preserve its prerogatives and priorities rather than permit Executive action alone to be the determining factor.

In closing, Mr. President, I should like to assure concerned citizens that the 1-year extension of the Developmental Disabilities Services and Facilities Construction Act is in no way an indication of my support for the existing law's definition of "developmental disabilities." My commitment to broadening the definition—as I indicated during hearings on that measure and the introduction of S. 1654—has not abated. Nor, does my support of this measure mean I will in any way diminish my efforts and work to establish a national commitment for a bill of rights for the mentally retarded." I feel strongly that the bill of rights for the mentally retarded should be enacted into law this year.

I hope that the President will sign the bill as it goes to him tonight and that the Senate will sustain us in accepting the amendment.

Does the Senator want another minute: I have 1 minute left.

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

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SCHWEIKER. Mr. President, the action taken by this body in the initial passage of S. 1136 and the subsequent passage of the bill with amendments by the House, in my judgement, was absolutely necessary. This legislation provides only for the extension of the authorities for a variety of health programs scheduled to expire on June 30, 1973. These programs include community mental health centers, Hill-Burton, allied health regional medical programs and public health training, all of which the administration seeks to terminate. Also included, but recommended to be continued either under other authority or in a modified form are health services research, health statistics, migrant health, comprehensive health planning, medical libraries, family planning, and developmental disabilities.

Many of the programs I refer to have been successful and have contributed a great deal to the overall improvement in this Nation's ability to meet the health needs of its citizens. Some perhaps have outlived their usefulness and properly should be curtailed or revised. In any event, a thorough examination of all these programs is absolutely necessary and inevitable.

Several months ago at the hearing of the Committee on Labor and Public Welfare on S. 1136, I made the comment that I was disturbed that these programs are being either eliminated or altered unilaterally by the administration by its funding, or the lack of it. Congress did not appear to be a partner in this process. Orderly legislative and executive consideration of these programs was being disregarded. I viewed this turn of events as most unfortunate. The phase out of many of these programs by the administration prior to congressional consideration of their renewal and funding consistent with the fiscal 1973 budget is in my judgement a serious mistake. It represents a major decline in our national commitment to health priorities.

It is appropriate and necessary that Congress extend the authority for these programs for 1 year without substantive change so that we can properly and carefully evaluate the programs and consider the entire Public Health Service Act which has become a collection of categorical programs, with duplicative authorities. Such a process will take time and it would be a mistake to allow many of these programs to simply expire in the interim.

I urged the administration to join with the Congress to review and evaluate all of these programs. Certainly we stand to benefit from its experience in administering the programs and its recommendations. This can be done in an orderly fashion within a reasonable length of time without the sacrifice of good programs and without serious injury to the budget and the policy decisions already made by the administration.

This process has begun. We have already received several legislative recommendations and HEW Secretary Caspar Weinberger has stated quite plainly the administration's view with respect to many of these programs in his testimony on this bill. We must now hear from the public.

Nevertheless, the decisions of public policy on these and other health programs are decisions to be made by the Congress and the Congress has yet to act. This legislation, in addition to tentatively continuing these programs, represents a clear and unmistakable statement that the Congress will determine health policy for the Nation.

Mr. President, the House amendments to the Senate bill should be adopted and I urge my colleagues to support the bill as amended. The authorizations contained in the measure are appropriate and realistic and the other changes are not inconsistent with the purpose of the bill. In my view, they improve the measure.

I support the passage of S. 1136.

Mr. CRANSTON. Mr. President, as chairman of the Special Subcommittee on Human Resources which has the primary responsibility for oversight and

legislation in the field of family planning services and population research authorized by title X of the Public Health Service Act, I would like to speak with the distinguished floor manager of the bill on one provision in S. 1136. This is the provision which would extend section 1004(b) at an authorization of appropriations level of $2,615,000 for fiscal year 1974, whereas the present fiscal year 1973 authorization figure in title X is $65 million.

Is it not true that the Senator from Massachusetts has been a strong supporter of title X population research and has been in agreement with the basic concept of title X that programs for family planning services, as well as training, information, and research related to family planning, should be carried out in an integrated and coordinated fashion?

Mr. KENNEDY. Yes, that is correct. I certainly do support continuation of research in the population area which has been conducted by the department of Health, Education, and Welfare. It is essential that those research activities of the department be carried out in an integrated and coordinated fashion especially given the current reorganization plans for the Health Services and Mental Health Administration, which I am sure will have at least a short-term unsettling effect on the effective administration of programs.

Mr. CRANSTON. Mr. President, I would also like to ask the floor manager if he would not have strongly preferred to have continued the title X authorization for population research at the $65 million figure included in the Senate-passed S. 1136?

Mr. KENNEDY. Yes, of course, that would have been preferable. As the distinguished Senator from California knows, that was the level which the Senate included in the bill at the time it was passed last March. As my colleague knows, the guidepost the committee used for all the programs contained in the bill was the 1973 authorization level.

Mr. CRANSTON. I would like to explain that I fully support extending the title X authorities in S. 1136—indeed, the committee adopted by amendment to do so at the fiscal year 1973 authorization level. But I do not wish to leave the impression that the action taken by the House in extending these authorizations at the level of the fiscal year 1973 appropriations contained in the second-vetoed Health, Education, and Welfare Appropriations Act or any Senate action in accepting the House-passed version of S. 1136, should in any way be interpreted as meaning that the level of funding for population research under title X in S. 1136—$2.615 million—represents an acceptable level at which this research should be supported in fiscal year 1974 under title X.

Mr. President, when title X was first enacted in 1970 in Public Law 91–570, congressional intent was clear that family planning services, and biomedical research, training, and information and education activities, related to family planning services were to be coordinated within the authorities of title X under the direction of the then newly created Deputy Assistant Secretary for Population Affairs. It was congressional intent that biomedical research conducted by the national institutes of health was also to be supported under the appropriations authorizations of section 1004(b), and authorizations were established at reasonable levels which would provide additional support in amounts that could effectively be utilized.

The administration has refused to accept this strategy and has limited appropriations under section 1004(b) to support of research in systems of providing family planning services rather than biomedical or other research in the population sciences.

The second-vetoed Health, Education, and Welfare Appropriations Act for fiscal year 1973 included $48.6 million for programs supported by the Center for Population Research in NIH. This is the minimum level I believe should be specified in the title X fiscal year 1974 authorization in S. 1136 in addition to the $2.6 million.

Mr. President, I would like to ask the distinguished floor manager of this bill if he agrees that support of biomedical research in population science is essential under title X notwithstanding what is done under other authorities of the Public Health Service Act, including NIH programs authorized by title IV?

Mr. KENNEDY. I believe that it is essential that there be a strong effective research program, including both biomedical research and research in systems of providing family planning services, conducted by HEW. I believe that the authorizations contained in title IV of the Public Health Service Act and in title X of the Public Health Service Act are essential and complementary in this regard. I would not support any effort on the part of the administration to curtail the overall program effort regarding research in family planning utilizing one authority at the expense of the other.

Mr. CRANSTON. Further, I ask, does he agree that in accepting the House reduction we are in no way acquiescing in the administration strategy of funding all population research under title IV and not title X? Does the distinguished floor manager agree that this is correct?

Mr. KENNEDY. Yes, indeed, that is the case.

Mr. CRANSTON. Mr. President, I would further like to ask the distinguished Senator from Massachusetts if when an appropriate measure is before the Labor and Public Welfare Committee, he will work with me to make clear this congressional intention by authorizing an appropriate amount of title X population research?

Mr. KENNEDY. I understand that my friend and colleague from California, as chairman of the Special Subcommittee on Human Resources, is at the present time involved in working on a comprehensive extension of the title X authorities, including section 1004(b). While I am not a member of the Human Resources Subcommittee, as chairman of the Senate Health Subcommittee, I will work closely with my colleague in determining the scope and authorization levels for the family planning program.

Mr. CRANSTON. Mr. President, I would have preferred to amend the bill to authorize the appropriation of $51.2 million for section 1004(b), the figure in the second-vetoed Health, Education, and Welfare Appropriation Act. Indeed, this amount would be only $8.8 million over the revised fiscal year 1974 budget request and only $4.6 million over the original fiscal year 1973 request of the administration. But I will not press this matter in view of this discussion and the assurances from the distinguished floor manager.

I appreciate very much what the distinguished Senator from Massachusetts has said.

Given the overriding importance of extending all the vital programs included in S. 1136, I am reluctantly willing to accept the provisions in S. 1136 as passed by the House relating to title X population research. Indeed, I know the distinguished floor manager himself has many reservations about aspects of the House-passed bill.

I would like to note that I have discussed this issue with the distinguished chairman of the subcommittee in the other body (Mr. ROGERS) who has been and continues to be a strong supporter of a well-funded population research program under title X and has authorized me to state that the House action with respect to the title X authorization for section 1004 does not in any way indicate a lessening of that commitment, and that, moreover, he would be personally sympathetic to finding a legislative way to reinforce this continuing and strong commitment.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Do I correctly understand that any Member who wishes to amend the House amendments may do so at this time?

The PRESIDING OFFICER. The Senator is correct. The yeas and nays cannot be ordered at this time since there is no motion before the Senate.

Mr. KENNEDY. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendments to S. 1136.

On this question 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 Utah (Mr. Moss), and the Senator from Arkansas (Mr. FULBRIGHT) are necessarily absent.

I further announce that the Senator from Maine (Mr. MUSKIE) is absent on official business.

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 Arkansas (Mr.

FULBRIGHT), and the Senator from Utah (Mr. Moss) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Idaho (Mr. MCCLURE is necessarily absent.

The result was announced—yeas 94, nays 0, as follows:

[No. 171 Leg.]

YEAS—94

Abourezk	Ervin	Metcalf
Aiken	Fannin	Mondale
Allen	Fong	Montoya
Baker	Goldwater	Nelson
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Beall	Gurney	Pastore
Bellmon	Hansen	Pearson
Bennett	Hart	Pell
Bentsen	Hartke	Percy
Bible	Haskell	Proxmire
Biden	Hatfield	Randolph
Brock	Hathaway	Ribicoff
Brooke	Helms	Roth
Buckley	Hollings	Saxbe
Burdick	Hruska	Schweiker
Byrd, Harry F., Jr.	Huddleston	Scott, Pa.
	Hughes	Scott, Va.
Byrd, Robert C.	Humphrey	Sparkman
Cannon	Inouye	Stafford
Case	Jackson	Stevens
Chiles	Javits	Stevenson
Church	Johnston	Symington
Clark	Kennedy	Taft
Cook	Long	Talmadge
Cranston	Magnuson	Thurmond
Curtis	Mansfield	Tower
Dole	Mathias	Tunney
Domenici	McClellan	Weicker
Dominick	McGee	Williams
Eagleton	McGovern	Young
Eastland	McIntyre	

NAYS—0

NOT VOTING—6

Cotton	McClure	Muskie
Fulbright	Moss	Stennis

So the motion to concur in the House amendments to S. 1136 was agreed to.

EMERGENCY MEDICAL SERVICES ACT OF 1973

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 504.

The PRESIDING OFFICER (Mr. SCOTT of Virginia) laid before the Senate the amendments of the House of Representatives to the bill (S. 504) to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems which were to strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Medical Services Act of 1973".

EMERGENCY MEDICAL SERVICE SYSTEM

SEC. 2. Title III of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART K—EMERGENCY MEDICAL SERVICE SYSTEMS

"DEFINITION; AGREEMENTS

"SEC. 399e. (a) For purposes of this part, the term 'emergency medical service system' means a system for the arrangement of personnel, facilities, and equipment for the effective delivery of health care services under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations), which system (1) is administered by a public or other nonprofit private entity, which has the authority and the resources to provide effective administration, and (2) to the maximum extent feasible—

"(A) includes an adequate number of health professions and allied health professions personnel who meet such training and experience requirements as the Secretary shall by regulation prescribe and provides such training and continuing education programs as the Secretary shall by regulation prescribe;

"(B) joins the personnel, facilities, and equipment of the system by central communications facilities so that requests for emergency health care services will be handled by a facility which (i) utilizes or, within such period as the Secretary prescribes, will utilize the universal emergency telephone number 911, and (ii) will have direct communication connections with the personnel, facilities, and equipment of the system;

"(C) includes an adequate number of vehicles and other transportation facilities (including such air and water craft as are necessary to meet the individual characteristics of the area to be served)—

"(i) which meet such standards relating to location, design, performance, and equipment, and

"(ii) the operators and other personnel for which meet such training and experience as the Secretary shall by regulation prescribe;

"(D) includes an adequate number of hospitals, emergency rooms, and other facilities for the delivery of emergency health care services, which meet such standards relating to capacity, location, hours of operation, coordination with other health care facilities of the system, personnel, and equipment as the Secretary shall by regulation prescribe;

"(E) provides for a standardized patient recordkeeping system meeting standards established by the Secretary in regulations, which records shall cover the treatment of the patient from initial entry into the emergency medical service system through his discharge from it, and shall be consistent with ensuing patient records used in followup care and rehabilitation of the patient;

"(F) is designed to provide necessary emergency medical services to all patients requiring such services;

"(G) provides for transfer of patients to facilities and programs which offer such followup care and rehabilitation as is necessary to effect the maximum recovery of the patient;

"(H) provides programs of public education and information in the area served by the system, taking into account the needs of visitors to that area to know or be able to learn immediately the means of obtaining emergency medical services; and

"(I) provides for periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency health care services provided by the system.

"(b) The Secretary shall prescribe the regulations required by subsection (a) after considering standards established by appropriate national professional or technical organizations.

"GRANTS AND CONTRACTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 399f. (a) The Secretary may make grants to public and other nonprofit entities, and may enter into contracts with public and private entities and individuals, for (1) projects to study the feasibility of establishing (through expansion or improvement of existing services or otherwise) and operating an emergency medical service system for an area, and (2) projects to plan the establishment and operation of such a system for an area. The Secretary may not make more than one grant or enter into more than one contract under this section with respect to any area. Reports of the results of any study or planning assisted under this section shall be made at such intervals as the Secretary may prescribe and a final report of such results shall be made not later than one year from the date the grant was made or the contract entered into, as the case may be.

"(b)(1)(A) No grant for planning may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form, and submitted to the Secretary in such manner, as he shall by regulation prescribe, and shall—

"(i) demonstrate to the satisfaction of the Secretary the need of the area for which the planning will be done for an emergency medical service system.

"(ii) contain assurances satisfactory to the Secretary that the applicant is qualified to plan for the area to be served by such a system,

"(iii) contain assurances satisfactory to the Secretary that the planning will be conducted in cooperation (I) with the planning entity referred to in subparagraph (B)(i) or if there is no such planning entity, with the planning entity referred to in subparagraph (B)(ii), and (II) with the emergency medical service council or other entity in such area responsible for review and evaluation of the provision of emergency medical services in such area, and

"(iv) contain such other information as the Secretary shall by regulation prescribe.

"(B) The Secretary may not appprove an application for a grant under this section for planning unless—

"(i) the public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) covering the area for which the planning for an emergency medical service system will be done, or

"(ii) if there is no such agency or organization, the State agency administering or supervising the administration of the State plan approved under section 314(a) covering that area,

has, in accordance with regulations of the Secretary, been provided an opportunity to review the application and to submit to the Secretary for his consideraton its recommendation respecting approval of the application.

"(2) No grant for a feasibility study may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe

"(c) The amount of any grant under this section shall be determined by the Secretary. Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(d) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5).

"(e) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"GRANTS FOR ESTABLISHMENT AND INITIAL OPERATION

"SEC. 399g. (a) The Secretary may make grants to public and nonprofit private entities for the establishment and initial operation for an area of an emergency medical service system.

"(b)(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Special consideration shall be given to applications for grants for systems

which will be part of a statewide emergency medical service system.

"(2) (A) An application for a grant under this section shall be in such form, and submitted to the Secretary in such manner, as he shall by regulation prescribe and shall—

"(i) set forth the period of time required for the establishment of the emergency medical service system,

"(ii) demonstrate to the satisfaction of the Secretary that existing facilities and services will be utilized by the system to the maximum extent feasible,

"(iii) provide for the making of such reports as the Secretary may require, and

"(iv) contain such other information as the Secretary may by regulation prescribe.

"(B) The Secretary may not approve an application for a grant under this section unless—

"(i) the public or nonprofit private agency or organization which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) covering the area which will be served by the proposed emergency medical service system, or

"(ii) if there is no such agency or organization, the State agency administering or supervising the administration of the State plan approved under section 314(a) covering that area,

has, in accordance with regulations of the Secretary, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendation respecting approval of the application.

"(c) The amount of any grant under this section for establishment of an emergency medical service system shall be determined by the Secretary. Grants under this section for the initial operation of such a system shall be available to a grantee over the two-year period beginning on the date the Secretary determines that the system is capable of operation and shall not exceed 50 per centum of the costs of the operation of the system (as determined under regulations of the Secretary) during the first year of such period, and 25 per centum of such costs during the second year of such period.

"(d) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1974, $50,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976. Funds appropriated for the fiscal year ending June 30, 1976, may be used only for grants to those entities which received a grant under this section for the preceding fiscal year.

"GRANTS FOR RESEARCH AND TRAINING

"SEC. 399h. (a) The Secretary may make grants (1) to schools of medicine, dentistry, and osteopathy for projects for research in the techniques and methods of medical emergency care and treatment, and (2) to such schools and to schools of nursing, training centers for allied health professions, and other educational institutions for training programs in the techniques and methods of medical emergency care and treatment, including the skills required to provide ambulance service.

"(b) No grant may be made under this section unless (1) the applicant is a public or nonprofit private entity, and (2) an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain in such information, as the Secretary shall by regulation prescribe.

"(c) The amount of any grant under this section shall be determined by the Secretary. Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary. Grantees under this section shall make such reports at such intervals, and containing such information, as the Secretary may require.

"(d) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"GRANTS FOR EXPANSION AND IMPROVEMENT

"SEC. 399i. (a) The Secretary may make grants to public and nonprofit private entities for projects for the acquisition of equipment and facilities for emergency medical service systems and for other projects to otherwise expand or improve such a system.

"(b) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secertary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) The amount of any grant under this section for a project shall not exceed 50 per centum of the cost of that project, as determined by the Secretary. Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary. A project may receive grants under this section for a period of up to two years. Grantees under this section shall make such reports at such intervals, and containing such information, as the Secretary may require.

"(d) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"INTERAGENCY TECHNICAL COMMITTEE ON EMERGENCY MEDICAL SERVICES

"SEC. 399j. (a) The Secretary shall be responsible for coordinating the aspects and resources of all Federal programs and activities which relate to emergency medical services. In carrying out his responsibilities under the preceding sentence, the Secretary shall establish an Interagency Technical Committee on Emergency Medical Services. The Committee shall evaluate the adequacy and technical soundness of such programs and activities and provide for the communication and exchange of information that is necessary to maintain the necessary coordination and effectiveness of such programs and activities.

"(b) The Secretary or his designee shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Science Foundation, the Federal Communications Commission, and such other Federal agencies, and parts thereof, as the Secretary determines administer programs directly affecting the functions or responsibilities of emergency medical service systems, and (2) five individuals from the general public who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

"ADMINISTRATION

"SEC. 399k. The Secretary shall administer the program of grants and contracts authorized by this part through an identifiable administrative unit within the Department of Health, Education, and Welfare."

STUDY

SEC. 3. The Secretary of Health, Education, and Welfare shall (1) conduct a study to demine the legal barriers to the effective delivery of medical care under emergency conditions, and (2) within twelve months of the date of the enactment of this Act, report to the Congress the results of such study and recommendations for such legislation as may be necessary to overcome such barriers.

PUBLIC HEALTH SERVICE HOSPITALS

SEC. 4. The Secretary of Health, Education, and Welfare is directed to take such action as may be necessary to assure that all the hospitals of the Public Health Service shall, until such time as the Congress shall by law otherwise provide, continue in operation as hospitals of the Public Health Service and continue to provide inpatient and other health care services to all categories of individuals entitled, or authorized, to receive care treatment at hospitals or other stations of the Public Health Service, in like manner as such services were provided to such categories of individuals at hospitals of the Public Health Service on January 1, 1973.

And amend the title so as to read: "An Act to amend the Public Health Service Act to authorize assistance for planning, development and initial operation, research, and training projects for systems for the effective provision of health care services under emergency conditions."

Mr. KENNEDY. Mr. President, I move that the Senate disagree to the amendments of the House on S. 504 and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. KENNEDY, Mr. WILLIAMS, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. PELL, Mr. MONDALE, Mr. SCHWEIKER, Mr. JAVITS, Mr. DOMINICK, Mr. BEALL, and Mr. TAFT conferees on the part of the Senate.

ADLER CONSTRUCTION CO.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 168, S. 396, which has been cleared on both sides.

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

The assistant legislative clerk read as follows:

A bill (S. 396) for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Co.

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

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read a third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in accordance with the opinion, findings of fact, and conclusions of the trial commissioner in United States Court of Claims Congressional Reference Case Numbered 5-70, entitled "Adler Construction Company against The United States," filed October 24, 1972, the Secretary of the Treasury is authorized and directed to pay, out of any

money in the Treasury not otherwise appropriated, to the Adler Construction Company of Littleton, Colorado, the sum of $300,000, in full satisfaction of all claims by such company against the United States for compensation for losses sustained by such company in connection with a contract between such company and the Department of the Interior, Bureau of Reclamation, providing for certain work on the Pactola Dam project near Rapid City, South Dakota.

(b) No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93–178), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is that in accordance with the opinion, findings of fact, and conclusions of the trial commissioner in U.S. Court of Claims Congressional Reference Case No. 5–70, entitled "Adler Construction Company against The United States," filed October 24, 1972, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Adler Construction Co. of Littleton, Colo., the sum of $300,000, in full satisfaction of all claims by such company against the United States for compensation for losses sustained by such company in connection with a contract between such company and the Department of the Interior, Bureau of Reclamation, providing for certain work on the Pactola Dam project near Rapid City, S. Dak.

STATEMENT

A similar bill (S. 4237), in the 91st Congress was referred by the committee to the Chief Commissioner of the Court of Claims by a Senate resolution, (S. Res. 445), in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, for a report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

The above-mentioned Senate resolution became Congressional Reference Case No. 5–70 in the Court of Claims which in accordance with the mandate of the Senate filed a certified true and correct copy of its findings and conclusions on October 25, 1972.

The court's conclusions are as follows:

1. The plaintiff, Adler Construction Co., a partnership composed of Harold C. Adler and Vera L. Adler, does not have any legal claim against the United States.

2. Under the standards set out in *Burkhardt v. United States*, 113 Ct. Cl. 658, 84 F. Supp. 553 (1949), the plaintiff does have a valid equitable claim against the United States.

3. The amount of $300,000 is equitably due from the United States to the claimant.

On January 16, 1973, S. 396 was introduced in the Senate by Mr. Dominick (for himself, Mr. Abourezk, and Mr. Hruska) to effectuate the conclusions of the Court.

The committee agrees with the court and recommends the bill favorably.

Attached hereto and made a part hereof is the decision of the Court of Claims.

[Before the Chief Commissioner of the United States Court of Claims In Congressional Reference Case No. 5–70 (Filed OCT. 24, 1972)]

ADLER CONSTRUCTION COMPANY *v.* THE UNITED STATES

REPORT TO THE UNITED STATES SENATE

Richard W. Smith, attorney of record for plaintiff.

Ray Goddard, with whom was *Assistant Attorney General Harlington Wood, Jr.*, for defendant.

Before HOGENSON, *Presiding Commissioner of the Review Panel*, SPECTOR and WOOD, *Commissioners*.

OPINION

By the Review Panel: By S. Res. 445, 91st Cong., 2d Sess., the Senate referred S. 4237, a bill for the relief of Harold C. and Vera L. Adler, doing business as Adler Construction Company, to the Chief Commissioner of the Court of Claims pursuant to 28 U.S.C. §§ 1492 and 2509 (1970). The Chief Commissioner referred the case to Trial Commissioner Mastin G. White for proceedings in accordance with the rules, and designated the above-named members of the Review Panel to consider the Trial Commissioner's report on the merits of plaintiff's legal or equitable entitlement to recover.

After extensive negotiations, the parties filed herein a stipulation setting forth all of the pertinent facts and agreeeing that plaintiff does not have any legal claim against defendant but does have a valid equitable claim against defendant, and that plaintiff is entitled to receive the sum of $300,000 on such equitable claim.

The Trial Commissioner accepted and approved such stipulation, and his report, filed September 11, 1972, was based on its provisions. On September 25, 1972, the parties filed a joint motion requesting that the Review Panel adopt the Trial Commissioner's report.

Accordingly, since the Review Panel unanimously agrees with the Trial Commissioner's opinion, findings of fact, and conclusions as hereinafter set forth, the Review Panel adopts the same as the basis of its recommendation that plaintiff does not have any legal claim against defendant, that plaintiff does have an equitable claim against defendant, and that there is equitably due plaintiff from defendant the sum of $300,000.

This determination is hereby submitted to the Chief Commissioner for transmittal to the United States Senate.

OPINION OF THE TRIAL COMMISSIONER

WHITE, *Commissioner:* On December 14, 1970, by S. Res. 445, 91st Cong., 2d Sess., the Senate referred the bill numbered S. 4237, 91st Cong., 2d Sess., to the Chief Commissioner of the Court of Claims pursuant to 28 U.S.C. § 1492.

The bill in question, S. 4237, was entitled "A bill for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Company." It proposed that the Secretary of the Treasury be authorized and directed to pay to the Adler Construction Company a sum of money (the original bill did not specify the exact amount) in full satisfaction of all claims by such company against the United States because of losses sustained by the company in connection with a contract between it and the Bureau of Reclamation, Department of the Interior, for the performance by the company of certain work on the Pactola Dam project near Rapid City, South Dakota.

In referring S. 4237 to the Chief Commissioner of the Court of Claims, S. Res. 445 directed that proceedings be conducted in accordance with 28 U.S.C. § 2509, and that, after such proceedings, a report be submitted to the Senate "giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant."

After the plaintiff had filed a petition on March 15, 1971, and an amendment to the petition on June 28, 1971, and the defendant had filed an answer on July 14, 1971, the parties engaged in extensive negotiations in an attempt to reach an agreement on the disposition of the controversy. The negotiations resulted in the filing on August 22, 1972, of a stipulation in which the parties set out all the pertinent facts and an agreement to the effect that the plaintiff does not have any legal claim against the defendant, but does have a valid equitable claim against the defendant and is entitled to receive the sum of $300,000 on such equitable claim.

The stipulation is accepted and approved by the trial commissioner, and this report is based on its provisions.

Therefore, in accordance with the stipulated agreement of the parties, as accepted and approved by the trial commissioner, the Senate should be informed: (1) that the Adler Construction Company, a partnership composed of Harold C. Adler and Vera L. Adler, does not have any legal claim against the United States (2) that the Adler Construction Company does have a valid equitable claim against the United States; and (3) that the amount of $300,000 is equitably due from the United States to the claimant.

FINDINGS OF FACT

1. At relevant times, plaintiff was a partnership consisting of Harold C. Adler and Vera L. Adler, his wife, with its principal place of business at Littleton, Colorado. (Hereinafter "Adler" will refer to the individual or the partnership as the context suggests.)

2. The case presents certain claims, totaling $1,458,788.46, in connection with the construction by plaintiff for the Bureau of Reclamation (hereinafter "Bu Rec" will usually refer to the Denver office of Bu Rec unless the headquarters office in Washington is specified as "Washington Bu Rec") of an earth-filled dam called Pactola Dam, at a site some 13 airline miles west of Rapid City, South Dakota. The principal claims relate to defendant's failure fully to correct mistakes in plaintiff's bid, unanticipated subsurface conditions, excavation over-runs, disputed excavation classifications, work acceleration, and collateral matters.

3. Pactola Dam was planned and constructed as an earth and rock-filled dam, about 1,250 feet long at the crest and with a height, as described in the specifications, of approximately 230 feet above the lowest foundation. Dikes 1 and 2, 1,500 feet north of the main dam, were 2,160 feet in length and had crests level with the dam crest. Water impounded by the dam was released through an underground outlet works, consisting of a concrete-lined tunnel north of the dam and a vertical shaft giving access to water control gates. A concrete spillway bored through rock and providing for emergency overflows was located between the dam and Dike No. 1.

4. Washington Bu Rec issued an invitation for bids on Pactola Dam on August 26, 1952, with revised bid opening scheduled for September 30, 1952, at Rapid City, South Dakota. The invitation listed 70 items, all but three of them at unit prices. The contract was to be awarded by November 29, 1952. The Instructions to Bidders, which accompanied the invitation but expressly was not to be incorporated in the contract, provided in part as follows:

12. Withdrawal of bids.—Bids may be withdrawn on written or telegraphic request

received from bidders prior to the time fixed for opening. Negligence on the part of the bidder in preparing the bid confers no right for the withdrawal of the bid after it has been opened.

* * * * *

17. Errors in bid.—Bidders or their authorized agents are expected to examine the maps, drawings, specifications, circulars, schedule, and all other instructions pertaining to the work, which will be open to their inspection. Failure to do so will be at the bidder's own risk, and he cannot secure relief on the plea of error in the bid. In case of error in the extension of prices the unit price will govern.

5. The bid bond which bidders were required to file conditioned the surety's liability on, *inter alia*, the contractor not withdrawing its bid within 60 days after bid opening.

6. Prior to bidding, Adler thoroughly explored the entire project site "during practically all the daylight hours" from August 28 through September 3 or 4, 1952. Some terrain was relatively smooth but much of it was quite rough, particularly the hills on each side of the damsite, which provided Rock Sources A and B. He inspected the drill logs and the Government's test pits, and saw a number of drill cores, which were largely in a state of disintegration because of their age (taken in 1939) and atmospheric exposure. Rock was in evidence in the shallow creek bottom. As a result of his detailed inspection, Adler believed he would be awarded the contract because he was more familiar with it than his prospective competitors, whose inspections had been more cursory and who (as he thought) had greater overhead expenses than Adler.

7. On September 30, 1952, bids were opened at Rapid City. Expressed in terms of extending the unit prices to estimated quantities, the 12 bids submitted ranged from Adler's low bid of $3,761,115 to a high bid of $6,959,509. Bu Rec's prebid cost estimate was $5,962,341, which was later reduced by $613,000 by reducing unit prices on four contract items. Thus, Adler's bid was $2,201,226 (37 percent) under the original Bu Rec prebid estimate, and was $1,117,361 (23 percent) under the second low bid of $4,878,476, while it was $2,269,203 (38 percent) under the average of the 11 other bids submitted.

8. (a) Three Government representatives acted as a Board for opening and examining all bids on September 30, 1952. In its written report dated October 1, 1952, the Board stated in part as follows:

An examination of the low bid shows prices below the Engineer's Estimate in practically all items from Item No. 1 through Item No. 42. Particularly drastic reductions are evident in Items 10 through 16. Totals of the amounts in those items produce a reduction of about 30 percent below the Engineers Estimate, which comprises the bulk of the difference below the low bid and the Engineer's Estimate. The second low bid, that of the Guy F. Atkinson Company, shows not so drastic reduction in Items 10 through 16, with a considerable increase in price for Item No. 2. The low bidder's prices for Items 13 through 16, excavation in rock sources "A" and "B", are of particular concern. Almost certainly the low bidder would have to operate at considerable loss in the performance of that work at the bid prices. Compensating increases are not found in other bid items. A small price reduction is found in the low bidder's drilling and grouting items. It is known that his prices probably are based on quotations from a former Bureau driller, now engaged in private work, who is thoroughly familiar from past work at the site, with problems of drilling and water testing the foundations there.

It would appear that the total schedule amount shown by the second low bidder approaches the minimum which could be expected from any contractor who expected to make a profit from the work.

* * * * *

Recommendation Regarding Award. It is felt by the members of this Board that the low bidder could not complete the work at his bid prices without considerable strain on his financial resources. However, he is known as a conscientious and skillful contractor, and unquestionably would prosecute the work vigorously and in full compliance with the terms of the specifications. It is therefore recommended that award be made to the Adler Construction Company of Loveland, Colorado, on its low bid of $3,761,115.00, provided that the company has adequate financial resources and provided that the bonding company furnishing the performance bond is well informed concerning the prices bid in comparison with our estimate and with other low bids.

(b) Because of the disparity in Adler's bid, Bu Rec's legal counsel advised the contracting officer to ask Adler to confirm his bid, but this was not done.

9. Adler first learned of the sharp disparity in his bid by a telephone call from his employee at the Rapid City bid opening in the afternoon of September 30, 1952. Adler had been preoccupied with a time consuming trial of a lawsuit against his company in Colorado since September 25, and this had precluded closer attention to the preparation, submission, and opening of his bid on the Pactola Dam contract. Upon learning of the bid disparity, he suspected a grave error, but was unable to confer with Bu Rec representatives concerning it until October 7, 1952, when a one-day adjournment in his trial involvement provided him with his first opportunity to discuss the bid disparity at the Bu Rec offices in Denver.

10. (a) As reflected by a Government memorandum of the October 7, 1952, conference between Adler and Bu Rec officials with respect to the obvious disparity in his bid, Adler informed the conferees that his surety refused to issue a performance and payment bond because of doubts about his low bid, and that because of the pressures of his trial then in process, he had not yet had an opportunity to review his bid, as to which he might have made a mistake. Bu Rec officials emphasized the necessity to start performance as soon as possible, and invited Adler to request in writing the Chief Engineer to delay the contract award for a reasonable period to give Adler time to check his bid figures. Adler was advised by Bu Rec representatives to submit his bid sheets with a covering explanation of whatever errors he detected, which submission would then be forwarded to the Comptroller General for decision as to whether the circumstances justified a correction of his bid.

(b) On October 7, 1952, following the conference of that day, Adler wrote to the Chief Engineer, requesting until October 16 to check his bid for errors and asking that the contract award be deferred until then. He expressed ignorance of the reasons for the wide difference between his bid and those of the next two bidders, and indicated that he suspected errors in his bid.

(c) On October 11, 1952, Adler received a letter dated October 10 from the Chief Engineer stating that "We will withhold making the award a reasonable length of time," recognizing Adler's inability to avoid his current trial involvement, suggesting a conference with Adler and his surety at the earliest practicable time, and emphasizing the need to start the project as soon as possible.

11. (a) The trial which had preoccupied Adler since its commencement on September 25, 1952, was concluded on Saturday, October 11, 1952.

(b) On October 13, 1952, Adler advised Bu Rec by telephone that he had located some serious errors in his bid, one of which was in the amount of over $300,000, and requested a meeting with the Chief Engineer, Mr. McClellan, who was also the contracting officer, to discuss the errors and ensuing procedures. Later that day, Adler was informed that a meeting would be held the following day with the contracting officer, as requested.

(c) A contemporaneous Government memorandum reflects that Adler was informed by telephone on the morning of October 14, 1952, from Bu Rec's Assistant Chief Construction Engineer that, despite Adler's objection, the contracting officer was going to award the contract that day, which would not interfere with Adler's right to apply for a correction of his bid. However, the contracting officer agreed to withhold the award until Adler came in for a conference that afternoon.

12. Adler arrived at the scheduled conference on October 14, 1952, armed with his bid estimate worksheets and details as to arithmetical errors in six principal items, totaling $581,505. He also brought a letter requesting that his bid be rejected, or accepted with corrections, and that the contract award be deferred. At the conference, Adler explained the errors to the Bu Rec representatives who were present, attributed them to his trial preoccupation since September 25, and stated that both his bank financing and performance bonding were in jeopardy because of his low bid. He was advised by the conferees to submit in affidavit form information as to the errors and how and why they were occasioned, and that they would thereupon be transmitted to the Comptroller General for advice as to bid revision, award to the next low bidder, or contract readvertising. Adler was told that "the contractor's allegation of error would be the sole item for consideration by the GAO and that the contracting officer would not be in a position to make any recommendations."

13. During the conference of October 14, 1952, Adler was purportedly shocked upon being informed that the contract had been awarded to him. A telegram notifying him of the award was stamped as being dispatched from Bu Rec at 3:49 p.m. on that day and received at Adler's company headquarters in Loveland, Colorado, at 5 p.m. the same day. However, Adler denies having been informed during the meeting that he had been awarded the contract, and avers that he was not aware of it until he arrived at his Loveland headquarters following the meeting.

14. Whatever inclination Adler may have had on October 14, 1952, to refuse to perform the contract awarded to him that day unless the errors in his bid were corrected was necessarily affected by the awareness that a refusal to perform could have caused cancellation of his bond of $367,000, which would, in turn, have jeopardized Adler's financial condition and deprived him of working capital, both for the contract in suit and to finish other contracts which were then nearing completion.

15. On October 15, 1952, the contracting officer confirmed by telegram to plaintiff that any correction in plaintiff's bid would have to be effectuated by the Comptroller General because the contracting officer lacked such authority, and emphasized the importance that the request be made without delay because of the 10-day period permitted by the contract for its execution and the furnishing of performance and payment bonds. Failure to execute these forms was a technical ground for forfeiture of the bid bond.

16. (a) In a sworn statement dated October 18, 1952, and submitted to the contracting officer on October 20, 1952. Adler asserted a claim based on bid errors totaling $621,505, in which he described the errors in his bid on each of seven contract items and enclosed a copy of those of his bid worksheets which were relevant to the claimed errors. These

errors may be summarized as follows by contract item numbers:

No. 1: Diversion and care of stream, etc. Bid at $45,000 instead of $75,000 due to error in transposing figure from worksheet to bid.

No. 2: Excavation of 420,000 c.y. of overburden in open cut. Bid at $147,000 instead of $224,540 due to failure to include in computation the factor of $77,540 for equipment charges, as shown on worksheet but not inserted in the total or transferred to bid.

No. 5: Excavation of 1985 c.y. all classes. Bid at $45,655 instead of $63,520, due to failure to include in computation the factor of $17,865 for equipment charges, as shown on worksheet but not inserted in the total or transferred to bid.

No. 9: Excavation of 220,000 c.y. stripping in borrow pits. Bid at $41,800 instead of $51,800 due to simple error in addition on bid worksheet.

Nos. 10 and 11 collectively: Common excavation of 2,000,000 c.y. in upstream borrow area and transportation to embankments. Bid at $520,000 instead of $880,100 due to failure to include in computation the factors of $311,100 for equipment charges and $49,000 for "margin," as shown on worksheet but not inserted in the total or transferred to bid.

No. 12: Common excavation of 700,000 c.y. in downstream borrow area and transportation to embankment. Bid at $175,000 instead of $301,000 due to same oversight as in Items Nos. 10 and 11, on which the computation was based.

(b) These errors were not individually apparent on the face of Adler's bid, but were readily apparent in Adler's bid worksheets, which Bu Rec did not have until later, although the disparity between Adler's bid and the others was enough to excite Bu Rec's concern.

17. The letter of October 18, 1952, concluded with Adler's request that he be excused from executing the contract according to the original bid, or that the bid be adjusted to eliminate the errors.

18. On October 31, 1952, the contracting officer wrote a memorandum to the Commissioner of Washington Bu Rec, presenting in full detail the circumstances of the plaintiff's erroneous bid, and recommending that the Comptroller General be asked for a decision as to whether the contractor would be entitled to relief by correcting the bid errors. If so, the contracting officer recommended "that correction be allowed by appropriate reformation of the contract." The contracting officer expressed the opinion that reformation would be "in accordance with previous decisions of the Comptroller General that the bid can be corrected if the amount of the intended bid can be established." He advised that readvertisement of the contract would not only result in much higher costs to the Government than if Adler's errors were corrected, but would also delay completion of the contract for a full season.

19. In the meantime, the bid of Guy F. Atkinson Co., the second lowest bidder, contained an acceptance period limitation of 30 days, which expired October 80, 1952.

20. On November 8, 1952, the Administrative Assistant to the Secretary of the Interior submitted the contracting officer's recommendation of October 31, 1952, to the Comptroller General for a decision, with the following comment:

* * * The Chief Engineer [*i.e.*, the contracting officer] recommends that, if you conclude that errors entitling the contractor to relief have been made, the contract be reformed accordingly. The Commissioner of Reclamation and I concur in this recommendation as being in the best interest of the Government.

21. Adler was not aware of these communications until they were produced in the course of discovery proceedings in subsequent litigation.

22. (a) On November 14, 1952, Adler was advised by telephone from Bu Rec that the Comptroller General had made a decision with respect to his request for bid reformation. The following Monday morning, November 17, 1952, Adler visited Bu Rec in Denver, unaccompanied by counsel. He was informed by Bu Rec representatives that they had learned that a decision had been made by the Comptroller General on November 14, 1952, to the effect that the contract could be amended to correct the errors. Neither Adler nor the Denver office of Bu Rec had the written text of the Comptroller General's decision, but the Bu Rec knew its contents and did not disclose them to Adler.

(b) A protracted conference with Adler was held all during November 17, 1952, at Bu Rec, in which the several errors in Adler's bid were discussed at length. Bu Rec was apparently concerned that Adler's corrected prices for certain of the erroneous items were more than the Government's prebid estimate for the same items, or were more than the bids of several other contractors for certain of the items, which led the Bu Rec representatives at the conference into approving increases in Adler's defective bid, which in the aggregate were $136,240 less than Adler's claim. The bid invitation itself had provided that "no bid shall be considered for only part of the schedule." In many other items, Adler's bid was far lower than other bidders, and this was true in the aggregate as well. Upon Adler's complaint that Bu Rec's proposal failed to rectify fully what were clearly mistakes in the bid, Bu Rec's principal negotiator, a Mr. Bloodgood, commented in effect "that's all we can pay." Adler was told that no further delay would be allowed, that he would have to sign the contract documents immediately, and that a notice to proceed must be issued that day.

(c) Toward the end of the November 17, 1952, conference, an Amendatory Agreement was prepared by Bu Rec and given to Adler to sign. The agreement had not at the time been signed by Bu Rec. Adler testified that he signed it without knowing its contents or being permitted to read it, but there is no credible evidence that Adler demanded an opportunity to read it or was prevented from reading it before signing it, except that the workday was purportedly drawing to a close and the contracting officer was anxious to terminate the conference. Adler was, however, aware that the Bu Rec representatives had reduced his claim of errors by $136,240 and must have been aware of the reasons given for the reduction, even though he might not have agreed with them. Adler testified that he signed the Amendatory Agreement under economic duress at a time when he feared that, if he did not sign it together with the contract itself and the supporting performance and payment bonds, his bid bond of $376,111 would be in danger of forfeiture. However, by November 17, 1952, the 10-day period for executing the contract on pain of bid bond forfeiture had long since expired, and no such action had been taken or threatened by the bonding company, so far as the record intimates.

23. The Amendatory Agreement signed by the parties on November 17, 1952, which Adler contends (as stated in finding 22) is void because of unlawful duress and lack of consideration, provided in part as follows:

WHEREAS, the Comptroller General of the United States, upon the basis of evidence furnished by the Contractor, has ruled (copy of decision hereto attached as Exhibit A) that there were mistakes in the Contractor's bid, and that since the bid, if corrected in the full amount of all mistakes, would still be the low bid, it can be reformed by the contracting officer to correct said errors; and

WHEREAS, the contracting officer is willing to agree to reformation and to proceed with the contract only on the basis that where correction of the mistake or mistakes as to any item results in a unit or lump sum price in excess of a conservative and fully justifiable price, the unit or lump sum price as reformed will not exceed said conservative and fully justifiable price, which principle is acceptable to the Contractor; and

WHEREAS, reformation of the contract as hereinafter provided is hereby determined to be advantageous to the Government both because it will permit immediate commencement of work on an urgently needed project to supply water to the Rapid City Air Force Base, and because the contract as reformed will result in a cost to the Government of $1,715,961 lower than the Government's original cost estimate and $632,096.50 lower than the next low bid.

Now, THEREFORE, the parties hereto mutually agree as follows:

1. The respective unit prices for Items 1, 2, 5, 9, 10, 11 and 12 are hereby deleted from the schedule of Specifications No. DC–3783 and the contract is hereby reformed by substitution of unit and extended prices for said items * * * [followed by new data as to price and amount for the seven items mentioned].

* * * * *

The increase in unit and lump sum prices as above provided result in an increase of $485,265 in the total amount of the contract based upon the estimated quantities stated in the schedule.

2. In consideration of the Government's waiving its right to rescind the contract, the Contractor hereby accepts the foregoing reformed unit and lump sum prices in full satisfaction of all of its rights arising out of or in any way connected with mistakes in its bid, notwithstanding the fact that the unit and lump sum prices stated in Article 1 hereof in several cases do not reflect increases equal to the full amount of the errors claimed by the Contractor and found by the Comptroller General.

24. Although the Amendatory Agreement of November 17, 1952, refers in the "whereas" clauses to the parties having "heretofore entered into" a contract for Pactola Dam, and to a copy of the Comptroller General's decision as being attached as Exhibit A, at the time the Amendatory Agreement was signed on November 17, 1952, the parties did not have possession of the Comptroller General's decision, and Adler did not sign and deliver the contract itself until immediately following the signing of the Amendatory Agreement, but did so prior to leaving the conference. Adler did not receive a copy of the Amendatory Agreement of November 17, until November 28, 1952, but there is no evidence that he demanded it earlier. Also, while the concluding "whereas" clause of the Amendatory Agreement refers to the fact that the revised contract price was lower than the next low bid by $632,096.50, in fact the next lower bid had expired by its own terms prior to October 31, 1952, and hence was no longer available.

25. On or about November 28, 1952, Adler received for the first time a copy of the November 14, 1952, decision by the Comptroller General, which held in part as follows:

On the basis of the facts and evidence of record there appears no doubt that errors were made in the bid. Furthermore, the evidence reasonably established that except for the errors the prices for the various items would have been as alleged. The bid of Adler Construction Company, if it be corrected, is still approximately $500,000 lower than the next-lowest bid received.

It is reported that the project involved was recently approved by Congress for immediate construction in order to make available a much needed water supply for the Rapid City Air Force Base of the Stra-

tegic Air Command, and the work is of a highly urgent nature. It is further reported that any substantial delay in the matter will make it impossible to perform the necessary initial construction work before the onset of winter weather which would result in a full season's delay in the ultimate date when the water can be furnished to the Rapid City Air Force Base and that, therefore, readvertisement of the work is not considered to be in the best interests of the Government. Under the circumstances, this Office will not be required to object to the correction of the bid of the Adler Construction Company on items 1, 2, 5, 9, 10, 11 and 12 to the prices hereinbefore set forth and entering into a formal contract with the company on that basis.

26. The Comptroller General totaled the bid errors to $621,465, instead of Adler's claim of $621,505, by rounding off to the nearest cent the unit price in several of the items.

27. On July 5, 1960, the Under Secretary of the Department of the Interior wrote a letter to the Chairman of the United States Senate Committee on the Judiciary, in response to the latter's request for the Department's views on the then-pending private relief bill, S. 3199, for the relief of the Adler Construction Company. In the course of recommending relief or one of the three claims (and recommending against the other two) then being made by the contractor, which related to rectifying its mistake in bidding, the Under Secretary made the following statements of fact and opinion which bear on the contractor's situation on November 17, 1952, when the Amendatory Agreement was presented to Adler:

It is believed that the Government has technical legal defenses (i.e., statute of limitations and failure to reserve the claim in the contractor's release on the contract) to the contractor's claim which would preclude his recovery in the courts. And, apart from the technical defenses, it is doubtful that on the merits the contractor could successfully establish either that duress was involved in securing his consent to the amendatory agreement, or that the amendatory agreement was invalid for lack of consideration. However, the Congress, in certain hardship situations, has granted legislative relief where the applicant does not have a legally enforceable claim but has a claim presenting strong moral and equitable considerations. Considered in this light we are of the opinion that Adler's claim for relief insofar as claim (a) is concerned, has such compelling considerations of fairness that congressional relief would be warranted.

In reaching the above conclusion, a number of considerations are involved. In the first place, Adler was placed in an exceedingly precarious position by the fact that his bid was so very low in comparison with other bids and the engineer's estimate as to raise doubt as to his ability to perform the contract without ruinous losses. This situation was complicated by the fact that he was involved at the time in litigation from which he was unable to free himself for a sufficient period to give full consideration to the problem. His situation was further aggravated by the fact that there were indications that the bonding company that had furnished his bid bond would not furnish a performance bond to support the contract, and in such event, his bid bond in the amount of $376,000 would have been subject to forfeit. This would have had very serious consequences, in all probability in resulting in Adler's complete financial ruin. Additionally, the Government's urgent need to get the work under way impelled it to make the rather precipitous award of contract, notwithstanding the fact that Adler had given verbal notice of serious errors in his bid. Although the award was not made with any intention to prejudice Adler's position, it is obvious that the Government's necessity dictated a course of action which placed him in a most difficult position.

With regard to the negotiations as a result of which Alder was induced to accept the amendatory agreement, personnel who were present at the meeting recall that Adler appeared in response to a telephone call, and was unaccompanied by legal counsel or associates. He offered no serious opposition to the Government's proposal and accepted the proposal precisely as it was made. At the time these negotiations took place, it seemed to the Government personnel involved a proper course of action in the discharge of their responsibilities. However, reviewed in retrospect, it is considered that they were overly zealous in their desire to safeguard the Government's financial interests, and that the the contractor, subject to such pressures as he was under at the time, had or at least thought that he had almost no alternative to accepting a proposition that was seriously adverse to his interests and one that it is now felt, in good conscience, the Government should never have made.

Even with Adler's bid corrected in the *full amount of the error found by the Comptroller General*, it would still be some $600,000 below the next low bid and approximately $1,000,000, or 25 percent below the revised Government estimate. It is apparent that even with the error as allowed by the Comptroller General, the Government had the advantage of an exceedingly low bid. As a result of performing the contract at the contract price, including the prices in the amendatory agreement, the contractor suffered continuous financial losses, and he has been forced to sell much of his construction equipment. Since completing the Pactola Dam job, he has been unable to secure bonds covering jobs of any substantial volume of work, and has been confined largely to subcontracting small jobs from other contractors.

In view of the foregoing, it is the opinion of the contracting officer, in which this Department concurs, that claim (a) submitted by the Adler Construction Co. in S. 3199 contains such elements of equity and fairness that relief legislation to the extent of $136,532.86 is warranted. [Emphasis supplied.]

28. Notice to proceed with the work under the contract was issued on November 17, 1952, thus establishing June 25, 1955, as the original contract completion date (950 days). Time for the performance of the contract was ultimately extended to August 15, 1956. No liquidated damages were assessed, although the prospect existed until late in contract performance.

29. The contract contained the following standard Changed Conditions clause:

Article 4. *Changed conditions.*—Should the contractor encounter, or the Government discover, during the progress of the work subsurface and/or latent conditions at the site materially differing from those shown on the drawings or indicated in the specifications, or unknown conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the plans and specifications, the attention of the contracting officer shall be called immediately to such conditions before they are disturbed. The contracting officer shall thereupon promptly investigate the conditions, and if he finds that they do so materially differ the contract shall, with the written approval of the head of the department or his duly authorized representative, be modified to provide for any increase or decrease of cost and/or difference in time resulting from such conditions.

30. As the work under the project progressed, the plaintiff encountered subsurface or latent conditions at the site of the main dam foundation materially different from those shown in the drawings and specifications, which made excavation and refill work much more difficult and costly. The defendant became aware of the conditions as they were uncovered by the plaintiff. The conditions to be described in subsequent findings are confined to the foundation for the main dam and, unless otherwise specified, do not relate to other parts of the project.

31. (a) The major claim of the plaintiff is that foundation surfaces acceptable to the Government under the main damsite were reached at substantially greater excavated depths below original ground surface than the contractor was led to anticipate from his inspection of the site and examination of the contract drawings, specifications, and drill logs, and that the foundation ultimately excavated down to "suitable material," as determined by the Government, was much rougher and more irregular than the drawings, specifications and drill logs portrayed, or than the plaintiff's thorough prebid site inspection indicated.

(b) It is plaintiff's contention that the conditions encountered were not only materially different "from those shown on the drawings or indicated in the specifications" (in the language of the Changed Conditions article, *supra*), but that they also greatly increased his costs by reducing operating efficiencies, requiring additional equipment, prolonging the performance period, and requiring unplanned performance under severe winter weather conditions, and that the admitted 261 percent overrun of excavation (and corresponding additional fill) paid for at contract unit prices did not properly reflect or compensate for the extreme difficulties and added costs which the subsurface conditions imposed on performance.

(c) In order to place the problem in proper perspective, it is first necessary to examine closely the relevant specifications, drawings, and drill logs to determine what the plaintiff (and other bidders) could have reasonably anticipated in the way of subsurface conditions to be encountered in the course of excavating foundations for the main damsite.

32. Article 2 of the contract, entitled Specifications and Drawings, provided in part as follows:

* * * Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In any case of discrepancy in the figures, drawings, or specifications, the matter shall be immediately submitted to the contracting officer, without whose decision said discrepancy shall not be adjusted by the contractor, save only at his own risk and expense.* * *

33. Paragraph 16 of the Specifications required that the dam be constructed "in accordance with those specifications and the drawings listed in Paragraph 128 hereof * * *." Paragraph 128 included Drawing No. 494–D–39, "General Plan and Sections," which in addition to a general plan drawing of the complete project, contained, *inter alia*, various detail and section drawings entitled "dam-maximum section," "profile on center line of cutoff trench-dam," and "concrete grout cap," to name a few project features that are relevant to our present inquiry, plus miscellaneous other data as to elevations, camber, reservoir, material legends, dimensional scales, etc. Certain errors and ambiguities in Drawing No. 494–D–39 (hereinafter shortened to Drawing 39), and inconsistencies between the drawing and specifications, constitute the principal basis for plaintiff's contentions as to Changed Conditions.

34. (a) Drawing 39 contains a profile section drawing entitled "dam-maximum section." It purports to show a longitudinal cross-section of the main dam perpendicular to the dam axis, meaning a vertical endwise slice of the dam from its upstream toe to its downstream toe. The witnesses were in marked disagreement as to whether the drawing was designed to provide an actual or merely a theoretical cross-sectional location. If the former, they disagreed as to the location depicted. If the latter, the drawing is not labeled as theoretical, and the witnesses' descriptions were contradictory and confusing.

(b) The drawing is perhaps an adequate diagram as to the relative arrangement of the three "zones" of fill material, the slope angles, reservoir storage levels, and a few dimensions and miscellaneous instructions paraphrased from the specifications, but in other important respects it is misleading, erroneous, self-contradictory, in conflict with another detail drawing contained in Drawing No. 39, and in conflict with Specification 17.

(c) A dimension of 200', plus or minus, is specified for the distance from the crest of the dam to the original ground surface, but this distance is about 214.2' when calculated by use of the 1'' to 100' scale beneath the drawing.

(d) Horizontal lines at the bottom of the drawing depict the original ground surface and, below that, the assumed rock surface, which is shown to correspond with the bottom of the cutoff trench, as well as an intermediate undesignated line (whether rock or otherwise is not specifically stated) upon which all of the dam embankment rests, except that part above the cutoff trench. No dimensions are provided as to the space between these surface and subsurface lines but the maximum scales at 16' between the original ground surface and the bottom of the cutoff trench, the latter being the lowest foundation point. The edges of the cutoff trench are shown to be about 5' lower than the contiguous foundation line.

(e) It cannot be determined from examining the drawing whether the undimensioned spaces separating the surface and subsurface lines are supposed to be actual or theoretical (*i.e.*, diagrammatic), or to be average, minimum, or maximum, or to be any more than a design representation of the obvious, *i.e.*, that the original ground surface lies somewhere above the assumed rock surface throughout the main damsite.

35. (a) Drawing 39 also contains a detail drawing entitled "profile on center line of cutoff trench-dam," which has on either side a 1'' to 100' scale from which can be roughly computed the respective elevations of the profile lines representing original ground surface, assumed rock surface, bottom of cutoff trench, etc. The scale and details are too small for an accurate calculation, but the plaintiff calculated that at 13 equidistant points from end to end of the center line of the cutoff trench, the distance from the original ground surface to the bottom of the cutoff trench is shown to vary from 3' to 13' across the valley, or an average of 6.3'. The Government computed this average to be 7.5'.

(b) Either version of the average, or the plaintiff's finding of a 13' maximum distance, is substantially less than the 16' difference shown in the "dam-maximum section" drawing described in finding 34, a discrepancy that can only be reconciled either by drafting errors or by the supposition that the 16' difference shown in the latter drawing presumably occurred at some point in the cutoff trench other than the center line shown in the drawing entitled "profile on center line of cutoff trenchdam." It could also be reconciled by the defendant's contentiton that the drawing was merely theoretical and not intended to reflect actual conditions.

36. (a) Article 2 of the contract directed that in the case of difference between the drawings and the specifications, the latter would govern. Paragraph 17 of the Specifications provided that the dam "will have a maximum height of approximately 230 feet above the lowest foundation."

(b) Accordingly, it was reasonable for the plaintiff to conclude, in preparing his bid, that the maximum amount of excavation he would encounter at the main damsite would be approximately 10', *i.e.*, the difference between the 230' stated by paragraph 17 of the Specifications to be the approximate height of the dam above the lowest foundation (clearly the bottom of the cutoff trench) less the 220' dimension specified in the dam-maximum section drawing to be the distance between the crest of the dam and the original ground surface. A contractor would not normally be charged with knowledge that the latter dimension was in possible error or charged with responsibility to scale the various distances shown in the drawings in order to establish a correct correlation with the Specifications, since the meaning of the drawings in vital respects was ambiguous and indefinite, and these deficiencies would not be immediately apparent to bidders.

37. (a) In addition to the drawings and specifications previously discussed, plaintiff and other bidders had available for examination the logs reflecting the analysis of some 25 test cores, most of which had been drilled in 1939 in order to ascertain subsurface conditions at the damsite. Elsewhere in the project outside the main damsite, other holes and test pits were drilled. Apparently, an unknown number of drill logs were not available for examination.

(b) As admitted by Government witnesses, there were not enough cores drilled in such a large area as the dam foundation (approximately 22 football fields in size), nor in the proper locations, to provide an adequate estimate of the amount of anticipated excavation, although the Government's prebid estimates as to excavation quantities were based primarily on conditions of the "assumed rock surface" lines on relevant contract drawings. Bu Rec did not approve its chief designing engineer's recommendation in 1952 to drill additional cores, which, if done, might have permitted more accurate estimates.

(c) Estimation of excavation quantities from drill log data is inherently inaccurate. Furthermore, the logs did not provide a basis for determining accurately either the depth of excavation before reaching suitable foundation conditions, or for determining the degree of roughness in the underlying rock which plaintiff would encounter in the course of excavating the damsite, particularly in the cutoff trench area of the main dam foundation, where most of the difficulty was encountered. Typically, the logs reported the various stratification of the soils and rocks according to types and depths shown in the contents of each core drill, but from the description given it could not be accurately determined what substances would have to be removed to what depths in reaching suitable foundation conditions, or at what point suitable foundation conditions would be reached, even if the cores had been sufficiently numerous and adjacent to provide a readable and reliable pattern.

(d) The cores themselves were available for examination, but they were not complete and those that existed were badly weathered and decomposed in the course of storage conditions over a protracted period, so an examination of them would not have added substantially to the information available from the log reports. Proof of the inadequacies of the log reports as a basis for predicting subsurface conditions or depths of necessary excavation is evidenced not only by the testimony of Government witnesses but also by the 261 percent variance in the Government's prebid estimates of quantities of excavation at the damsite. The testimony of witnesses for both parties was overwhelmingly to the effect that there were not nearly enough cores drilled to be helpful, and that very little could be interpreted from the logs as a forecast of excavation quantities, ultimate foundation elevations, regularity or roughness of the ultimate foundation, etc.

(e) The unreliability of the drill logs to predict depth of excavation is demonstrated in Defendant's Exhibit 58, which plots each of the drill holes in the main damsite and as to each reports the depth of estimated overburden (taken from a Bu Rec study made in July 1951) and the actual depth of excavation which was experienced. In many instances, the estimates were at sharp variance with experienced depths.

38. (a) Paragraph 55(b) of the Specifications provided that excavation of the dam foundations should be—

* * * to a sufficient depth to remove all materials not suitable for the foundation of the dam * * *, as determined by the contracting officer. The unsuitable materials to be removed shall include all topsoil, rubbish, vegetable matter of every kind including roots, and all other perishable or objectionable materials that might interfere with the proper bonding of the embankments with the foundations, or the proper compaction of the materials in the embankments, or that may be otherwise objectionable. All loose, soft, or disintegrated rock shall be removed to the extent directed by the contracting officer from the abutments of the dam * * * embarkments. * * * Cutoff trenches, as shown in the drawings, shall be excavated to suitable rock foundations for the dam * * * embankment.* * *

(b) The suitability of the foundation surfaces depended on the nature of the fill material to be deposited in the particular areas of the dam foundation. For example, in those areas of the excavated foundation surfaces on which Zone 1 material was to be deposited and compacted, it was necessary to remove all overburden down to clean rock surfaces without sands, gravel, silt, muck, ponds of water, or compressible material, particularly in the cutoff trench area. These standards were somewhat relaxed outside the cutoff trench area so as to permit small pockets of silt and sands under Zone 1 fill that were not substantially different from Zone 1 material.

39. Assuming the validity of the plaintiff's reliance on the Bu Rec representation, drawn from the contract documents, that plaintiff would encounter a maximum excavation at the damsite of approximately 10' to reach suitable foundation conditions, actual excavation experienced at the damsite greatly exceeded this, as shown in cross-section drawings which were maintained by Bu Rec for progress payment purposes and which reflected in great detail the actual excavation quantities and depths at periodic time intervals, as well as the roughness of the foundation terrain.

40. (a) In preparing the bid invitations, Bu Rec estimated a total excavation of 132,955 cu. yd. of overburden under the main damsite to reach suitable foundation conditions. This estimate was based on the removal of an average of 2' of overburden above elevation 4,450' (which presumably would be on the left and right abutments) and 5' below that elevation (which would presumably be the bottom of the dam generally), plus an average of 3' more for the cutoff trench area to get down to bedrock there as specifications required. This estimate contrasts with the representation in the drawings and specifications of a 10' maximum excavation below ground surface, at the lowest part of the foundation, or the ap-

proximately 16' depth of the bottom of the cutoff trench shown in the dam-maximum section drawing, which is part of contract Drawing 39.

(b) Plaintiff actually excavated a total of 347,246 cu. yd. for the main dam foundation, an increase of 214,291 cu. yd., or 2261 percent, over Bu Rec's precontract estimate of 132,955 cu. yd. Item 2 of the Schedule provided an estimate of 420,000 cu. yd. of overburden excavation in open cut which was for excavation out of the total 420,000 cu. yd. to the main dam foundation, but from the contract drawings it was possible to make a rough allocation of the 420,000 cu. yd. to the various locations, including the main dam foundation. The overrun in material to refill the dam embankment, which required extraction from borrow sources and transportation to and placement in the dam embankment, was 327,617 cu. yd.

(c) General Condition 4 of the contract advised that the quantities estimated in the Schedule were "approximations for comparing bids, and no claim shall be made against the Government for excess or deficiency therein, actual or relative. * * *"

41. Contract Schedule Items 2, 3, 4, 5, and 6, which comprised generally open-cut excavation wherever it occurred for the dam and dikes, plus excavation for the tunnel, gate chamber, and access shaft, were estimated by Bu Rec prior to the contract invitations in the collective quantity of 753,840 cu. yd., but performed in the net quantity of 1,002,315.2 cu. yd. for a collective overrun of 248,475.2 cu. yd. (including in the computation an underrun of 19,515 cu. yd. for Schedule Item 3), or an increase of 24.8 percent.

42. Contract Schedule Items 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25, which comprised generally the stripping and excavation of borrow areas and rock sources and transportation of the material to the dam and dike embankments, and backfill and deposit of rock and other fill on the several embankments, were estimated by Bu Rec prior to the contract invitations in the total quantity of 8,376,000 cu. yd., but performed in the net quantity of 8,696,421 cu. yd., for a net overrun of 320,421 cu. yd. (including in the computation underruns totaling 279,444 cu. yd. for Items 12, 13, 14, 18, 19, 24, and 25), or an increase of 3.7 percent.

43. These statistics, however, must be read with discrimination. By totaling net overruns throughout the project, they fail to reflect the concentration of overruns in the main dam area itself, which is the only area claimed by plaintiff to be responsible for his difficulties. Furthermore, the statistics of excavation quantities fail to reflect the severity of the conditions under which the excavation was performed.

44. Although the cutoff trench below the main damsite was designed to have a maximum width of 150' and a particular configuration both horizontally and vertically, in actual fact the designed shape for the cutoff trench was followed only roughly. Its outlines became amorphous as it became progressively more necessary to excavate the contiguous foundation areas down to rock in order to reach suitable foundation conditions as determined by the contracting officer. Thus, the horizontal outlines of the cutoff trench became indistinguishable from the highly irregular surrounding foundation surfaces, in certain places extending from 300' to 500' in width, as compared with the maximum designed width of 150'. Due to the extreme irregularity of the rock surface that characterized much of the excavated dam foundation, the cavity design disappeared or became indistinct.

45. By February 1, 1954, plaintiff had excavated in excess of 119,660 cu. yd. of Item 2 material (excavation overburden in open cut) from the main dam foundation, and by March 2, 1954, had exceeded the Government's prebid estimate of 420,000 cu. yd. of Item 2 excavated material from all areas of the project. Plaintiff was then ahead of its construction progress plan for excavation.

46. Of the overrun of 314,291 cu. yd. of excavation from the main dam foundation, the Government classified 208,597 cu. yd. (or 97.4 percent) as Item 2 material, the contract price for which was 53 cents per cu. yd., and 5,693 cu. yd. (or 2.6 percent) as Item 3 material at a contract price of $1.20 per cu. yd. Prior to bid, the Government had estimated that 10 percent of the total excavation for the main dam foundation would constitute Item 3 material.

47. Paragraph 52 of the Specifications provided in pertinent part as follows:

52. *Classification of excavation.* Except as otherwise provided in these specifications, for stripping and common excavation in borrow areas, excavated materials will be classified for payment only as follows:

(a) Excavation, all classes, includes:

(1) Rock excavation.—Rock excavation includes all solid rock in place which cannot be removed until loosened by blasting, barring, or wedging and all boulders or detached pieces of solid rock more than 1 cubic yard in volume. * * *

(2) Common excavation.—Common excavation includes all material other than rock excavation and overburden excavation * * *.

(b) Excavation overburden.—Excavation, overburden, in open-cut will include all common excavation which can be performed without blasting regardless of depth.

* * * On written request of the contractor, made within 20 days after the receipt of any monthly estimate, a statement of the quantities and classifications of excavation between successive stations or in otherwise designated locations included in said estimate will be furnished to the contractor within 10 days after the receipt of such request. The statement will be considered as satisfactory to the contractor unless specific objections thereto, with reasons therefor, are filed with the contracting officer, in writing, within 20 days after receipt of said statement by the contractor or the contractor's representative on the work. Failure to file such written objections with reasons therefor within said 20 days shall be considered a waiver of all claims based on alleged erroneous estimates of quantities or incorrect classification of materials for the work covered by such statement.

48. Paragraph 55(b) of the Specifications, entitled "Excavation in open-cut," provided in pertinent part as follows:

(b) Excavation for foundations of dam and dike embankments.—The entire areas to be occupied by the dam and dike embankments or such portions thereof as may be directed by the contracting officer, shall be excavated to a sufficient depth to remove all materials not suitable for the foundation of the dam and dike embankments, as determined by the contracting officer. The unsuitable materials to be removed shall include all topsoil, rubbish, vegetable matter of every kind including roots, and all other perishable or objectionable materials that might interfere with the proper bonding of the embankments with the foundations, or the proper compaction of the materials in the embankments, or that may be otherwise objectionable. All loose, soft, or disintegrated rock shall be removed to the extent directed by the contracting officer from the abutments of the dam and dike embankments. Slopes of the abutments shall be reduced to provide satisfactory foundation contours, as shown on the drawings or as directed. Cutoff trenches, as shown on the drawings, shall be excavated to suitable rock foundations for the dam and dike embankments. * * *

49. In January 1953, Bu Rec officials conferred with each other on the question of classification of excavated materials. There was considerable difference of opinion as to the interpretation to be given the language of the specifications classifying excavated materials for payment purposes. The conferees decided that the criterion for classification of excavated materials between "Excavation—all classes" and "Excavation—overburden" was as to whether blasting or its equivalent (*i.e.*, barring and wedging) was necessary. By then, the plaintiff had made verbal protests as to classification of some excavated material, but no written protest.

50. The plaintiff's first written protest of record regarding the Government's classification of excavation for pay purposes was dated February 27, 1954, and read in pertinent part as follows:

We are, at this time, protesting the method of classification with reference to contract item No. 3, Excavation, All Classes in open cut. * * * Our interpretation of the contract classification of Excavation, All Classes includes the excavation of both rock and common materials, and the item of Excavation, Overburden includes only all overburden, which item of overburden, we interpret to include unsuitable materials such as top soil, float rock, rubbish, roots and other perishable materials.

* * * * *

The specifications provide that Excavation, All Classes, includes both rock excavation and common excavation and therefore the use of explosives is not necessary to place the material into the All Classes classification. The item of Excavation, overburden we interpret to be a surface-stripping excavation only and after the overburden has been excavated the material falls into the All Classes classification of excavation.

51. (a) The plaintiff's protest of February 27, 1954, remained unanswered for a protracted period. In the meantime, there is no evidence that plaintiff made any formal compliance with the requirements of the concluding paragraph of paragraph 52 of the Specifications as to challenging the monthly estimates of quantities and classifications of excavation.

(b) On October 22, 1954, the plaintiff's protest of February 27, 1954, was forwarded to Bu Rec by the Government's construction engineer with a request for a formal opinion as to proper criteria for excavation classification if the criteria agreed upon by the Bu Rec conferees in January 1953 was not to govern. The Government construction engineer's letter of October 22, 1954, to Bu Rec enclosed a proposed letter of reply to Adler, which the construction engineer had prepared but had not sent to plaintiff pending approval by superiors at Bu Rec.

(c) By this time, the construction engineer had discussed the excavation problem with Adler a number of times; and in the meantime, by October 1, 1954, the overrun of excavation at the main damsite had reached approximately 184,000 cu. yd. (303,140 cu. yd. total excavation at main damsite, less Government prebid estimate of 119,660 cu. yd.). By then, also, Adler had commenced to refill the excavated areas of the main damsite to form the dam embankment, so the physical features of certain areas of the foundation area were covered over and obscured from view, assuming their visibility would have aided in the excavation classification problem, or in the determination of foundation conditions encountered.

52. (a) Having received no reply from his Bu Rec superiors to his communication of October 22, 1954, the Government construction engineer wrote again to his Bu Rec superiors on April 26, 1956, enclosing Adler's protest letter of February 27, 1954, and a proposed reply to it which he had drafted but withheld pending authorization of his superiors to forward it to Adler.

(b) The Government construction engi-

neer's letter of April 26, 1956, to his Bu Rec superiors reviewed the excavation classification problem, reported some intra-Bureau conflicts concerning proper interpretation of the earthwork specifications as to excavation classification, adhered to his earlier view that the proper criterion to distinguish between "all classes" excavation and "overburden" excavation was the necessity for blasting which characterized the former, discussed particular conditions where all-classes material must be blasted to get access to pockets of common excavation requiring removal, and enclosed sketches illustrating typical geological formations presenting this problem.

(c) The letter of April 26, 1956, enclosed a proposed reply to Adler's original inquiry of February 27, 1954, which expressed "regret that reply has been delayed."

(d) The letter of April 26, 1956, also stated that Adler had made no formal written protest to date but that one was expected, and requested a Bu Rec opinion.

(e) By April 26, 1956, the project was nearing completion.

53. In classifying the excavated materials for pay purposes under the specifications, the Government classified and paid for as overburden "The sand, mud and gravels, including loose detached rock of various sizes less than one cubic yard * * *." Plaintiff considers that such materials should have been classified and paid for as "Excavation—all classes." Plaintiff also contends that all of the 214,291 cu. yd. of overrun in excavation and in the main dam foundation should have been classified and paid for as "Excavation—all classes."

54. (a) Plaintiff had an orderly plan for the progressive completion of the project, including sequentially: clearing of the construction and borrow areas, excavation of the diversion and outlet tunnels and of the two dike foundations, installation of grout cap concrete in the dikes, excavation of the vertical shaft for the tunnel, construction of a cofferdam at the downstream toe of the main dam by using some of the burden removed from the main dam area, diversion of the stream after completion of the tunnel and stilling basin, removal of all overburden from the bottom and abutments of the main damsite, excavation for and placement of grout cap concrete in main damsite, and drilling and grouting of the subfoundation area for the main dam.

(b) As soon as the foundation of the main dam has been completely excavated, including the cutoff trench, and the grout cap and grouting had been completed, it was then planned to commence the placement of fill for the main dam by placing limited amounts of Zone 2 (fine rock fill) and Zone 3 (large rock fill) materials at the downstream toe, and spreading Zone 1 fill material (earth) over the rest of the bottom. The three types of fill for the main dam were to be placed over the entire damsite in successive layers from abutment to abutment, and from toe to toe, so as to provide operating room for the efficient use of the earth-moving and placement equipment.

(c) Thereafter, the remaining concrete structures and roadways would be completed, temporary haul roads would be removed, the area would be generally beautified and landscaped, and the residuals of the contractor's presence would be removed.

(d) The plaintiff's progress chart projected removal of all the scheduled 420,000 cu. yd. of overburden by March 31, 1954, and completion of the entire project in 950 days ending June 25, 1955.

55. (a) Plaintiff adhered roughly to its schedule until about February 1954. At the outset, and subsequently as needed, it moved in an adequate supply of equipment in good condition. Equipment and labor forces were deployed at the outset as scheduled. The dikes were started in early 1953 and substantially completed by the end of the 1953 construction season, without encountering any untoward subsurface conditions departing from those anticipated. The stripping excavation operation (*i.e.*, overburden removal) for the main dam foundation was started in mid-1953 in the area of the abutments on either side of the dam and the lower reaches of the bottom area adjacent to both sides of the creek.

(b) By December 20, 1953, the cofferdam was completed with materials removed from the dam foundation, the outlet works and diversion tunnel were completed, and the creek diverted. Thereafter, the river section of the dam area was stripped and excavated and the materials thus obtained were used to complete the cofferdam.

(c) By the end of February 1954, plaintiff had excavated virtually all of the scheduled quantity of Item 2 overburden from the main dam foundation, but had not reached foundation surfaces suitable to the Government. By March 2, 1954, it had excavated the full amount of the Item 2 materials (420,000 cu. yd.) estimated by the Government for the entire project, and, accordingly, was slightly ahead of its own schedule at that time. By this time, the plantiff encountered the difficult subsurface conditions described elsewhere in these findings, and the Government representatives directed that excavation be continued until suitable foundation conditions were reached.

56. (a) As a result of the subsurface conditions encountered in the excavation of the main dam foundation, the plantiff's plans for utilizing his equipment and labor forces were badly disrupted and thrown off schedule. He was forced to perform the foundation excavation and refill in a piecemeal manner and in small areas at a time, instead of the large sections which he had contemplated, thus frustrating the efficient use of his equipment and operating personnel.

(b) In stripping off unsuitable materials and excavating overburden, he encountered numerous projections of solid, irregular rock, which deprived his construction equipment of room to maneuver efficiently in the confined areas dictated by the obstructions. In such areas, his large tractors and highspeed, rubber-tired scrapers could not be used to full advantage because of the abrupt drops and protrusions.

(c) Excavation and refill proceeded on a random, disorganized basis. Much of the excavation had to be performed with small backhoes and by hand, instead of equipment designed for more efficient performance. Quantities of excavated material had to be loaded onto small trucks for removal, and the arrival and departure traffic pattern for these vehicles was forced by the terrain to be circuitous. Instead of being able to place fill in quantity sequence over large areas, it had to be accomplished in small segments as they became available. Material required abnormal rehandling. Ramps had to be constructed to enable vehicles to negotiate precipitate changes in elevations.

(d) In some areas, from 15′ to 20′ of overburden had to be removed before hitting the tops of rock formations and dropping into pockets to additional depths of 10′ to 15′, some of which could not be reached by a ¾-yard backhoe.

(e) The conditions, as described in the preceding paragraphs of this finding, prevailed over extensive areas of the main dam foundation, and are graphically depicted in a number of photographs which were taken at progressive stages of performance. The depths of excavation are also reflected in the cross-section excavation drawings discussed, *supra*.

(f) Since approximately 83 percent of all excavation and refill work to be performed in the entire project concerned the main dam itself, any substantial overrun of excavation in the main dam foundation area was critical to the construction progress of the entire project.

57. (a) On December 2, 1954, Bu Rec wrote its construction engineer at the worksite, expressing concern that the plaintiff's revised construction program, because of the heavy overruns in the excavation at the main damsite (with which Bu Rec was familiar because of its increasingly accurate method of reporting excavation quantities), was 4 or 5 months behind tahe original completion schedule, and recommended that plaintiff be "urged to complete the work at the earliest possible date in order to minimize the assessment of liquidated damages."

(b) On May 4, 1955, a Government inspector visiting the worksite advised Bu Rec that "arrangements for speeding up his [plaintiff's] operation should be completed and in operation at present." After summarizing the work status and the overrun situation, the inspector concluded that "Unless the contractor is able to better organize his work and speed up his operation it will be impossible to complete construction this year."

(c) On June 15, 1955, the construction engineer at the worksite advised Bu Rec that "We are continuing our advice that he [plaintiff] should accelerate production to complete the fill this calendar year." He anticipated the work would go into the winter months."

58. On June 22, 1955, the construction engineer at Pactola, in acknowledging plaintiff's revised construction program (which he said was not satisfactory), pointed out that it would be impossible to install any volume of Zone 2 rock fill and rock fines fill on the main dam embankment during the ensuing winter months of freezing weather, because of the specification requirement for wetting the material, and continued:

In order that the Bureau of Reclamation may meet its commitments, which are essential to completion of relocated Highway 85A, reroute of traffic, and start of water storage, it is necessary that the embankment be completed by the end of this calendar year, at the latest. Please review your construction program and equipment needs with a view to increasing production on all lagging features and particularly those rock items which you now indicate will not be completed until March 1956.

59. On October 14, 1955, the construction engineer at Pactola described to Bu Rec the plaintiff's arrangements to procure additional equipment and items of additional work remaining to be done during the forthcoming cold weather. The letter further stated as follows:

As you know, for many months we have been urging the contractor to acquire more equipment to expedite completion of his work. I feel that we have exerted every possible influence in that direction. From time to time we have been advised by him of proposed purchases, rental deals, and impending subcontracts, all of which failed to materialize.

60. (a) During the progress of the work, plaintiff called attention of Bu Rec representatives to changed subsurface conditions, which (according to plaintiff) differed from those anticipated by the specifications and contract.

(b) On June 15, 1955, plaintiff wrote to Bu Rec requesting a 419-day time extension, consisting of 234 days for overruns in overburden excavation at the main dam foundation and 185 days for a correlative overrun in excavation at Rock Source B needed to fill the main dam embankment. The request for a 419-day time extension was reduced by plaintiff to 329 days by certain offsets which are relevant to the immediate controversy.

(c) The letter of June 15, 1955, left open the possibility of further time extensions being required before the job was completed; and stated in part as follows:

Our present time for completion of the contract has been set as July 29; therefore it is of the utmost importance and urgency that the time for completing the contract be extended as quickly as possible. We cannot suffer the penalty of liquidated damages on Pactola Dam Contract, especially when such extensions of time are due to causes beyond our control.

61. Under the date of July 13, 1955, the contracting officer issued his findings of fact on plaintiff's claim of June 15, 1955. He extended the plaintiff's time for performance by 159 days (as compared to plaintiff's request for 329 days) due to overruns in excavation and refill. No findings were made as to the changed conditions that had been alleged by plaintiff in its protest of June 15, 1955.

62. (a) On August 17, 1955, plaintiff filed a Notice of Appeal with the Department of the Interior Board of Contract Appeals, and on August 31, 1955, supplemented the notice with a letter which described the details of plaintiff's objections to the findings of the contracting officer.

(b) On November 17, 1955, the contracting officer withdrew his findings of fact issued July 13, 1955, pending further investigation to determine the full extent of the delays.

(c) In a letter to Adler dated November 22, 1955, the contracting officer stated as follows:

Because the overrun of quantities cannot be definitely determined until near the end of the job, the supplemental findings will probably not be made until work under the contract is substantially complete. Our release of liquidated damages until the job is complete should *not* be taken as an indication that the supplemental findings of fact will excuse all of your delay. On the basis of information presently available it appears unlikely that all of your delay will be found to be excusable. Accordingly, you are urged to plan your operations for the winter and for next construction season to complete the work at the earliest possible date and thereby minimize the amount of liquidated damages to be deducted from your final voucher. In the event the supplemental findings do not excuse the entire delay, you can then appeal those findings and secure an administrative review of the entire matter.

63. (a) Although the plaintiff had provided ample equipment for performance of the contract according to its original dimensions, it became apparent, as the substantial overruns in excavation and the difficult foundation conditions materialized, that additional equipment would be required to cope with the situation and to meet the Government's demands for performance acceleration.

(b) Responding, the plaintiff in 1954 brought in a 2½-cubic-yard Lima power shovel, six new Euclid quarry trucks, another Sheepfoot roller, and another large air compressor. In October 1955, plaintiff added five or six units of high-speed, rubber-tired, earth-moving scrapers and a D-8 dozer push cat, which were brought from Wyoming and other South Dakota locations for digging and hauling, and four units of earthmoving belly-dump wagons imported from a Tiber dam job about 400 miles away from Pactola.

(c) The rough topography and pocketed work areas in the main dam foundation site prevented efficient utilization of equipment and required more equipment to accomplish less work than under more normal circumstances.

64. Paragraph 9 of the contracting officer's supplemental findings of fact issued July 11, 1956, stated in part as follows:

9. * * * However, the work was seriously curtailed early in November 1955 by severe cold weather and snow. Ordinarily the contractor would have been able to work until the middle of December with very little lost time due to weather. In spite of the severe weather of the 1955–1956 winter, the contractor kept the work going throughout the winter, although at a reduced rate, until warmer weather in April permitted the resumption of full-scale work on the excavation, all classes, items. Because the overruns forced the work to be performed over a longer period, extending over a severe winter season not anticipated when the contract was entered into, the contractor is entitled to an extension of time for any delay occasioned by the winter weather. Excavation, all classes, during the winter was only about 55 percent of the production during warmer weather. Accordingly, it is found that for the 5-month period from November 1955 to March 1956, inclusive, the contractor was delayed 45 percent of the time by a winter season not contemplated by the contract * * *

65. The winter of 1955–56, from November through March, was unusually severe, particularly the months of November and December, which brought record low temperatures.

66. (a) Pactola Dam is located in what is sometimes known colloquially as the "banana belt" of South Dakota, which has reference to its usually more moderate climate than the rest of the State. Plaintiff had scheduled its work under the original contract to be carried on as much as possible through the winter months, but did not contemplate working through the 1955–56 winter since the original completion date was June 1955.

(b) At the urging of the Government plaintiff worked under weather conditions in the 1955–56 winter which would ordinarily have caused him to suspend or reduce activities, particularly in November and December 1955. The work he accomplished during this period comprised mainly the drilling and blasting of rock in Rock Source B, loading the material thus blasted by power shovel into trucks and hauling it to the main dam embankment, and dumping the material there in the respective zones.

(c) Working under these conditions decreased the efficiency of plaintiff's equipment and manpower by causing frequent and serious breakage of equipment components, shovels, caterpillar bulldozers, caterpillar rock rakes, and quarry trucks; interfered with the regular flow of work; caused equipment starting difficulties; and disrupted normal rock drilling, blasting, excavating, transportation, and placement procedures.

(d) The severity of the 1955–56 winter accentuated the difficulties of contract performance which are common to normal winter weather, as in the preceding winters of Adler's performance at Pactola.

67. (a) At the outset of a conference held between the parties on July 5 and 6, 1956, to determine the extent of the time extension to be granted and to agree upon extra costs of performance, the Bu Rec representatives proposed to extend the time for performance to April 27, 1956, which would have left plaintiff liable for liquidated damages beyond that date. By the end of the conference, Bu Rec had agreed to extend the time to August 15, 1956, which was satisfactory to plaintiff, in that substantial completion by then was anticipated.

(b) At the conference, the parties discussed plaintiff's claim that overruns on scheduled quantities of overburden and excavation, all classes, had resulted in additional costs; but after considerable discussion, the Bu Rec representatives concluded that no changes had been made which would account for these overruns. The conferees also agreed upon issuing Order for Changes No. 5 to compensate plaintiff for 11 specified items of changed work in the total sum of $43,314.39.

(c) At the conclusion of the conference, the plaintiff signed the following letter to Bu Rec dated July 6, 1956, prepared by the latter:

Reference is made to conference held with representatives of the Bureau of Reclamation on July 5 and 6, 1956, regarding our claims for extra work and changes in connection with Contract No. 14–06–D–254 for construction of Pactola Dam under Specifications No. DC–3783, Missouri River Basin Project.

This will confirm understanding reached in conference that the payment by the Bureau of Reclamation of the sum of $43,314.39 to us for extras and changes as discussed at the conference will be accepted as settlement in full of all claims for additional compensation under the contract arising out of work performed to date.

Upon the Bureau's execution of a formal contract document providing for the above payment, all claims for additional compensation presently pending will then be considered as withdrawn without further action by the contractor, and no new claims for additional compensation will be made on the basis of anything occurring prior to July 6, 1956.

(d) No reservations were specified in the foregoing release.

(e) The release was signed by plaintiff several days before the granting of a time extension by the contracting officer's findings of fact dated July 11, 1956, and before the receipt on July 18, 1956, of Order for Changes No. 5 paying plaintiff the sum specified in the release. Adler testified that he was required by Bu Rec to sign the release if he wanted to be paid the sum provided for in Order for Changes No. 5, which was promptly issued thereafter, but this is denied by Government witnesses.

(f) The release by Adler of all excavation and fill claims up to July 6, 1956, by payment of $41,618.04 for 5,322 cu. yd. in a relatively small area of the river section of the main dam foundation and $330.77 for excavation in the cutoff trench was inconsistent with the known existence of much more extensive claims for changed conditions and overruns, as reflected in the exceptions reserved by Adler in connection with subsequent releases which he signed.

(g) At the time when Adler signed the release, he did not have access to full Government data as to excavation and fill quantities, because Bu Rec was packing up its records as the completion of the project neared.

68. (a) The figure of $43,314.39 referred to in the release letter of July 6, 1956, was the increased cost allowed plaintiff by Order for Changes No. 5, which was dated June 14, 1956, but was not received by plaintiff until July 18, 1956. Whether the conference between the parties on July 5 and 6, 1956, which ended with plaintiff signing the release letter, effected any changes in the original contents of the June 14, 1956, Order for Changes No. 5 cannot be determined. From the date sequence, it would appear that at the July 5 and 6 conference, the plaintiff merely approved of or accepted the determinations that had already been made by Bu Rec and incorporated in the June 14 Change Order. Another possible explanation is that the Order for Changes was prepared at the July 5–6 conference but backdated to June 14 for unexplained reasons.

(b) Order for Changes No. 5 provided compensation totaling $43,314.39 for 11 listed changes, of which the first one, accounting for $41,618.04 of the total, read as follows:

In lieu of excavating all classes excavation to provide a reasonably uniform foundation surface in the river bottom area of the dam, you are directed to excavate overburden from crevices, cavities, and channels and refill such excavation to 1 foot above rock pinnacles with specially compacted Zone 1 material.

This work, which had been actually completed by plaintiff by September 20, 1954, involved 5,322 cu. yd. of additional excavation and fill, at the rate of $7.82 per cu. yd.

Of the remaining ten items listed and paid for by Order for Changes No. 5, the second one paid $330.77 for 3,007 cu. yd. of additional excavation in the cutoff trench at $0.11 per cu. yd., and this had been completed in July 1953. The remaining nine items in Order for Changes No. 5 totaled only $1,365.58 (including a deduction item of $103), and involved items of work not related to the main dam foundation.

(c) Under the date of July 30, 1956. Adler executed a statement at the end of the Order for Changes No. 5, certifying that "Adjustment of the amount of compensation due under the contract and/or in the time required for its performance by reason of the changes ordered above is satisfactory and is hereby accepted."

(d) The Order for Changes No. 5 made no reference to time extensions for the extra work.

(e) All but two of the 11 items covered by Order for Changes No. 5 had been completed by late 1954.

69. (a) On July 11, 1956, the contracting officer issued supplemental findings of fact, which granted plaintiff a time extension of 332 days to August 15, 1956, and described the basis of the allowance in detail. These findings were a final response by the contracting officer to the plaintiff's letter of June 15, 1955, requesting a time extension, and were a substitute for and enlargement of the contracting officer's findings of July 13, 1955, which had been wtihdrawn on November 17, 1955, in an order which suspended the assessment of liquidated damages until the facts could be more accurately determined.

(b) The latest findings of fact increased the time extensions previously granted by means of dividing the total amounts of overrun and fill by figures considered to represent typical daily production by the contractor, based on his performance over a long period. Additional time extensions were based on other factors, including 68 days for delays caused by the severe 1955–56 winter, in which the contracting officer estimated that the contractor could work at only 55 percent efficiency.

(c) No mention was made in the July 11, 1956, findings of fact of delay-damage claims by plaintiff, or of the claims referred to in Order for Changes No. 5.

(d) The concluding paragraph of the July 11, 1956, findings of fact advised the plaintiff of his appeal rights under the contract. Since the final time extension eliminated the prospect of liquidated damages, disagreement by plaintiff as to the method of computation became moot.

70. On August 15, 1956, the project was accepted by Bu Rec as being substantially complete, although there was a substantial amount of cleanup and beautification to be completed, roads to be eliminated, and debris to be buried. It was fully completed by January 8, 1957, and was considered to be very well constructed, attractive, and watertight.

71. After the substantial completion of the project on August 15, 1956, plaintiff performed certain additional work ordered by Order for Changes No. 6 dated July 20, 1956. This work related to raising a road grade, surfacing a parking area, and excavating a ditch on the side of a road through Rock Source B, for which on November 19, 1956, he accepted the sum of $5,463.30, as agreed to at a conference between the parties on November 7, 1956.

72. (a) On November 20, 1956, Adler executed a release form which provided in part as follows:

Now, THEREFORE, in consideration of the premises and the payment by the United States to the contractor of the amount due under the contract, to wit, the sum of Two hundred thirteen thousand five hundred sixty-two and 60/100 dollars ($213,562.60), the contractor hereby remises, releases and forever discharges the United States of and from all manner of debts, dues, sum or sums of money, accounts, claims, and demands whatsoever, in law or in equity, under or by virtue of the said contract, except contract items and quantities as listed on the reverse side hereof.

(b) The reverse side of the release summarized exceptions totaling $198,633.20. The numbers and amounts of the exceptions were as follows:

No.	Amount
3	$22,832.20
4	1,342.00
11	41,532.87
12	33,407.79
14	23,600.50
16	68,429.70
21	1,463.00
41	688.50
43	2,772.00
50	770.00
51	572.00
52	463.20
OFC No. (3) (c)	759.24

73. The $213,562.60 given as the consideration for the release of November 20, 1956, consisted almost entirely ($212,319) of retained percentages, *i.e.*, 10 percent of all the contractors' monthly earnings were to be retained until he had completed 50 percent of the work (in this case through August 1954), and were to be paid to the contractor upon completion and acceptance of the project and presentation by him of a certified voucher and, if required, an executed release, all as provided by Article 16 of the contract.

74. (a) By a letter dated November 20, 1956, plaintiff returned his release of that date, together with public voucher, labor standards certification, and executed Order for Changes No. 6, to Bu Rec.

(b) The letter of November 20, 1956, stated in part as follows:

The "Release on Contract," Form 7–292, has been properly executed by us with thirteen items of exceptions set forth on the release of contract. The exceptions indicated on the release are pursuant to Article 16 of the contract. During our conference in Denver with the various representatives of the Government on November 7, 1956, the officials were advised that exceptions would be set forth in the release on contract, and we also agreed that claims in connection with the exceptions to the release on contract, would be filed immediately. It is our desire to immediately review the government calculations and figures in connection with the contract items excepted in the release, which review may require about fifteen to twenty days, whereupon we will process our claims for all discrepancies discovered. We anticipate processing and filing of our claim or claims on or before March 1, 1957. We anticipate reviewing the government records immediately and before such records are transferred to the District Office at Huron, South Dakota.

75. On November 30, 1956, plaintiff received final payment under the contract in the amount of $213,562.60.

76. On August 23, 1957, Bu Rec wrote the following letter to plaintiff:

In your letter of November 20, 1956, accompanying the release on contract, you stated that additional data on your claims excepted from the release on contract would be filed on or before March 1, 1957. Since that time I have heard nothing further from you regarding these claims.

In order that we may close our files on this job, I propose to issue findings of fact in approximately 60 days using such information as we have on your claims if the additional data is not filed by that time.

77. On October 17, 1957, plaintiff wrote as follows to Bu Rec:

Your letter dated August 23, 1957 and addressed to our Rapid City, South Dakota office has been forwarded to our new Englewood, Colorado office.

The checking of the project office figures to prepare our claim for additional compensation in connection with Pactola Dam, Specifications No. DC–3783, is requiring considerably more time than was originally anticipated. We have discussed the several items within our claim with your office, verbally on three or four occasions since February 1957.

Some of the items of work in question may require assistance from your office and/or engineering assistance because the government project records are not too clear in several instances.

It is our desire to personally discuss some of the records and our findings with your office prior to the submission of our claim on several of the items of work involved; therefore we will greatly appreciate your delaying the issuance of Findings of Fact until the matters can be discussed with you.

78. On February 7, 1958, Bu Rec issued findings of fact and a decision by the contracting officer, which read in part as follows:

2. In executing the release on contract dated November 20, 1956, the contractor excepted 13 items of claim totaling $198,633.20. * * *

3. Having heard nothing further from the contractor on this matter in the meantime, the Government wrote to the contractor on August 23, 1957, advising that findings of fact would be issued in 60 days using the information then available. On October 17, 1957, the contractor replied to that letter, requesting that issuance of the findings of fact be delayed until details of his claims could be discussed. Accordingly, a meeting was held on November 5, 1957. The discussions held then were inconclusive because the contractor had not completed his data required for detailed study of his exceptions. At the meeting, he did agree that his review of the Government calculations would be completed by the end of November 1957, and that he then would contact the Bureau to arrange an immediate meeting for discussion in detail of his exceptions to the release. To the date of these findings, the contractor has not contacted the Bureau further in regard to his claims, nor has he furnished any addition information. * * *

4. As a result of the contractor's exceptions to the release on contract, the Government has reviewed the computations and has discovered an error in the quantity paid under Item 50. Concrete in Dam Embankment Cutoff Wall and Outlet Works Stilling Basin Walls. The quantity paid on the final estimate under this item was 827.8 cubic yards, whereas the quantity should have been 9.65 cubic yards larger. This quantity of concrete had been placed in the cutoff wall during 1954, and later computations overlooked this 9.65 cubic yards. At the bid price of $55.00 per cubic yard, the contractor is entitled to $530.75 additional payment for Item 50.

5. The computations for all other items listed by the contractor as exceptions to the release on contract have been carefully checked and no discrepancies have been found. Accordingly, it is the conclusion of the contracting officer that all of the contractor's claims except that on Item 50, are without a proper basis in fact, and they are hereby denied.

79. On March 3, 1958, plaintiff filed a notice of appeal to the findings of February 7, 1958, and said, *inter alia:*

The Findings are not complete in that they do not give consideration to the extra costs incurred by reason of the overruns in Items 2, 4, 9, 11, 16, 17, 20, 21, 23, 40, 41, 42, 43, and 44 through 52 inclusive. The total of the additional quantities extended the performance of the contract beyond the period foreseeable at the date of execution. Such quantity increases indicate that the subsurface or latent conditions at the site differed

materially from those anticipated by information furnished by the Contracting Officer.

80. No such claim was expected from the operation of the release given by plaintiff on November 20, 1956. Of the items mentioned by plaintiff in its notice of appeal, nothing in the release excepted any claim in connection with Items 2 (Excavation, overburden), 9, 17, 20, 23, 40, 42, or 44 through 49. Furthermore, as to items excepted from the operation of the release the only exception was as to the accuracy of the quantities for which plaintiff had been paid. There was in the release no reservation of a claim for extra costs by reason of overruns or because of any extended performance period. In its appeal, plaintiff did not cite any claim as to Item 3 (Excavation, all classes, in open cut), or any claim as to misclassification of excavation.

81. A letter dated March 20, 1958, from Bu Rec to plaintiff stated in part as follows:

A brief study of your appeal indicates your desire to review the project records and set forth in detail the points of alleged error on which you are basing your claims. It is agreed that any areas of alleged error should be delineated so that the hearings may be as brief and effective as possible.

* * * * *

It has been the desire and intention of the Bureau to meet with you and aid in every way to check, specifically, points of disagreement. If you wish assistance and a cooperative review of the calculations, will you please communicate with this office to arrange a meeting for that purpose in the immediate future. Assistance will be readily available until about May 1, 1958, except for the week of March 30 to April 5.

In the event that any errors in the calculations are discovered by our mutual efforts, in the period allowed by the Board of Contract Appeals for your filing of a brief, the findings will be revised, or reissued, to reflect any corrections that may be found to be justified.

82. (a) Pursuant to the Government's invitation, as noted in finding 81, Adler, accompanied by an engineer employed by him, one Thomas Zolper arrived at the Bureau's offices in Denver on Tuesday, April 15, 1958. Thereafter for the balance of the workweek, conferences were held between Adler and the Bureau engineers; and measurements were made by Alder, Zolper, and the construction engineer, Goehring, from the project construction records.

(b) All of the contract items cited in the exceptions to plaintiff's release of November 20, 1956, were studied; and there were no errors found in the Government's measurements as to Contract Items 3 (Excavation, All Classes, in Open Cut), 12, 13, 41 and Order for Changes No. 3, and those items were deleted from plaintiff's claims.

(c) The construction engineer, in a memorandum of the conference written May 1, 1958, said that he believed plaintiff's claim under Contract Item 51 had been similarly deleted; and no claim under that item is prosecuted here.

(d) It is not entirely clear from the contemporaneous memorandum, but it is reasonable to infer that plaintiff did not object to the deletion of his claims for Items 3, 12, 14, 41, and 51, and under Order for Changes No. 3, seemingly convinced by the Government's proof.

83. Errors in the Government's quantity measurements were found by the conferees in Items 11 and 16, as well as in Item 50, the error which had previously been corrected by the findings of fact dated February 7, 1958. In Item 11, an arithmetical error had resulted in payment to Adler for some 13,719.2 cubic yards less than actually excavated, entitling him to a further payment of $5,076.10 for that item. A similar error in Item 16 of 3,863.1 cubic yards entitled Adler to a further payment of $3,476.79.

84. Disposition of certain claims in the fashion indicated in findings 82 and 83 left only four of the exceptions to Adler's release as to which no agreement had been reached at the end of the conference. These were Adler's exceptions to Items 4 (Excavation, All Classes for cutoff wall footings, grout caps and cutoffs), 21 (Special compaction of earthfill), 43 (concrete in cutoff wall footings and grout caps), and 52 (concrete in highway payments).

85. Following the 4-day conference described in findings 82–84, Government engineers thought that Adler's claims on the four items not resolved (*i.e.*, 4, 21, 43, and 52) might have some merit; and the "records and computations were studied again with a view to finding justifiable reasons and quantities for payment."

86. As a result, the Bureau decided to allow Adler 46.6 more cu. yd. on Item 4 than he had been paid for. At the time of the conference, Adler was seeking payment for only 43.3 cu. yd. on Item 4, which, at $22 per yard, came to $952.50. The Bureau's allowance was somewhat larger, $1,025.20.

87. Adler's claim for special compaction of earth fill in the amount of 418 cu. yd., was allowed in full in the amount of $1,463.

88. Adler, who in his release and at the conference, claimed he was entitled to payment for an additional 115.5 cu. yd. of grout cap concrete (Item 43), claimed only an additional 43.3 cu. yd. of grout cap excavation. The engineers were unable to see how Adler could claim so much more concrete fill than he had excavation. Study of batch counts led to an allowance of 48.1 additional cu. yd. of concrete to fill the void left by the extra excavation allowed (46.6 cu. yd., see finding 86); and in addition the Bureau found that another 37.5 cu. yd. had not been paid for. This led to an allowance on Item 43 of 85.6 additional cu. yd., warranting payment of an additional $2,054.40.

89. Alder's exception on the release of 19.3 additional cu. yd. of "concrete in highway pavement" (Item 52) was allowed in full.

90. Under the date of November 14, 1958 (but not mailed to plaintiff until January 29, 1959), the contracting officer issued supplementary findings of fact, which discussed plaintiff's exceptions to its release and stated in part as follows:

9. As a result of the review of the data, no errors or irregularities were found in the calculations for final payment for Items 3, 12, 14, 41, 51 and Order Changes No. 3.

10. In his notice of appeal, dated March 3, 1958, the contractor requested an adjustment because the large overruns in several of the major items of the job forced the work to continue for a longer period than had been originally planned. * * * The release on contract * * * did not reserve such a claim. The contractor's failure to except this claim from the operation of the release on contract precludes my considering the claim, and it is therefore denied.

11. In summary, it is found that the contractor is entitled to the following additional compensation on Items 4, 11, 16, 21, 43, and 52 of the schedule of Specifications No. DC–3783 * * * [$1,025.20 on Item 4, $5,076.03 on Item 11, $3,476.70 on Item 16, $1,463 on Item 21, $2,054.40 on Item 43 and $463.20 on Item 52].

The Findings of Fact dated February 7, 1958, showed that the contractor was entitled to $530.75 under Item 50 of the schedule of the specifications. Thus, it is found that the contractor is entitled to a total of $14,089.28 additional compensation. All other exceptions to the release on contract are found to be without proper basis and they are denied.

91. On January 30, 1959, plaintiff wrote the following letter to Bu Rec:

We hereby acknowledge receipt of your letter dated January 29, 1959, in which you transmitted the Supplemental Findings of Fact and Decision dated November 14, 1958, in connection with the above named contract.

Please be advised that we hereby accept said Supplemental Findings of Facts as satisfactory settlement of all claims under the aforementioned contract except as follows:

We reserve all the rights in connection with our claim as outlined in Paragraph IV of our Notice of Appeal dated March 3, 1958, in which we claimed additional compensation for increased costs on the items stated therein, because these additional quantities extended the performance of the contract beyond the period foreseeable at the date of its execution.

Accordingly, we do not accept Paragraph 19 of the afore-mentioned Supplementary Findings of Fact and Decision dated November 14, 1958, and a formal Notice of Appeal therefrom will be filed at a later date.

92. Subsequently, on February 28, 1959, plaintiff filed a timely appeal with the Interior Department's Board of Contract Appeals. On January 4, 1960, in IBCA–156, the Board sustained the Government counsel's contested motion to dismiss the appeal on the ground that the claims presented by Adler "sound either in misrepresentation or call for recovery of unliquidated damages," over which the Board had no jurisdiction.

93. The various matters pertaining to this case were first brought to the attention of the Congress in an earlier document entitled "Statement as to Case of Adler Construction Company," dated February 12, 1960. Adler's claims made in that statement were, briefly stated, that the Government had:

(a) Failed to fully rectify a mistake in bid by Adler, depriving Adler of $136,240;

(b) Failed to allow equitable adjustment for excess costs arising from changed or latent conditions at the site and gross overruns of quantities; and

(c) Failed to allow excess costs and damages from breaches of contract by the Government.

94. During the 86th Congress, 2d Session, there was introduced a bill identified as S. 3199, dated March 14, 1960, for the relief of Adler Construction Company. Later, the bill was referred to the Court of Claims by S. Res. 288.

95. Following the reference of S. 3199 to the Court of Claims in August 1960, the matter was docketed as No. Cong. 10–60, and the court accepted reference of all three claims. However, as a result of the Supreme Court's opinion in *Glidden Co.* v. *Zdanok*, 370 U.S. 530 (1962), the Court of Claims issued an order dismissing the congressional reference aspect to plaintiff's claims but retaining jurisdiction of plaintiff's breach of contract claims as being within the court's general jurisdiction pursuant to 28 U.S.C. § 1492 (1958 ed.).

96. On April 17, 1970, the court issued its opinion in this case, dismissing plaintiff's petition on the ground that, from a legal standpoint, plaintiff had effectively "released" the Government from liability for any reimubursement claims it might have had.

97. In view of the long pendency of this controversy, and the fact that an extensive trial had already been held on this matter prior to the filing of plaintiff's present petition, and, further, in order to obviate the need for further proceedings, plaintiff proposed that an agreement be reached by the parties on the conclusion to be reported to the Congress. After extensive negotiations by counsel, the parties have reached agreement that plaintiff has no valid legal claim against the United States, but that it has a valid equitable claim in the total amount of $300,000. This equity settlement amount is designed: to reimburse plaintiff fully for the remaining $136,532.86 relating to alleged mistakes which plaintiff made in the preparation of its bid for the project; and to compromise for $163,467.14, as an equitable

amount, all remaining claims, including but not limited to claims for changed conditions, breaches of contract, and anticipated profits.

CONCLUSIONS

1. The plaintiff, Adler Construction Company, a partnership composed of Harold C. Adler and Vera L. Adler, does not have any legal claim against the United States.

2. Under the standards set out in *Burkhardt* v. *United States*, 113 Ct. Cl. 658, 84 F. Supp. 553 (1949), the plaintiff does have a valid equitable claim against the United States.

3. The amount of $300,000 is equitably due from the United States to the claimant.

CERTIFIED, a true and correct copy, Oct. 25, 1972, at Washington, D.C.

SAUL R. GAMER,
Chief Commissioner,
U.S. Court of Claims.

AMENDMENT OF THE AGRICULTURAL ACT OF 1970

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1888, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1888) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture and Forestry be permitted to be present on the floor during the consideration of S. 1888 and the votes thereon: Harker T. Stanton, chief counsel; Michael R. McLeod, counsel; Henry J. Casso; Forest W. Reece; James W. Giltmier; James E. Thornton; William A. Taggart; Cotys M. Mouser; and James M. Kendall.

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. TALMADGE. I yield to the assistant majority leader.

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from New York, I make the same request for Kelly Costley.

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

The Senator from Georgia is recognized.

Mr. CURTIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. TALMADGE. Mr. President, it is with no small measure of pride that I rise today to present to the Senate an extension of general farm legislation which the Committee on Agriculture and Forestry has called the Agriculture and Consumer Protection Act of 1973.

Never in all of my years in the Senate have I seen a group of Senators work in such an atmosphere of cooperation and bipartisanship in attempting to develop a bill that would be fair and equitable to both farmers and consumers.

As a result of these efforts, the bill before us today is one which was sent out of committee unanimously.

Very early this year, I expressed two desires to the committee:

First, that in attempting to draft new legislation, we try insofar as possible to get comments from all segments of the population concerned with this legislation—most particularly those of the dirt farmers who will have to live with what we do here for years to come.

Second, I indicated that it was essential that we get an early start on this legislation because consumers need to be assured of adequate food supplies at reasonable prices and farmers need to know well in advance what kind of program their livelihood will be based on. In particular, winter wheat growers must know what the rules are by August of this year. Accordingly, the committee agreed that we would do our part to attempt to have a bill on the President's desk by July 1.

In regard to the first of these desires, the country responded admirably. In hearings held in Washington and out in rural areas, we heard from nearly 300 witnesses. They sent us a message, and we are responding positively to that message here today.

We are operating this year in a totally different arena than the one which existed prior to the adoption of the 1970 act.

In 1970 we had substantial surpluses of basic farm commodities. Now our reserves are at low levels.

At that time it appeared that our agricultural markets were shrinking. Now the Secretary of Agriculture talks about a "promised land for American agriculture."

At that time, farm prices and food prices were low. Now they are higher. Perhaps this one issue overshadows all of the others insofar as discussion of farm legislation is concerned. Consumers see the need for greater supplies and consumers and farmers are united in their desire to see that those supplies are produced. At no time in recent history has there been such unanimity of support for farm legislation.

What we are discussing here today is food for our Nation. Without abundant supplies of food none of the great achievements of this country could have been accomplished.

Conversely, without adequate income—without a fair return on their substantial individual investments—without some guarantee against a price break if they succeed in producing a bumper crop, we cannot expect our farmers to continue to perform in the exceptional way that they have in past years, and to meet the new demands that are being placed upon them.

It is as simple as that.

Many farmers have been uncomfortable with farm programs. Because farmers are independent men who are unhappy when irresponsible people describe government payments made to assure adequate production and orderly marketing as government "handouts."

Others not involved in farming do not understand why the government should try to regulate production or why the taxpayer should bear the cost of a program to assure consumers of an abundant supply of food at fair and reasonable prices.

It is important to note that most of the commodities produced by our farmers do not come under these programs. Their prices—for everything from turnips and onions to oranges and beef cattle—are governed by the demands of the market place. Sometimes supplies are short and prices are high. Sometimes supplies are up and prices are down. Within limits consumers can shift from one commodity to another in response to price changes.

However, we have learned through bitter experience that for basic commodities such as wheat, feed grains, and cotton, unless output is tailored to meet our needs, consumers suffer from shortages and higher prices or farmers go broke and all of us suffer.

This year, I asked the Department of Agriculture to do a study to indicate what would happen if farm programs were abolished. This was before the Department realized that supplies would be as short as they are and reduced feed grain set-aside requirements, and before the spring floods that were so devastating this year. The analysis which they provided showed that the impact of eliminating farm programs could be disastrous in terms of farm prices and farm incomes. In the first year of the elimination of the program, corn prices could drop below a dollar a bushel and wheat prices could fall substantially. Cotton prices might range from 25 to 27 cents a pound. Now these prices may at first blush sound very good to the consumer particularly in the light of recent price increases, but farmers selling their products for these below-the-cost-of-production-prices simply will not stay in business long.

Further, the impact on agriculture in such a situation would go far beyond prices and production. Resource adjustment in agriculture would be agonizing, longlasting and farreaching, and we would move from a system of reasonably stable supplies to a "boom and bust" agricultural economy.

At times there would be more food available to consumers than they could consume. At others, our housewives would face severe shortages. Prices of food would gyrate accordingly and there would be no stability in the market.

We should appreciate what the farmer has done for us during the years when many accepted plentiful supplies of food and fiber at reasonable prices as almost a matter of course, and some regarded the farm program that produced them as a gravy train.

Farm prices and farm income during most of this period have been low. Even at present record levels, per capita farm income is at 83 percent of that for the non-farm population.

We need to assist our farmers in meeting our most essential needs, those for food and fiber as fully as we need to assist business with an efficient low cost postal service, labor with an adequate minimum wage, our maritime fleet with shipping subsidies, and our poor with a welfare program. There is no such thing

as letting every man go it alone in a free undetermined economy, so that the strong will prevail and the weak will perish.

We tried that once before when one of our past Presidents advised that Government should be "an umpire instead of a player in the economic game." He also wanted to keep Government off the farm.

The result of that advice became evident in 1933, when one-fourth of our farmers lost their land, and grain prices were at their lowest since the reign of the first Queen Elizabeth. Rural banks, and other enterprises dependent on the farmer as a customer collapsed and the whole country sank into one of the worst depressions in the history of this Nation.

There are those who would say that things are different now, that depression policies aren't relevant in this modern economy. And things are somewhat different. We have the Federal Deposit Insurance Corporation, Social Security, and many others. But probably more than any of these, we have had some kind of a farm program to protect us from the unregulated play of those economic factors that produce depressions.

All of the members of this body have heard the cry from their constituents that food prices are too high. If that contention is true, as contrasted with the increases in other items such as medicine and housing in this inflationary economy, then this bill gives the Secretary of Agriculture the tool to bring about the needed production. If farmers produce too much and drive farm prices down too far, they know they will be protected under the provisions of this bill.

Once the Secretary has determined the number of acres needed to meet our needs, the farmers are free to plant them without fear that a bountiful harvest will drive them to bankruptcy.

This bill says that the Government and, therefore, the taxpayers, must pay the cost if the Secretary's decision results in too much production.

There are those Members of the Senate who will look at this bill and think that it is a very complex measure. It is, let there be no mistake about that. But so is the business of feeding this Nation.

Early this year I asked Secretary Butz to provide the committee with a copy of the administration's farm bill. The Secretary declined, saying that instead he would rather work with the committee in developing a bill and would submit some general proposals to the committee. Therefore, it was incumbent upon us to proceed in a responsible manner to work out an effective bill.

One suggestion made by the administration was that we should phase out some portions of existing programs over a 3-year period. The committee felt that any provision of the existing program which was unwise should not be phased out, but should be discarded immediately. Thus, the provision for advance payments appeared to make no sense under existing conditions. The farmer should receive a fair price one way or another, but he should not receive a fair price in the marketplace, plus a government payment. The committee bill, therefore, discards payments immediately if a fair price is received in the marketplace. On the other hand, the consumer must be assured of an adequate supply. So, as an incentive to production, the farmer is assured of a payment if the market price is not adequate.

At the suggestion of my distinguished colleague from North Dakota (Mr. YOUNG), the committee fashioned a bill that:

First, gives the Secretary of Agriculture great flexibility in assuring adequate supplies for expanding markets, both at home and abroad. It imposes no required controls on agricultural production. It is not restrictive. It is designed to assure consumers of a continuous and abundant supply of food and fiber, and it breaks away from programs of the past.

Second, it eliminates Government payments to farmers when market prices are at established levels and provides for payments only when market prices are below those established levels. And then payments would be only the difference between these two levels of prices.

Each year, the Government, using the expertise available to it, would estimate the anticipated needs of the Nation for feed grains, wheat, and cotton. Under this plan, if the Government estimates are correct and established prices are achieved, the farmer will not receive one thin dime of payments from the Treasury. If the projections are wrong and prices are lower, then the farmer gets a payment and consumers get cheap food. If the Secretary of Agriculture predicts correctly, this approach should save the taxpayers money, consumers would have an abundance of food, and the Government would share the risks with the farmer, rather than asking the farmer to bear the risks of Government predictions alone.

Mr. President, the commodities included in this bill are the same as those in the 1970 Act. The class I base plan for milk is extended for 5 years. The wool, wheat, feed grains, and cotton programs are modified and extended for 5 years.

In addition, Public Law 480 and the food stamp program authorizations are extended for 5 years.

A number of other programs are also included. These are: the beekeepr indemnity program; the dairy indemnity program; the armed services milk program; and a forestry incentives program.

Mr. President, I ask unanimous consent to insert at this point in my remarks a short explanation of all of the major provisions of the bill.

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

MAJOR PROVISIONS OF THE BILL

(By Titles of the Agricultural Act of 1970)

TITLE I—PAYMENT LIMITATION

The bill—

(1) Continues the existing $55,000 payment limitation, but excludes compensation for resource adjustment or public access for recreation therefrom.

TITLE II—DAIRY

The bill—

(1) Extends Class I base plan authority, Armed Services' milk program, and dairy indemnity programs five years.

(2) Permits members' bases under a Class I or seasonal base plan to be allocated to their cooperatives.

(3) Permits history represented by a base under a cooperative, state, or federal base plan to be considered as history under a federal order Class I base plan.

(4) Permits the orderly phasing out of prior cooperative, state, or federal base plans.

(5) Makes it clear that the return to a producer for milk in excess of a Class I or seasonal base may be fixed at a rate below the lowest class price.

(6) Permits issuance of manufacturing milk orders without minimum price provisions, and provides for price posting in manufacturing milk orders which do not provide for minimum prices.

(7) Permits milk orders under section 8c (5) to fix minimum charges for services performed for handlers (to assure that minimum price guarantees will not be impaired).

(8) Permits location differentials used in computing minimum prices paid by handlers to differ from those used in computing producer returns where appropriate to direct the flow of milk.

(9) Makes it clear that the provisions for assurance that handlers pay for milk purchased by them is applicable to such payments to cooperatives, and permits milk orders under section 8c(5) to provide for payments to cooperatives for market-wide services performed by them (such as furnishing facilities, regulating the flow of milk to the market, absorbing surplus milk, etc.).

(10) Provides authority for standby reserve pools supported by payments from one or more orders which would supply milk when needed to such order areas.

(11) (Page 8, line 20, through page 9, line 6) Requires a hearing on a proposed amendment to a milk order if requested by one-third of the producers.

(12) Enlarges the criteria for determining minimum prices under marketing orders and support prices to include assuring a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

(13) Provides milk price support at not less than 80 percent of parity for current marketing year.

(14) Makes the suspension of the butterfat support program (and addition of the new price support criteria described in item 12) permanent.

(15) Extends the dairy product pesticide indemnity program to cover cows and to other environmental pollutants contaminating cows or milk.

(16) Restricts dairy imports to 2 percent of consumption.

TITLE III—WOOL

The bill—

(1) Extends the wool program for 5 years.

(2) Expands the market promotion authority of the National Wool Act of 1954 to cover information on product quality, production management, and marketing improvement, and to provide for overseas promotion of U.S. mohair and goats.

TITLE IV—WHEAT

The bill—

(1) Extends the wheat set-aside program, with the changes indicated below.

(2) Provides for a program for the 1974 through 1978 crops of wheat under which—

(a) Marketing certificates would not be issued to producers or, effective January 1, 1974, required to be purchased by processors;

(b) If the higher of the loan level or average market price received by farmers during the first five months of the marketing year

should be less than an "established" price of $2.28 per bushel (70% of the May 1, 1973, parity price), adjusted for 1975 and subsequent years to reflect changes in production costs, a government payment would be made to producers on each farm equal to the difference between such higher loan or average price and such established price multiplied by the projected yield of the farm acreage allotment. In the case of farmers prevented from planting any portion of their allotments to wheat or other non-conserving crop, such payment would not be less than one-third of such established price;

(c) The Secretary could permit guar, castor beans, or other crop to be counted as wheat for the purpose of preserving the farm wheat acreage allotment;

(d) The national acreage allotment would be calculated to cover both domestic consumption and exports, but would be apportioned among states, counties, and farms in the same manner as now provided for the national domestic allotment.

(3) Permits the Secretary to make payments to assist in carrying out practices on set-aside acres for pest and erosion control and the promotion of wildlife habitat.

(4) Makes the provision requiring that the projected yield not be less than the producer's proven yield inapplicable to wheat.

(5) Provides for release without penalty of wheat stored to avoid penalty.

TITLE V—FEED GRAINS

The bill—

(1) Provides for a set-aside program for the 1974 through 1978 crops of feed grains generally similar to that provided by the Agricultural Act of 1970, but under which—

(a) If the higher of the loan level or average market price received by farmers during the first five months of the marketing year should be less than an "established" price of $1.53 per bushel (70% of the May 1, 1973, parity price), adjusted for 1975 and subsequent years to reflect changes in production costs, a government payment would be made to producers on each farm equal to the difference between such higher loan or average price and such established price multiplied by the established yield on 100 percent of the farm acreage allotment. In the case of farmers prevented from planting any portion of their allotments to feed grains or other nonconserving crop, such payment would not be less than one-third of such established price;

(b) The Secretary could permit guar, castor beans, or other crop to be counted as feed grains for the purpose of preserving the farm acreage allotment;

(c) The national acreage allotment would be calculated to cover both domestic consumption and exports, but would be distributed among states, counties, and farms in essentially the same manner as now provided for the farm feed grain bases.

(2) Permits the Secretary to make payments to assist in carrying out practices on set-aside acres for pest and erosion control and the promotion of wildlife habitat.

TITLE VI—COTTON

The bill—

(1) Provides for a set-aside program for the 1974 through 1978 crops of cotton generally similar to that provided by the Agricultural Act of 1970, but under which—

(a) If the higher of the loan level or the average spot market price during the first five months of the marketing year should be less than an "established" price of 43 cents per pound (70% of the May 1, 1973, parity price), adjusted for 1975 and subsequent years to reflect changes in production costs, a government payment would be made to producers on each farm equal to the difference between such higher loan or average price and such established price multiplied by the projected yield of the farm acreage allotment. In the case of farmers prevented from planting any portion of their allotments to cotton or other nonconserving crop, such payment would not be less than one-third of such established price;

(b) The Secretary could permit guar, castor beans, or any crop to be counted as cotton for the purpose of preserving the farm acreage allotment;

(c) The national base acreage allotment would not be less than ten million acres.

(d) The support level would be based on the three year (rather than two year) average world price for SLM 1 1/16" (instead of Middling 1"), and adjustments could be made up as well as down.

(2) Permits the Secretary to make payments to assist in carrying out practices on set-aside acres for pest and erosion control and the promotion of wildlife habitat.

(3) Provides for a cotton insect pest eradication program with producers paying up to one-half the cost and receiving indemnities where special measures result in a loss of production. Also provides for cooperation with Mexico.

TITLE VII—EXTENSION OF TITLES I AND II OF PUBLIC LAW 480

The bill—

(1) Extends titles I and II for 5 years.

(2) Permits sales under title I for dollars to any country if assistance could be made available to that country under title II.

(3) Requires the President to take steps to assure that commercial supplies are available to meet demands developed through programs carried out under Public Law 480.

TITLE VIII—GENERAL AND MISCELLANEOUS

The bill—

(1) Extends the beekeeper indemnity program.

(2) Requires applications for export subsidies to specify the kind, class, and quantity of the agricultural commodity, and the regional geographic destination. Requires publication of such information within 72 hours after the application is filed.

(3) Extends food stamp program appropriation authorization five years.

(4) Maintains eligibility for food stamps of persons receiving public assistance under title XVI of the Security Act if they satisfy income and resources criteria.

(5) Permits food stamps to be used to purchase meals at places especially preparing meals for elderly persons.

(6) Permits loans under sections 302, 303, and 304 of the Consolidated Farm and Rural Development Act even if the indebtedness against the security exceeds $100,000, so long as the indebtedness under those sections does not exceed that amount.

(7) Requires production cost studies for wheat, feed grains, cotton, and dairy.

(8) Requires a study of the reasons for, and means of preventing, loss of livestock in transit through injury and disease.

(9) Recommends an international grains agreement conference.

(10) Creates a National Agricultural Transportation Committee.

(11) Provides for a wheat and feed grain research program.

(12) Provides for an agricultural export market development unit within the Foreign Agricultural Service.

(13) Requires the Council of Economic Advisers to monitor developments affecting food and fiber costs.

(14) Extends the appropriation authorization and the time for reporting under title IV (Rural Community Fire Protection) of the Rural Development Act of 1972.

(15) Requires grants of up to 50 percent of the cost to be made to assist rural fire departments to acquire needed equipment.

TITLE IX—RURAL DEVELOPMENT

This title is permanent and the bill makes no change in it.

TITLE X—FORESTRY INCENTIVES

The bill adds a new title X to provide a forestry incentives program for small nonindustrial private lands and non-federal public forest lands. "Small nonindustrial private lands" is defined as commercial forest lands owned by any person, group, or association (other than a manufacturing or public utility corporation) owning a total of less than 500 acres of such lands.

Mr. TALMADGE. Mr. President, the whole thrust of this bill is to the future. Its provisions, as they relate to the crop covered, will not expire until well into 1979, just 1 year before the beginning of the decade of the 1980's.

At the present time there are only 2.8 million farms in this country and the farm population totals only 9.5 million persons, less than 5 percent of the total population.

And yet, by the turn of the decade more than 230 million Americans and many more millions throughout the world will have to depend upon even fewer farms for their very sustenance. We can live without many things—but we cannot live without food.

Therefore, in order to meet the challenges of the future, it is imperative that we maintain a strong and productive agriculture.

We must maintain an agriculture that will contribute to the well-being of our national economy.

And make no mistake about it. Agriculture does make a major contribution to the economic activity of this country.

Last year farmers spent $47 billion to produce crops and livestock. This went for equipment, machinery, seed, feed, fertilizer, petroleum, property taxes, and a host of other items, all generating economic activity, especially in the small towns and rural communities.

Sales of crops and livestock introduced an additional $58.5 billion into our Nation's economy. Transportation, processing, packaging, manufacturing, wholesaling, and retailing all share in the economic activity generated by farming. Estimates on a national basis indicate that about 25 percent of all jobs in private employment are agriculturally related. Farming and the industries which support it account for about one-fourth of our gross national product, and in some areas of our country, the only economic activity is that generated by agriculture.

Agriculture is the Nation's biggest industry. It employs almost 4.5 million workers, almost as many as the combined employment of transportation, the steel industry, and the automobile industry.

Agriculture's assets total about $339 billion, equal to about three-fifths of the value of capital assets of all corporations in the United States, or about half the market value of all corporation stocks on the New York Stock Exchange.

Estimates show that about 1 out of every 5 jobs in private employment is related to agriculture. About 2 million people have jobs providing the supplies farmers use for production. Eight to ten million people have jobs storing, transporting, processing, and merchandising the products of agriculture.

U.S. agricultural exports in the current fiscal year ending June 30 are estimated at about $10 billion or about 1 out of every 4 acres. According to the U.S. Department of Agriculture the farm contribution to the U.S. trade balance will total about $3.5 billion. This contribution helps offset the unfavorable nonfarm balance of about $7 billion last year.

Agriculture's contribution to our general welfare must continue. And this bill is designed to make it do so.

In the first meeting of the committee during this Congress, I suggested:

In our deliberations on these matters we must keep in mind the concerns of the American people for adequate protection of the environment, and protection of consumers. However, the most important thing we can do to protect consumers is to insure a continuous, ample supply of food and fiber at reasonable prices. And the way to protect the rural environment is to provide a high enough income to allow farmers to pay for protection measures. We need to keep everyone informed that farmers, even in 1972, received only $39 billion of the consumer's $116 food bill, while the other $77 billion went for the cost of marketing.

Mr. President, I feel that in unanimously reporting this complex bill, the members of the Committee on Agriculture and Forestry have kept faith with both farmers and consumers.

Mr. President, I would like to say that I have been in the Senate now for slightly more than 16 years and I have never seen a committee work together in a more cooperative and bipartisan manner. In the marking up of the agricultural bill pending today, every member of our committee, both Democratic and Republican and from the most junior member on that committee to the most senior member, made a significant contribution to its adoption by our committee.

And I want to pay tribute to every member of the committee that helped in marking up the bill with what I think is significant success. I also thank the members of our staff, majority and minority alike, although we do not let partisanship play a part on our staff. They have all made a major contribution toward the markup of the bill.

Therefore, I urge the Senate to pass this bill. We have learned before that if we let the farmer perish, his demise will only presage the collapse of the rest of our economy.

This bill is essential to the total economic well-being of our Nation now and in the future.

Mr. President, at this time I understand the distinguished ranking minority member of our committee, the distinguished Senator from Nebraska (Mr. CURTIS), desires to make a statement. I shall reserve the remainder of my time.

Mr. CURTIS. Mr. President, before the Senator from Georgia yields the floor, will the Senator yield?

Mr. TALMADGE. Mr. President, I yield to my distinguished friend and colleague, the ranking minority member of our committee.

Mr. CURTIS. Mr. President, I commend the distinguished chairman of the Committee on Agriculture and Forestry for his splendid statement. However, I rise primarily to extend to him the thanks not only of the junior Senator from Nebraska, but also the thanks of all members of the minority for his unfailing courtesy, his consideration of every proposal that was made, his cooperation, his indulgence and for the help which he has given to all members of the committee throughout the consideration of this legislation.

Mr. President, while I am on my feet, I join with the distinguished chairman of our committee in mentioning that it was the distinguished Senator from North Dakota (Mr. YOUNG) who brought forth the idea of the target prices that are incorporated in the bill. I believe that it will work. I believe that it is a new innovation that meets with wide approval. And I believe that not only all those in agriculture, but also everyone else interested in the economy of America is indebted to our chairman and to the distinguished Senator from North Dakota (Mr. YOUNG).

Mr. TALMADGE. Mr. President, I am grateful indeed to my friend, the distinguished Senator from Nebraska, for the generosity of his remarks. I certainly pay tribute to the Senator from Nebraska as the ranking minority member of our committee for working so diligently and faithfully in the markup of a piece of landmark legislation. Without his cooperation and the cooperation of every member of the minority, both Senators and members of the staff, we could not have reported this significant bit of legislation.

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

Mr. TALMADGE. Mr. President, I yield to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I do believe that this is the proper time for me to express, through the Chairman of the committee, my thanks and the thanks of the people I am privileged in part to represent in the Senate for his leadership, perseverance, patience, and legislative skill in bringing about this very constructive piece of legislation that represents so much hope and promise for the American agricultural community.

I think the record will show that the Committee on Agriculture and Forestry, under the chairmanship of the Senator from Georgia, held the most exhaustive and extensive hearings on agricultural policy that have ever been held or undertaken by that committee. Everyone that wanted to testify was given that permission and granted the opportunity to appear.

As has been said here, the bill pending before the Senate was not one of partisan argument, but rather of bipartisan cooperation.

I find it a distinct pleasure to serve on that committee under the chairman of the committee, the distinguished senior Senator from Georgia (Mr. TALMADGE). And I believe that as the debate on the bill before the Senate proceeds, our colleagues will find that within the framework of this legislation is a very important development in agricultural economics and a long-term agricultural policy.

I, too, want to salute an old friend who has been as faithful as any man could ever be to the farm population of the country, the distinguished senior Senator from North Dakota (Mr. YOUNG). I have worked with him for years. He is a friend of American agriculture. And when I say that, I mean that he is a friend of the American people.

Before the debate is over, we will find out that the pending legislation is a vital part of our national security. It will have something to do with our leadership in the world. It has a great deal to do with the viability of our economy, our balance of trade, our balance of payments, and our ability to survive as a people and to be a great country.

I thank the distinguished senior Senator from Georgia and the distinguished senior Senator from North Dakota who serve together and work together as a team.

Mr. TALMADGE. Mr. President, I am grateful indeed for the remarks of my friend, the distinguished junior Senator from Minnesota. I have served on the Committee on Agriculture and Forestry since I have been in the Senate and while the Senator from Minnesota was also in the Senate.

I know of no man who is more knowledgeable and more articulate in seeing that the farmers of this country receive a decent and fair income for their labor. I am grateful to the Senator from Minnesota.

Mr. President, I yield the floor at this time to the Senator from Nebraska and reserve the remainder of my time.

Mr. CURTIS. Mr. President, I yield the floor to the Senator from North Dakota, with the understanding that I may have it when he finishes.

Mr. YOUNG. I thank my distinguished friend from Nebraska.

Mr. President, the farm bill before us (S. 1888) is one of the best farm bills Congress has ever considered. It is very appropriately named The Agriculture and Consumer Protection Act of 1973. It will be helpful to both farmers and consumers.

This was one of the few farm bills ever reported by the Senate Agriculture Committee unanimously. This is due in a large measure to the leadership and effectiveness of the chairman of the Senate Agriculture Committee, the distinguished Senator from Georgia (Mr. TALMADGE). Chairman TALMADGE is one of the most knowledgeable Members of Congress I have ever worked with on agriculture. No one has ever been a more forceful and influential advocate of important and necessary farm legislation.

I want to take this opportunity also to acknowledge with gratitude the personal comments of the Chairman of the Committee on Agriculture and Forestry, those of the Senator from Nebraska (Mr. CURTIS), and also those of that great friend of agriculture, the Senator from Minnesota (Mr. HUMPHREY). He has been a wonderful friend of farmers and one of their strongest voices in the Senate ever since he came here. No one is more influential on farm matters than he.

Farm programs in the past have assured abundant supplies of food and

fiber at reasonable prices to the great consuming public. It is this kind of legislation that has helped make our farmers the most efficient and productive in the world.

There is need for increased production both to meet increased domestic needs and foreign export requirements. This year we will export more than $11 billion worth of farm commodities. If it were not for these huge exports our balance of payments with the rest of the world would be even more dangerously out of balance. Increased exports offer one of the best means of improving our balance of payments and thus restoring the stability of the American dollar.

The bill we are considering gives farmers considerable protection against a drastic drop in prices if the requested increase in production results in price-busting surpluses. By increasing production to meet increased domestic needs and greater foreign exports, this could easily happen and farmers could find themselves in deep financial trouble.

I greatly appreciate the favorable comments by the distinguished chairman of the Senate Agriculture Committee in his Senate speech today with reference to a provision I had sponsored and which was adopted by the Senate Agriculture Committee. This is a new and unique provision establishing a target price for wheat of $2.28 a bushel. The Senate Agriculture Committee adopted this provision not only for wheat, but applied a similar target price concept for feed grains and cotton as well.

This target or established price for major farm commodities is tied to parity. If operating costs continue to rise so would this target price. The heart of this provision is that if farm prices stayed as high as they are now there would be no payments to farmers. If farm prices decline below the target price, payments would again be resumed and there would be every justification for them.

Here is how it would work. If the average farm price of wheat remained higher than the target price of $2.28 a bushel as it is now, there would be no payments to farmers. If the average farm price for wheat dropped to the lower level of only a year ago, then there would be reasonable production payments to farmers. The payment would make up the difference between the target price of $2.28 a bushel and whatever the lower average market price might be.

Under the present program if the average farm wheat price remains as high as it is now, and the new wheat crop in the Southwestern States is selling at nearly $3 a bushel, the Government would still have to pay farmers. If the total production for this year's crop were the same as last year, the payment to farmers will amount to approximately $540 million. Again let me repeat that under this bill there would be no such payments at all when cash prices are high.

The target price for corn is $1.53 a bushel. Other feed grain price supports under the provisions of this bill are tied to corn price supports the same as they have been in the past. Again assuming that this year's crop would be the same as last year, with present cash prices for corn there would be no payment at all under the new bill. Under the provisions in the act of 1970, which is in effect for this year's crop, the Government payment to corn producers will be approximately $905 million.

The situation is almost exactly the same with respect to cotton. There would be no production payment to farmers at all if cotton prices stayed at their present level.

The farm bill we are now considering thus should be far more acceptable to consumers. Consumers do not like to see farmers receive production payments when prices are good. Farmers themselves are not asking for production payments when prices are good. However, certainly farmers are entitled to some kind of protection against bankrupt prices that could result from overproduction.

I note there is the same old opposition from the same old farm organizations who have opposed every farm bill since I came here 28 years ago. They seek to draw comparisons between the bill we are now considering and farm price supports in the Common Market countries. Their programs are almost directly the opposite of the one proposed in this bill. All the Common Market countries have price supports at least double, and in many countries more than double, those contained in this bill.

Although farm operating costs have increased sharply since the present law was written in 1970, the bill we are considering does not increase price support levels at all. Personally, as a farmer I would prefer seeing high price supports, but I believe the objective of higher price supports can be met in a large measure by the target price concept in this bill.

Most of the opposition to this bill comes from those who want the farmers to depend entirely on the free market for a good price with little or no price supports at all and no Government program that would give even the slightest protection against bankrupt prices. Neither the present Farm Price Support Act of 1970, which is in effect for this year's crop, nor the bill we are now considering interfere in the slightest with the free market.

There is one major difference between farmers and any other segment of our economy. When farmers sell their products, they have to accept what the market will provide. When they buy all the things they need to farm, they pay the going price without any means to control those prices.

Mr. President, of the more than 300 witnesses who testified at the hearings on this farm bill, with hardly an exception, all of them testified that even with the good crops of the past several years, about the only profit farmers realized was the Federal payments. All the farmers I talk with, and there are a great many, tell me the same story.

The financial situation of farmers has greatly improved in recent months, but the farm debt is still at an all-time high. Most farmers are operating with borrowed money, and usually very sizable amounts.

This 5-year bill contains some other very important provisions which are generally well known and popular. It extends the Wool Act; Public Law 480—Food for Peace; and some provisions affecting dairy price support programs.

The bill has the support of the National Grange and the National Farm Organization, with some reservations on the dairy section. It has the full support of the National Farmers Union.

It has the all-out support of the National Wheat Growers Association, the Mid-Continent Farmers Association, the National Milk Producers Federation, and the Farmers Union Grain Terminal Association. There are many other important farm organizations and commodity groups who support this bill.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks four telegrams received from farm organizations regarding S. 1888; the names and addresses of individuals from whom I have received telegrams regarding S. 1888; and the names and addresses of individuals who have written me letters on the subject.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. YOUNG. Mr. President, I feel strongly that this bill must be passed by Congress and without any substantial changes. It will go a long way toward assuring more adequate supplies of food and fiber at reasonable prices and give much-needed assurance to farmers against bankrupt prices. Too, it will play a vital role in maintaining a strong economy.

Agriculture is still the Nation's biggest industry. Adequate supplies of food and fiber at reasonable prices are all-important.

EXHIBIT 1

COLUMBIA, MO.

Senator MILTON YOUNG,
Capitol Hill,
Washington, D.C.

We have been advised action is expected on SB 1888 (1973 Farm Bill) within the next few days. We have reviewed this proposed legislation and believe it to be a good bill that will be in the best interest of farmers and the Nation. We urge your support of this legislation when it reaches the floor of the Senate for action.

FRED V. HEINKEL,
President Mid-Continent Farmers Assn.

WASHINGTON, D.C.

Hon. MILTON R. YOUNG,
Capitol Hill,
Washington, D.C.

The National Milk Producers Federation, on behalf of its member dairy cooperative marketing associations and their daily farmer members, fully supports all provisions of S. 1888 as approved by the Senate Committee on Agriculture and Forestry. The dairy provisions of the bill are of particular importance in permitting the Nation's dairy farmers to modernize and strengthen their marketing programs. We respectfully urge your support for S. 1888 as approved by the Agriculture Committee.

PATRICK B. HEALY,
Secretary National Milk Producers Federation.

JAMESTOWN, N. DAK.

Senator MILTON YOUNG,
New Senate Office Building,
Washington, D.C.

NDFU in full support of S. 1888. We hope Senate will resist crippling amendments to Committee bill, specifically, any reduction in target pricing for wheat, feed grains, and cotton.

We have requested farmers union in other states to contact their Senators for similar support of S. 1888.

E. W. SMITH,
President, N. Dak. Farmers Union.

ST. PAUL, MINN.

Senator MILTON YOUNG,
Senate Office Building,
Capitol Hill, Washington, D.C.:

We the Directors and Officers of Farmers Union Grain Terminal Association support Senate 517, the Agriculture and Consumer Protection Act of 1973. Once again the Government is asking farmers to expand their production greatly with no adequate protection against a return of disastrous prices when world crops get back to normal. The target prices set in S. 517, combined with any necessary deficiency payments, will keep farmers from being heavily penalized by any government mistakes from over-expanded production goals. This is not a guarantee of crop income because it does not cover losses from inevitable crop failures.

It will not interfere with freer trade and more exports, if markets are available. However, the bill does not provide for definite strategic reserves of storable farm products. We believe that should be part of any prudent administration of farm supplies so as to protect all consumers, including our livestock, poultry and dairy producers. We believe a payment limit lower than the present $55,000 would be in the interest of the working farm families of this nation.

We also believe minimum loan levels should be raised substantially, at least for 1973 crops. In answer to the charge that S. 517 might cost too much, any government costs would merely measure what farmers would be losing, whereas under our present program, costs are not directly related to farmers' losses.

On behalf of the 150,000 farmers and ranchers who serve themselves through the hundreds of local cooperative facilities which make up this regional organization, we ask your full help in getting S. 517 adopted with adequate target prices to protect our farmers, their communities and states, as they try to produce the food supplies so badly needed today. Thank you for your help.

Respectfully yours,

JEWELL HAALAND,
Chairman, Farmers Union Grain Terminal Association, Board of Directors.

TELEGRAMS AND LETTERS FROM INDIVIDUALS REGARDING S. 1888

Mr. Alfred Rysgaard, Noonan, North Dakota, 58765.

Mr. Walden Schmidt, President, Rolette County National Farmers Organization, Bisbee, North Dakota, 58317.

Mr. Robert Linnertz, Chairman, West District, National Farmers Organization, Minot, North Dakota, 58701.

Mr. Clifford Solseth, Cyrus, Minnesota, 56423.

Mr. Clyde Hauser, Jr., Geulph, North Dakota, 58447.

Mr. Siguard Brodal, Noonan, North Dakota, 58765.

Mr. Charles Sipma, Edinburg, North Dakota, 58227.

Members, Pembina County National Farmers Organization, Hamilton, North Dakota, 58238.

Mr. Arvid Swenson, Aneta, North Dakota, 58212.

Mr. Robert Huether, Lisbon, North Dakota, 58054.

Mr. Wendell Ullman, Chairman, Adams County National Farmers Organization, Mott, North Dakota, 58646.

Mr. Leroy Willey, Ypsilanti, North Dakota, 58497.

Mrs. Kenneth Williams, Ransom County National Farmers Organization, Lisbon, North Dakota, 58054.

Mr. Myron Rubbert, President, Bottineau County National Farmers Organization, Upham, North Dakota, 58789.

Members, Barnes County National Farmers Organization, Valley City, North Dakota, 58072.

Mr. Charles Danuser, President, National Farmers Organization East District, Marion, North Dakota, 58466.

Mr. H. F. Buegel, Jr., President, Jamestown Bank, Jamestown, North Dakota.

Mr. Jack Rose, Farmer, Wimbledon, North Dakota.

Mr. Gust Herigstad, Farmer, Mohall, North Dakota.

Mr. John Lommen, Farm Editor, Fargo, North Dakota.

Mabelle Williams, Lidgerwood, North Dakota.

Mr. Russell Duncan, President, Seed Company, Fargo, North Dakota.

Mr. Wayne Volla, Farmer, Clifford, North Dakota.

Mr. Ernest Schramm, Farmer, Hazen, North Dakota.

Mr. Floyd Dau, Farmer, Inkster, North Dakota.

Mr. Herbert Reinhardt, Farmer, Beaulah, North Dakota.

Mr. Zeno Muggli, Farmer, Richardton, North Dakota.

Mr. Konrad Norstog, Conservationist, Bismarck, North Dakota.

Mr. Charles Pearce, Landowner, Hallandale, Florida.

Mr. Joe Wegley, Farmer, Epping, North Dakota.

Mr. F. W. Pearson, Landowner, Hunter, North Dakota.

Mr. Russell Stuart, Commissioner, North Dakota Game and Fish Dept., Bismarck, North Dakota.

Mr. Herman Haugen, Farmer, Westhope, North Dakota.

Mr. Bud Morgan, Wildlife Federation, Bismarck, North Dakota.

Mr. Ernest Rice, Farmer, Mohall, North Dakota.

Wilma Belcourt, Grand Forks, North Dakota.

Mr. Lavern Schroeder, Farmer, Reeder, North Dakota.

Mr. Lloyd Albus, Farmer, Oakes, North Dakota.

Mr. Ardale Wagner, Farmer, Epping, North Dakota.

Mr. Albert J. Hubin, Farmer, Warwick, North Dakota.

Mr. Clarise I. Anonby, Farmer, Kenyon, Minnesota.

Mr. Loren Richards, President, Sheyenne Valley Electric Cooperative, Inc., Finley, North Dakota.

Mr. Leland G. Ulmer, Exec. Vice President, North Dakota Association of Rural Electric Cooperatives, Mandan, North Dakota.

Mr. CURTIS. Mr. President, as I said before, the distinguished Senator from North Dakota (Mr. YOUNG) has made a real contribution and the record should show that which we all know so well; namely, that he is a farmer.

The Committee on Agriculture and Forestry is greatly favored in the fact that it has two outstanding farmers on that committee. I refer to the distinguished Senator from North Dakota (Mr. YOUNG) who has just spoken and to the distinguished Senator from Oklahoma (Mr. BELLMON). He has a distinguished career as a public servant including that of Governor of his State. Basically, he is a farmer. He has made a real contribution to this legislation that only a farmer could make.

I would not in any way detract from the valuable assistance that other members of the committee have rendered, but I do wish to make a special comment about these two Senators whose principal and sole business, aside from their public service, is that in the field of agriculture.

Mr. President, it is with a great deal of pride that I rise in support of the bill now before the Senate.

This legislation was carefully drafted by the Committee on Agriculture and Forestry under the leadership of our most able chairman, the senior Senator from Georgia (Mr. TALMADGE), and is truly a bipartisan bill.

It could aptly be titled a "share-the-benefit/share-the-risk" plan.

The "benefit" is an adequate supply of food and fiber for citizens of this Nation and of other countries who desire to purchase agricultural commodities from us.

The "risk" is that there will be an oversupply of a commodity during a particular year and farmers will not be able to obtain a price for their crop which will allow them to continue in business.

Unless those who "share-the-benefit" are also willing to "share-the-risk," in the form of production incentives, the result could be catastrophic in terms of meeting future food and fiber needs.

The production incentive mechanism provided in this bill is a radical departure from the past four decades of Federal farm programs. Farmers will no longer be paid for not planting crops, nor will they be guaranteed a Government subsidy regardless of what price they receive for their crop in the marketplace.

The heart of this "share-the-benefit/share-the-risk" plan is an annual determination by the Secretary of Agriculture as to anticipated domestic and export needs of wheat, feed grain, and cotton during the ensuing year.

To insure fulfillment of the basic needs, farmers who have historically produced these crops will be asked to produce their proportionate share of the national allotment. In return, those who share the benefit of this abundance will assure the farmer sufficient income to continue producing the necessary food and fiber.

This production incentive or "share-the-benefit/share-the-risk" plan was first suggested by our colleague from North Dakota, Mr. YOUNG, in the form of the "target price" concept.

This proposal, coupled with the Secretary of Agriculture's recent pronouncement that, "today the promised land for agriculture is near at hand," led our committee to write the bill now under consideration.

Mr. President, if Secretary Butz, a man whom I admire and respect greatly, proves to be a prophet, the passage of S. 1888 will herald the beginning of a new era in agriculture. It will mean that the producers of America's major food and fiber crops will no longer need to de-

pend on the U.S. Treasury for a portion of their income.

On the other hand, if the Government asks farmers to produce increased quantities of the basic commodities to meet a "hoped-for" demand, the Government should share the risk if that expanded demand does not materialize.

The manager of the bill has ably explained the "target price" or "production incentive" concept. Briefly, the concept gears Government participation to supplementing the participating farmers' income if the market price is below the "established" or "target" price during the first five months of the marketing year.

In this case, the bill sets the "established" or "target" price at $2.28 per bushel for wheat, $1.53 per bushel for corn, and 43 cents per pound for cotton during the 1974 marketing year. This target price would be adjusted each year in line with changes in the cost of production. If the price received by farmers equaled the target price, there would be no Government payments for that commodity. If, on the other hand, the Department of Agriculture failed to so adjust production or failed to maintain our exports, and huge surpluses and low prices resulted, a payment would be made in an amount required to bring the price up to the target price.

Mr. President, an excellent argument for this proposal came during our committee hearings from Mr. Daniel E. Conway, president of the Bakery and Confectionary Workers' International Union of America. He stated:

> We in the labor movement have fought too long and hard for the acceptance of the principle behind the minimum wage for us not to be equally persuaded concerning the economic and social justice which is basic to the idea of payments geared to parity for farmers.

The established or target prices set in this bill can be likened to the minimum wage, but the editors of the New York Times seem to believe that farmers are not entitled to the same type of income protection as industrial workers.

In a recently printed editorial entitled "Jacking Up Food Prices," the Timesmen stated:

> Under a new concept of target prices, the Senate Committee bill would require the Secretary of Agriculture to establish the amount of acreage for producing wheat, feed grains and cotton that would if necessary be set-aside—held out of production—in order to hit "target prices" set far above the average price of recent years.

I would agree that the established prices in the bill are somewhat above the average prices received by farmers in recent years; however, if farmers had been forced to rely solely on prices received in the marketplace, the shortages of basic commodities that would be facing consumers could only be estimated.

Department of Agriculture economists have predicted in a report prepared for our committee that during the first year of no farm program, aggregate net farm income could decline sharply and would continue to decline for 2 or 3 more years.

The report adds:

> Lower incomes would result from the absence of government payments, lower product prices, and higher costs of grain production due to the expanded acreage. These factors would dominate the change in income despite the larger volume of production.

Mr. President, for those of my colleagues who have advocated the abolition of Government farm programs, this bill presents an opportunity to see exactly what the results of such a course of action would be without taking the risks associated with a complete abandonment of farm income protection.

It is significant to note that if cash prices maintain their present levels at harvest time, this bill will result in no Government payment to wheat, feed grain, and cotton producers.

When our farm bill hearings began on February 27, I pointed out the need to be honest about the future cost of food and red meat. Prices are not going to decline appreciably as long as distribution and transportation costs continue to increase, or as long as the cost of machinery, labor, interest and taxes keep on going up. If this proves to be the case, the program provided in S. 1888 will result in little if any cost to the Government.

In addition to the basic commodity provisions designed to protect consumers and farmers, this bill also contains several other provisions including extension of the Food for Peace and Food Stamp Acts. I am also pleased that the committee included several amendments which I offered.

In conjunction with the Senator from Kentucky (Mr. HUDDLESTON), I offered an amendment to create the National Agricultural Transportation Committee. This group would be composed of government, transportation, agricultural, and labor representatives. It is charged with making recommendations to the executive and legislative branches for alleviating transportation emergencies involving the movement of agricultural commodities.

I will not belabor the point, Mr. President, but I have described a number of times on this floor during the past few months the dire circumstances which confront farmers and those who deal in grain as a result of the present transportation crisis. Hopefully, this committee will be able to make some recommendations to help alleviate this situation.

The committee added to the wheat section of S. 1888 provisions of a bill I introduced earlier this year. It authorizes farmers who produced and stored wheat in excess of their quotas under programs in effect prior to 1970 to market that wheat without penalty.

I am also pleased that my amendment to extend the beekeeper indemnity program for 5 years was accepted. It is only fair to provide the same protection against losses caused by pesticides for beekeepers as is provided dairymen.

The bill provides that the method for determining the average yield of wheat be the same method as used for corn and feed grains.

There are many other provisions of this bill of benefit to farmers and consumers and I commend them all to the Senate.

In conclusion, Mr. President, even though the price the farmer receives for his commodity may remain steady or increase some, the price he pays for all the items he must have to produce food and fiber will undoubtedly be increasing. Therefore, it would be a grave mistake for us to say the farmer never had it so good and the Government should get out of agriculture entirely. On the other hand, when the farmer is receiving a price for his commodity that allows him to continue producing, the consumer should not be asked to pay both at the cash register and the tax window.

In my view, the Agriculture and Consumer Protection Act of 1973 meets this criteria, and I hope it will be adopted unanimously.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement on the bill by the distinguished Senator from Mississippi (Mr. STENNIS).

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

STATEMENT BY SENATOR STENNIS

THE FORESTRY INCENTIVES ACT OF 1973

I am pleased that the Forestry Incentives Act of 1973, which was very kindly introduced for me on April 13 of this year by the distinguished Senator from Georgia (Mr. Talmadge) has been favorably reported by the Senate Committee on Agriculture and Forestry. I wish to extend my thanks to the distinguished Chairman of the Committee, the Senator from Georgia (Mr. Talmadge), and the distinguished Chairman of the Subcommittee on Environment, Soil Conservation, and Forestry, my colleague from Mississippi (Mr. Eastland), who are also cosponsors of this bill, for the thorough consideration received by the legislation. The bill is contained in Title X of S. 1888, the Agriculture and Consumer Protection Act of 1973.

I introduced a similar bill last year which after hearings was reported unanimously by the Agriculture and Forestry Committee. The bill was passed by the Senate but was not reported from committee in the other body.

The Forestry Incentives Act authorizes the Secretary of Agriculture to develop and carry out a forestry incentives program to encourage a higher level of forest resource protection, development, and management by small nonindustrial private and non-Federal public forest landowners.

It is estimated that in thirty years the United States will need twice the amount of wood and other forest products that we now produce. A very substantial part of the required increase in production must come from privately owned nonindustrial forest lands. About 300 million acres throughout the country fall in this category, and average growth on these lands is only one half the capacity.

A sufficient increase in production can not be expected from our national forests. The effects of improved management will be largely offset by environmental concerns leading to withdrawal of forests from production and modification of timber harvesting. Industrial forests are rapidly approaching their productive potential. Most of the needed increases in production will have to come from the 296 million acres of forest land in the hands of 4 million nonindustrial private landowners. These lands are growing wood at only one-half their productive capacity.

The U.S. Department of Agriculture has

calculated that a backlog approaching 50 million acres of private nonindustrial forest land needs to be reforested. In addition, growing conditions on some 125 million acres of these holdings can be improved by cultural treatment of existing stands.

A program of reforestation and timber stand improvement, as proposed, would do more than add to the needed future timber supply. The beneficial effects of trees on the environment would be enhanced. People would enjoy the forests as these were growing up. Watersheds would be protected from erosion. Idle land would contribute again its share to the strength of our country.

It will be recalled that the soil bank program resulted in a large increase in forest lands. From 1956 through 1964, 2,154,000 acres were planted. In spite of losses of some of these lands to highways and other developments, 90 percent of these lands are still bearing trees and are a major factor in our growth needs for future decades. The provisions of the Forestry Incentives Act will stimulate a similar but much greater expansion of wood production for the 1980's and 1990's, and beyond.

There are other benefits from the program that might be called indirect benefits because they are not directly addressed in the provisions of the legislation, but they are very real and valuable. This program helps relieve unemployment without any requirement for extensive training. In the future there will be more and larger job increases, from the harvesting, transporting, and processing of the timber. All of this contributes toward the revitalization of rural areas, so important throughout the country. The program combats the rising prices for wood products caused by limited timber growth. Also, there are the purely human benefits, such as environmental improvement, and outdoor recreation such as camping for which opportunities are becoming limited.

The program would be operated through the existing agencies of the U.S. Department of Agriculture and State governments. State Foresters would have a part in the program. It would not require any additional administrative organization.

In brief, my bill would:

First. Authorize the Secretary of Agriculture to carry out a foresty incentive program to encourage the protection, development and management of nonindustrial, private and non-Federal public lands. Landowners would be encouraged to plant seedlings where needed and apply such cultural treatments as are necessary to produce timber, expand recreational opportunities, enhance environmental values, protect watersheds, and improve fish and wildlife habitat.

Second. Authorize the Secretary to make payments or grants or other aid to owners of nonindustrial private lands and owners of non-Federal public lands.

Third. Utilize the services of State and local ASCS Committees established under the Soil Conservation and Domestic Allotment Act. These committees, now composed primarily of agriculturists, should also include representation of forest owners, forest managers, and wildlife or other natural resource interests.

Fourth. Federal funds may be allocated for cost sharing on a bid basis, with priority accorded landowners contracting to carry out approved forestry practices for the smallest Federal cost-share. This provision will spread Federal funds over a larger acreage.

Fifth. The Secretary shall consult with the State Forester or other appropriate official so that the forest incentives program may be carried out in coordination with other related programs.

The modifications made in the bill this year, as differentiated from S. 3105, my bill of the last session, are as follows.

a. Small nonindustrial private lands are defined as 500 acres or less. This limitation still will include 92 percent of private forest lands. The previous definition of 5,000 acres would have included 98 percent of private forest lands, so the difference is not great in terms of our total land assets.

b. No one private landowner can receive an annual payment of more than $2,500.

c. A written agreement is required between the landowner and the government covering a ten-year management plan. Failure to comply with the agreement would require refunding of payments on a prorated basis.

d. With respect to cost sharing, the Secretary of Agriculture would be given flexibility, as he now has under other cost sharing programs.

The intent is that he would use the incentives in the amount necessary in the particular area to obtain the desired participation and productivity.

e. A pilot program of loans and loan guarantees has been eliminated, as being already possible under existing authorizations.

A program such as I have outlined here could make a very significant contribution to American forestry. In a 10 year period with funding of 25 million annually, basic forestry treatments could be applied to some 11 million acres. These treatments would add well over 2 billion board feet of timber annually. If increased timber supplies are to be available by the year 2000, a forestry incentives program must be initiated now because of the lead-time required to grow a tree from a seedling to merchantable size.

I believe this bill meets the problem in a logical and effective manner. I strongly urge that the Senate give it favorable consideration.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON addressed the Chair.

Mr. TALMADGE. How much time does the Senator desire?

Mr. BELLMON. Ten minutes.

Mr. TALMADGE. I am delighted to yield 10 minutes to the Senator.

Mr. CURTIS. Mr. President, I yield the distinguished Senator from Oklahoma such time as he desires.

Mr. BELLMON. Mr. President, I rise in support of S. 1888.

I wish to begin my remarks by congratulating our able chairman, the distinguished Senator from Georgia (Mr. TALMADGE), for his effective leadership in steering this bill through the committee in a timely manner. I also commend our chairman for the fair, firm, and dedicated manner in which he conducts the affairs of the Committee on Agriculture and Forestry. His service on that committee is certainly to be looked upon as an example to the whole Senate, since he does a remarkable job of getting extremely complex and sometimes controversial matters through with a minimum of difficulty.

It is a great pleasure to be associated with him and with the distinguished ranking minority member, the Senator from Nebraska, who has certainly put a tremendous amount of effort into this measure as well as other measures that are of great importance to agriculture and to the country.

The bill is largely the handiwork of the Senator from North Dakota (Mr. YOUNG), an active farmer, who understands farm problems and who has used not only his knowledge of agriculture but also the long experience he has had in the Senate to help make the passage of this bill possible.

It is a great pleasure to be associated with these gentlemen in the development of this bill, which came out of committee, as has been said, with the unanimous vote of members representing many facets of agriculture—and, I might say, many political philosophies.

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

Mr. BELLMON. I am happy to yield.

Mr. YOUNG. I greatly appreciate the comments on the target price amendment, which I proposed and which was accepted.

This idea really originated with the Senator from Oklahoma, Farmer BELLMON. He gave me the idea.

The Senator from Oklahoma spoke of the Secretary of Agriculture saying that prices are going to stay high, and if they were going to stay high, why not set a target price? If prices stayed at the target price or higher, it would cost the Government nothing and would be helpful to the consumers. This amendment is largely the handiwork of the Senator from Oklahoma.

Mr. President, I commend the Senator for being a good scrapper for things in which he believes. Farmers have never had a better fighter for their cause.

Mr. BELLMON. Mr. President, I appreciate the comments of my distinguished friend, but the fact is that the idea largely belongs to the Senator from North Dakota and I am happy to be associated with him in making this come about.

In my judgment, the farm bill which was passed in 1970, and which Congress accepted, was an excellent act. The results of that act have brought dramatic changes for the farmer. We have seen increases in farm income all over the country and largely because of that act this country has had available commodities which some of our friends needed when their crops were short. I do not think anything we say here should be critical of the 1970 act.

However, times do change and S. 1888 is far better for the conditions we face today.

Passage of a new farm bill at an early date is of particular importance to the southern wheat grower whose crop year begins in July. It is my hope that this bill will receive final congressional action so that winter wheat growers will know the rules of the program well in advance of planting.

Here again, I would like to thank the distinguished chairman for having recognized this problem and for having taken every action possible to see that this bill is approved for the southern wheat grower, so they will know what the rules are at the time of planting. This has not always happened. In the past we have planted and then found out the rules, and this has worked a hardship on this segment of agriculture.

Mr. President, the Agriculture and Consumer Protection Act before the Senate today recognizes that a new day has dawned for American agriculture through the expanded domestic and for-

eign demand for food and fiber. It also recognizes that no single one of America's 2½ million farmers, acting independently, can effectively match producprices shortages cause. The bill recognizes the necessity for food producers to recover minimum costs of production in order to continue to produce so the Nation can avoid the hardships and high tion to consumer needs. Further it recognizes that this responsibility can only be met by action on the national level by Congress and the Secretary of Agriculture.

This is a point that I think is sometimes missed by those who do not understand farming. They feel that a farmer can adjust his own production and somehow have an impact on the national food and fiber supply. This is absolutely not possible because we have so many smaller producers that their efforts make little impact on the national food and fiber situation.

This bill places the responsibility for accurately matching production and demand squarely upon the shoulders of the Secretary of Agriculture. If his estimates are realistic, this bill will assure that the food and fiber needs of the Nation are met at no cost to the American taxpayer. If he misjudges, the bill provides a means to avoid the national calamity which widespread agricultural bankruptcy paralysis would cause.

The bill further recognizes the essential role that American agriculture must play in supplying commodities for export to help earn the foreign exchange our country must have for the purchase of energy and other essential materials abroad.

Mr. President, this particular point was well covered in an article from Forbes magazine which was reprinted in the Farmers Digest.

I ask unanimous consent that the text of the article may be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BELLMON. Mr. President, the article states in part that:

> The food business will, of course, always be cyclical. What this means is that if the U.S. wants to encourage agricultural expansion as a means of earning foreign exchange, it will have to protect their farmers against undue price fluctuation.

That is what this bill does. It says to American food producers that if they will respond to international needs for more production they will not suffer if these markets fail to develop as anticipated.

In recent months consumers in the United States have for the first time in the history of the country been faced with the prospect of a shortage of certain essential foods. The sharp rise of meat prices earlier this year shows what can happen when demand exceeds supply and emphasizes the importance of abundant food.

It is now clear to American consumers that their vital interests are closely tied to food abundance. Consumers now realize that plentiful food production is not automatic. Uncontrollable factors such as bad weather, disease, sudden high consumer demands, and short fuel supply can have a drastic impact at the supermarket. This bill will help make certain that America's food needs will be fully met for the indefinite future at costs in line with the ability of the American consumer to pay.

Consumers frequently fail to recognize that American food producers are in a uniquely unfavorable position. When a food producer brings his product to market he must take the price the buyer offers. No single one of America's 2½ million food producers has sufficient impact in the marketplace to set the price for his product. When he sells he simply asks the buyer, "What are you willing to pay?"

At the same time when American food producers undertake to purchase production items, such as equipment, fuels or fertilizer, he again finds that he has no voice. When he buys he humbly asks, "What price are you willing to take?" Thus food producers may understandably be reluctant to fully respond to anticipated market—increased—demands because they understand the economic penalties of overproduction.

Without economic assurances such as those provided by this bill food producers will be slow to react to an anticipated increase in world or domestic food demand. They have been burned by such unsupported and unrealized projection before under several previous Secretaries of Agriculture. This danger exists anytime agriculture policies are market oriented.

S. 1888 takes literally, statements made by Secretary Butz to the effect that—

> We are committed to a policy of expanding production to meet a demand that is real and will continue to grow.[1]

Also, in February 28, in a speech before the National Grain and Feed Association in Orlando, Fla., the Secretary stated:

> Looking ahead . . . it makes sense for farmers to produce more.

The problem was summed up succinctly by Secretary Butz in the same speech when he said:

> People remember how the supply situation was miscalculated in 1967 when we ended up with bigger crops than we could handle at good prices. Fresher in the memory of many is the 1971 corn blight situation and its 1972 aftermath of a huge harvest and lower prices.

This bill is intended to say to farmers that they are safe to respond aggressively to the Government's urging for extra production to meet increasing demands. It says the Government stands ready to back up its optimism with a return of production costs to the producer in case these demands are less than projected. At the same time it says to the Secretary of Agriculture, to State Department negotiators, to Government officials generally, that if you repeat the mistake of 1967 and 1972 by urging excessive production, then the Federal Treasury and not farmers alone will bear a part of the cost of your errors.

Mr. President, this is not a profit guaranteeing bill as far as agriculture is concerned. All the bill does is to assure food producers that they will be able to receive sufficient cash income to recover most of the costs of production and thus stay in business in case they are given faulty guidance by the Government in projections of markets which fail to develop. The bill does not assure agriculture of profits—only of the means to continue producing.

It was clearly in the national interest in 1972 and 1973 for this Nation to have available generous quantities of feed grains, wheat, cotton, and soybeans to meet worldwide shortages. Our stocks of these commodities are now low. It is clearly in the national interest that they be built back to reasonable levels. It is also in the Nation's interest for producers of these commodities that growers not be economically penalized for rebuilding our food reserves.

Mr. President, the bill contains other features which, while not as significant as the target price provision, do have great importance to the American consumer and producer.

One section provides for a research program that will eradicate the cotton boll weevil. This pest has cost American cotton producers and consumers some $12 billion since it came into this country from Mexico. Efforts to control the boll weevil account for the use of one-third of all the insecticides used on all crops in the United States.

The biological boll weevil control program authorized by this bill will eliminate the need for chemical boll weevil controls. It will markedly reduce the high cost of chemical boll weevil controls which add significantly to the cost of production and to the cost of cotton products to consumers.

I have a factsheet relating to the cotton boll weevil program, and I ask unanimous consent to have it printed at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. BELLMON. Mr. President, another section of this bill relates to a research program to identify causes and to determine preventive measures for the high animal mortality resulting from interstate transportation of livestock.

Authoritative estimates show that at the present time 1 or 2 percent of feeder cattle die due to the stress of movement and diseases encountered in the collection and transportation of these animals from their place of origin to feedlot or grazing areas. There are many, many reports of catastrophic losses ranging up to 50 percent. These losses from transportation-related causes have cost producers and ultimately consumers tens of millions of dollars each year. Tragically, this year an exceptionally high loss has occurred at a time when a general shortage of meat exists. The loss has contributed significantly to the increased cost of meat.

Losses of other kinds of livestock are similarly high with similar detrimental

[1] Statement by Secretary Butz at the Ministerial Meeting of the Committee of the Organization for Economic Cooperation and Development, Paris, April 11, 1973.

effects on consumers. The provisions in this legislation will make it possible for the Secretary of Agriculture to carry on necessary studies to find out what causes transportation associated losses in animals and to prescribe the necessary preventive measures.

Dr. James Whatley, dean and director of the Agricultural Experiment Station at Oklahoma State University estimates that from $500 million to $700 million is annually lost because of deaths and reduced performance related to transportation of cattle. The loss of hogs from the same source is estimated at about $50 million.

I ask unanimous consent that a letter from Dr. Whatley, as well as a letter from Dr. John B. Herrick, extension veterinarian at Iowa State University be inserted in full in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. BELLMON. Mr. President, another feature of this bill authorizes the Secretary of Agriculture to strengthen the agricultural export services rendered by the U.S. Department of Agriculture to potential foreign customers and to prospective exporters of American agricultural products. Since this Nation has adopted a practice of aggressively developing overseas markets for farm products, it is essential that we strengthen our market development efforts and provide needed services to individuals or firms which desire to engage in international agricultural commerce. There are few large agricultural producers. For small producers aggressive and successful foreign sales efforts are difficult without guidance and support.

Also, in the bill is a provision requiring more timely reports of exports of commodities when export subsidies are being paid. This provision should help prevent a repeat of the controversy and confusion which surrounded the Russian wheat sale of last summer. This provision will place American producers and marketers on a more even basis with our potential customers. It is clearly in the public interest for our food producers, exporters, and the public to know in a timely way the amount of commodities being exported and the sums of tax money being used to support the export of commodities through our export subsidy programs.

Mr. President, we now in this country are entering a semicontrolled price system on meat. In my opinion, the present system is an invitation to chaos. The long-range effect is to reduce production. It is to eventually develop a program that is impossible to enforce and that is an open invitation to fraud and to abuse. In the New York Times for Sunday, April 29 of this year, an article appeared, entitled "The Policy of Price Controls for Food," which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 4.)

Mr. BELLMON. I would like to read some short excerpts from that article. In referring to price controls for food and meat, Mr. Leo Malamed says that—

They are counterproductive. For the producers, controls induce the psychology that no matter what he does for his product's quality, he cannot get a better price; no matter how hard he works or how much money he spends to produce more, his potential profit per item will remain the same, so his incentive to produce more or better quality diminishes.

For the consumer, controls induce the psychology that no matter how much he buys of the product, the price will not rise and probably won't go down. So his demand for the product has no reason to diminish, in fact, it increases. Controls have always, thereby in the final analysis, produced shortages.

Price controls create a political and public mass psychology that is dangerous. Just like any pacifier, it creates the impression that the problem is solved. Therefore, the real and underlying causes of the problem tend to go unattended. Even worse, often as not, such psychology leads directly to programs and attitudes that increase the basic problem.

Mr. President, the purpose of the bill is to do exactly the opposite of price controls. The Committee on Agriculture and Forestry, in reporting S. 1888, recognized that the time has come in this country for us to give farmers an incentive, to give them the assurance they need to produce fully and adequately to meet the food needs of our own citizens and the food needs of our customers abroad.

In reporting the bill, the committee has taken an affirmative approach. We are moving, by this legislation, to assure the country of an abundance of foods for the indefinite future and at the same time for a stable agriculture that will help, as the chairman has said, to avoid the economic chaos that faced agriculture in the 1930's.

In my opinion, S. 1888 is an excellent bill. Its principal beneficiaries are the U.S. consumer and the U.S. Treasury. When properly administered, the bill will establish conditions under which agricultural production can be realistically matched with domestic and international food and fiber demand. Through the passage of the bill, Congress will help to assure our citizens of abundant food for the foreseeable future. I urge its approval.

EXHIBIT 1

[From Forbes magazine]

CAN AGRICULTURE SAVE THE DOLLAR?

The Nixon Administration is betting heavily that wheat, corn and soybeans can go a long way in paying for the oil we're going to need.

The U.S. has lost, probably forever, its edge over Western Europe and Japan in manufacturing efficiency and technology. At the same time, it is burning imported oil at an ever-mounting rate. Question: How do you pay for the oil if you can't export enough manufactured goods?

That's where farming comes in. The U.S. is fast exhausting its once-plentiful natural resources. But there is one natural resource that, if cared for, never becomes exhausted; farmland. The U.S. has the acreage, the climate and the potential surplus over its own needs to become the granary of the world—a world where both population and ability to pay are rising fast.

The Nixon Administration is betting on agriculture to save the dollar. For if oil is essential for industrial civilization, food is necessary for life itself. Food is, potentially at least, the most priceless of all natural resources.

The U.S. last year ran a balance-of-trade deficit of $6.8 billion. On top of the current woeful situation, the future seems impossibly bleak: By 1980, under not overly pessimistic projections, the U.S. could be laying out $18 billion to pay for imported oil, compared with a $4.2-billion payout in 1972. If things were to stay the same, this would imply a potential trade deficit of $20 billion and international bankruptcy for the U.S.

Agricultural exports already are one of the few bright spots in the U.S. trade picture. In fiscal 1973 (the year that ends June 30), the U.S. will export $11.1 billion worth of agricultural products. It will import, estimates the Department of Agriculture $6.8 billion. After subtracting $1 billion of foreign-aid-type foodstuffs from the export total, that still leaves a healthy $3.3-billion cash trade surplus in agriculture—largely balancing the deficit in oil.

STEADY CLIMB IN EXPORTS

Of course, the current fiscal year is extraordinary because of the shipments of over $1 billion worth of grain to the Soviet Union. But the fact remains that agricultural exports have been rising steadily in recent years; from $5.7 billion in fiscal 1969 to $6.7 billion in 1970, $7.8 billion in 1971, $8.1 billion in 1972. This gain was in cash sales; government program sales have remained at the $1-billion level throughout.

Carroll G. Brunthaver, Assistant Secretary of Agriculture for International Affairs, says the trend will continue. "I won't predict 1980, that's too far ahead," says Brunthaver, "but I think we can get to $15 billion fairly quickly." To Forbes' central question: Can U.S. agriculture save the dollar? Brunthaver responds matter-of-factly. "Not all by itself, but it can go a long way."

The Japanese can manufacture as well as we can. They cannot farm as well as we can. The American farmer is not a lone man standing in the field. It would be more accurate to describe him as the human operative of a system of industry, technology, and capital that has taken the natural resource of the abundant land and made it yield a hundredfold. "Our advantages go back 100 years," says Brunthaver, a 40-year-old Ph.D. in agricultural economics from Ohio State. "They center in our educational system. Our farmers are educated. The infrastructure—the roads, railroads, irrigation systems—all are there. We have an organized market and an industrial complex that supports the farmer."

These investments may now be at the payoff stage. Growing income overseas means meat in the diet. That is the bright hope of the U.S. balance of payments.

GRAIN FOR MEAT

Meat, that is, shipped as grain. Just as the U.S. raises more meat animals than anyone else, it also raises more of the feed grains that fatten these animals. Who can raise corn like the U.S.? For the protein supplement soybeans, the U.S. soil and climate are ideally suited, and the U.S. grows 70% of the world's supply. Wheat, which we think of as a food grain, is also a feed grain around the world, and the U.S. stands ready even now to export up to 1 billion bushels a year of it. In short, it is foodstuffs for meat animals that is the U.S.' long suit in international trade. Remember, it takes eight pounds of feed to produce one pound of beef, seven to produce one pound of pork.

All this places in perspective several major recent actions of the Nixon Administration. Among them: parlaying with Russia or China; preparing for negotiations with Japan and the European Economic Community; fending off irate consumers about high food prices; devaluing the dollar. Agri-

culture is at the heart of every Administration major move of late.

Last year Presidential Assistant for International Economic Policy Peter M. Flanigan commissioned a report from the Department of Agriculture. That confidential report, entitled Agricultural Trade and the Proposed Round of Multilateral Negotiations, is now circulating in Washington and among agricultural businesses in the Midwest. The report examines the potential benefits to the U.S. from a general liberalization of agricultural trade and concludes at its most optimistic that the U.S. could achieve agricultural exports of $18 billion in 1980—with grains and soybeans comprising almost $12 billion of that—if all favorable factors came into play. In this scenario imports, led by dairy products, grow to $9 billion. But the nation would still be earning $9 billion net on agriculture.

Last month the President committed the Administration to ending direct crop subsidy payments for U.S. agriculture over the next four- or five-year period. Ended also will be the allotment program under which acreage was set aside to prevent price-ruinous surpluses. The U.S., which has some 340 million acres growing crops, has 60 million more acres in the set-aside program. This spring 40 million of those set-aside acres come into productive use—half will be producing more soybeans, corn, wheat, grain sorghums and other crops. The other half of the acreage will be used for grazing animals, thus effectively freeing more grain to the market.

Isn't this risky? Won't disastrous surpluses result? The Nixon Administration displays a blithe confidence that they will not. As Secretary of Agriculture Earl Butz put it last month: "We are gambling on the side of too much, rather than not enough."

The gamble is interesting, as it solves two problems at once for Nixon. By announcing the phasing-out of crop subsidies, and allowing expanded crop production, he can say at home that he is moving gradually to bring down food prices. By knocking out the U.S. subsidies to farmers, the Nixon Administration can approach the negotiations this fall with the Europeans with clean hands, as it were, and demand that they loosen their own protective subsidies to farmers. Those subsidies are now effective barriers to U.S. grain exports.

MORE PRODUCTION HELPS

Furthermore, expanded production of U.S. grain will bring today's high market prices down to more reasonable levels. This will make all the more ridiculous the spectacle of the Europeans holding out low-priced U.S. grain while feeding their meat animals on home-grown, subsidized, high-priced feed—and feed comprises 75% or more of the cost of raising an animal. It will also keep American grain and soybeans attractive to the Japanese, with whom price has been a problem recently. The expanded production holds little danger of a ruinous U.S. surplus in the crop year beginning this spring. Extraordinary export demand last year depleted U.S. grain reserves, and those stocks must be replenished. So Nixon has until the summer of 1974 to persuade the foreigners to buy more of the U.S. agricultural abundance.

Significantly perhaps, the U.S. was more reasonable in February's devaluation of the dollar. The whole thing was carried off relatively painlessly for Europe. No European country had to change its currency value, and thus Europe's internal balance of exchange rates was preserved. The feeling in the Administration is that Europe owes the U.S. something, preferably in agriculture.

The barriers are formidable. The only significant achievement of the European Economic Community to date has been the Common Agricultural Policy, which sets a high price level for crops grown inside the EEC and, through the use of a variable agricultural level, holds out selected foreign crops—most particularly U.S. feed grains such as corn. Since this came fully into effect around 1966, the U.S. has lost $200 million to $300 million a year in feed grain exports to Western Europe—a market in which consumption of meat has expanded over 20%. On top of that Britain, Ireland and Denmark, customers for $550 million worth of U.S. agricultural exports a year, have just entered the EEC, imperiling that steady export demand. The Administration feels that in the forthcoming negotiations, the U.S. had better recover that lost business and get a clear shot at future growth markets. The alternative? Fewer Volkswagens and French wines coming into the U.S.

Japan, on the other hand, is a good customer, U.S. agricultural exports to Japan this year will total $1.7 billion. And Japan is fast becoming a meat-eating nation, producing now 2.5 billion pounds of meat, compared with half a billion ten years ago. Meat consumption is expected to double again in this decade. The U.S. problem here is economic: It must keep the price of its grains competitive to hold the market and to lessen the attraction for Japanese investment in growing soybeans and feed grains on Australian and Brazilian soil.

With the newly opened giant markets for U.S. grains in the Communist countries, the problem is going to be how to arrange hard currency purchases over the long term. The signs that the Russians, though, are serious about building up their livestock herds are growing. Russia has a five-year-plan objective of a 25% increase in meat production; in spite of a terrible crop year in 1972, it did not slaughter the livestock herds as it has done previously in crop-disaster years. The potential market for U.S. feed grains and soybeans in Russia and Eastern Europe is estimated by the Department of Agriculture, at 35 million to 40 million tons annually—easily a $2.5-billion annual market. The People's Republic of China imports annually 4 million to 5 million tons of grain, mostly wheat. Initially a market for 1 million to 2 million tons annually, reckons Agriculture's Brunthaver.

India, even with the Green Revolution, is figured for frequent if not chronic shortfalls in wheat production. This year the shortfall is in the nature of 10 million tons, and the hardpressed Indians are buying U.S. grain at current inflated market prices.

Of course, there are pitfalls to watch out for in these admittedly rosy projections of world demand for foodstuffs. Good weather conditions around the world would diminish U.S. wheat export for a start. The Common Market nations are not going to cower meekly under U.S. tablepounding in negotiations; Japan, with its Brazilian plans, could become a competitor in agriculture. Russia normally grows more wheat than even the U.S., and is a grain exporter itself. It also grows barley and can fatten its calves and hogs on that. So while demand for grains will grow, it will remain highly cyclical. But for all that, the U.S. does hold the trump cards, and chief among them is the soybean.

There are no trade barriers to soybeans in any country in the world; the problem is supply, not demand. The reason is simple: The soybean has a protein content of 40% compared with 8% for corn, 10% to 12% for wheat and about the same for oats and barley. The U.S. this year will export some $2.7 billion worth of soybeans and soybean meal and oil; it will export 475 million bushels out of a crop of 1.3 billion bushels. And says the Department of Agriculture, to no one's disagreement: If we had 200 million bushels more, we could sell every one of them. That alone would make a $1-billion dent in our payment deficit.

The rest of the world has a hard time growing soybeans. The soil and climate of Iowa and Illinois are particularly favorable to the bean. But that's corn country. Why doesn't the farmer simply switch from corn to soybeans? Because there is a wealth of technology behind corn; the yields get to 150 bushels an acre and above. Soybeans are now up to 28 bushels an acre in good times, and soybeans are not yet free of natural hazards that no longer bedevil corn, like proliferating weeds and difficulty in harvesting.

But the situation is changing. Soybeans, because of their higher price, are now the U.S.' No. One cash crop—totaling $4 billion in calendar 1972 compared with $3.3 billion for corn.

DEFENSE TO OFFENSE

What do the Administration's new farm policies, hopes and expectations really mean for the rest of the business world? Who's helped? Who's hurt?

The new policy is realistic: It is based on selling for cash to those who have the money. Russia and China are in. India is out.

But an even more basic change is involved. This time we would not be so much selling grain as meat—in the sense that the grain would be converted into meat—for countries with a rising standard of living. For those who can't yet afford meat but need protein, there are soybeans.

The food business will, of course, always be cyclical. What this means is that if the U.S. wants to encourage agricultural expansion as a means of earning foreign exchange, it will have to protect the farmers against undue price fluctuation. As granary to the world, too, the U.S. will have to protect its customers against shortages and wild price escalations. One way to do this would be by government stockpiling in off years. Another way might be to try working out long-term supply contracts by which major customers might agree to take regular amounts—in return for being assured of a regular supply. Either way, the Government is in the business of holding reserves of the major commodities. As Senator Hubert H. Humphrey from the farming state of Minnesota puts it: "The Government must share with the farmer the risks associated with these market uncertainties."

EXHIBIT 2

BOLL WEEVIL ERADICATION COST DATA

1. Accumulated cost of the boll weevil to the U.S. cotton industry since the pest entered from Mexico is in excess of $12 billion.

2. The boll weevil accounts for one-third of the insecticides used on all crops in the U.S.

3. Control of the boll weevil adds about 3.5 cents per pound to cotton production costs.

4. The boll weevil eradication drive was begun in 1959 when Congress appropriated funds to study needs and to establish the federal boll weevil laboratory. Since then, more than $21 million has been spent for eradication research. Unless the eradication program proceeds, most of this expenditure will have been wasted, and the boll weevil will continue to take its toll—requiring even heavier usage of insecticides, which can speed the development of resistance and add to environmental problems.

5. A 50 county pilot eradication program will be completed late this summer at a total cost of more than $5 million. Evaluations so far clearly indicate that the technology for Beltwide eradication is now available.

6. Tentative estimates are that the total cost will not exceed $500 million, spread over a five to six-year period—or an average of $50 an acre for the approximately 10 million acres of cotton in boll weevil areas.

7. Actually, the cost will likely be closer to $300 million or $30 an acre, because the top

estimate of $500 million includes 25 percent for contingencies—and efficiencies expected in methods and operations could well reduce the estimate another 25 percent.

8. Annual crop losses and control costs attributable to the boll weevil range from $175 to $275 million. More insecticides are applied for controlling the boll weevil than for any other insect.

EXHIBIT 3

OKLAHOMA STATE UNIVERSITY,
Stillwater, Okla., May 1, 1973.

Hon. HENRY BELLMON,
U.S. Senate,
Washington, D.C.

DEAR HENRY: We find that the four simple questions you asked in your letter of April 18, 1973, are very difficult to answer. I have called on Dr. Don Gill, extension livestock nutritionist, to help me out; I am enclosing Don's letter on this subject. Don is our most knowledgeable staff member on the subject of death losses and morbidity related to shipping.

1. In Oklahoma we apparently have no state laws that have any significant effect on this problem. Some states have recently passed laws making it illegal to sell sick animals through a public sale. I understand bovine practitioners are advocating a law that would prohibit any animal from going through more than one sale in a three-week period. These efforts are aimed at restricting the movement of diseased and stressed animals. I'm not sure how successful they would be or what the ramifications are of their enactment.

2. The major livestock association involved with this problem is Livestock Conservation, Inc., with its nationwide programs of livestock health and safety. It receives its membership and financial support from hundreds of organizations and associations throughout the livestock industry. Most of its efforts have been applied in educational programs.

3. I believe LCI estimates are for $500,000,000 to $700,000,000 annual losses in cattle and about $50,000,000 losses in hogs in deaths and reduced performance related to movement, change of owner, and transportation losses.

4. Probably the best way to combat these losses related to shipping is by educational programs directed toward proper management throughout the transfer, proper preparation (pre-conditioning) of the stock in preparation for sale and shipment, prevention of stress and exposure to disease, and application of our best known veterinary treatments in preparation for, during, and after shipment. Some have suggested that we need laws regulating the location of exhausts on livestock trucks so that loaded animals are not exposed to exhaust fumes in transit. Perhaps this would be helpful, but it's questionable if we really have enough evidence of harmful effects of exhaust fumes. Also, suggestions have been made of need for regulating the length of shipping time without feed, water, and rest. Interstate rail shipments are subject to such regulations, but I don't think trucks are. The ramifications of a legally imposed shipping time limit need careful study. The advantage of the feed, water, and rest in combating stress must be weighed against the increased cost and time involved in shipment and the increased exposure to disease at rest stations. Generally it is now considered best to get cattle all the way to their destination as soon as possible after loading. This is a particular area that perhaps needs more research.

I am sorry that we have not been able to give more precise answers to your questions, but we will be glad to check the matter further, especially if there are other unanswered questions on the subject. Don Gill would be the best resource person on our staff. Under separate cover I am sending you a copy of a Pre-Conditioning Seminar which Don developed and held on the campus several years ago.

Sincerely yours,

JAMES A. WHATLEY,
Dean and Director.

IOWA STATE UNIVERSITY,
Ames, Iowa, May 2, 1973.

Re: Losses in transportation of livestock-species-cattle.

Senator HENRY BELLMON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BELLMON: Dean L. R. Folmer, Dean of Agriculture here at Iowa State University has asked me to respond to your inquiry of April 18, 1973.

Situation: Cattle are mobile. Feeder cattle move frequently from one state to another in a matter of hours, in fact move freely throughout the United States. There are 14,485,000 cattle on feed in the United States as compiled by USDA, March 1973. These originate largely from 41,102,000 beef cows. Estimates show that over 50 percent of these animals originate from herds of less than 50 cows. Surveys show that a high percent of these animals lose their identity when they enter the channels of trade. There is not an uniform method of identification of cattle. It is impossible in many cases to trace back origin of cattle.

Losses: There is a national loss of 1 to 2 percent of all feeder cattle in the United States due to the stress of movement and diseases encountered in their collection and transport from origin to feedlot. There are many, many catastrophic losses ranging from 10 to 50 percent. Every case is different but less than 50 percent of the cattle move direct from producer to feedlot. In the numerous ways and means of collecting and moving cattle, they pass through order buyers hands, auction markets, terminal markets and frequently pass through several public markets before they arrive in a feedlot. In many cases, they are commingled with many other animals from different origins. In some cases, they move through several public markets before they find their way to a feedlot. In many, many cases, clinically sick animals are removed from the offering to be replaced by other animals. These animals do move to a feedlot incubating a disease complex without being observed.

It is estimated that if the shrink, time, feed utilization, rate of gain, treatment and death loss could be equated, there would be a loss of $10.00 to $20.00 prorated for every animal that enters the feedlot.

Laws: There are federal regulations pertaining to the movement of feeder cattle, i.e., health certificates are necessary for most cattle and permits are required for steers in some instance. Cattle in terminal markets are inspected. However, detailed clinical examinatiton of the health of the individual animal is not made. Health certificates in general are mere pieces of paper and are not meaningful because of failure to conduct necessary inspections. Several states are trying to get a law requiring an animal to be identified once it moves through a public market. This is to alert prospective buyers if the animal is to move through another public market. As yet, no state has this requirement.

In general, little if any activities are in action by livestock organizations to reduce shipping losses. To date it is mere lip service. Meaningful programs should be outlined as follows:

(a) The producer of the feeder cattle should be required to have his calves weaned at least 30 days prior to movement. There should be a national identification program enforced immediately so that all cattle would have a "bovine social security number." This would enable tracebacks on disease, and chemical residues if encountered. Further, they should be properly immunized and treated at least 2 weeks prior to movement. Immunization should not be allowed once animals are in transit.

(b) These animals should not be in order buyers hands over 48 hours. All order buyers should be bonded.

(c) They should not be on a truck or rail car over 25 hours.

(d) Truckers should be regulated as to load and should be required to have a time clock to log road time.

(e) Animals should go through only one public market.

(f) Health certificates should be made meaningful. Veterinarians should be required to thoroughly check animals including individual animal checks or drop all health certificates. To date they are a joke in most cases.

(g) Animals should be inspected at destination. Excessive shrink and sick animals, etc., should be thoroughly examined before the animals are accepted.

The value of feeder cattle or any livestock is such today that past practices of collection, movement and inspection are outmoded. The majority of our losses are due to husbandry practices that are no longer acceptable in today's scheme of animal protein production.

Excessive regulations are a hindrance, thus livestock organizations in general are fearful of governmental interference. Yet, the animal protein losses in moving feeder animals, namely; calves, lambs, and pigs, are estimated to be of the amount to supply the minimum protein requirements for a sizable portion of the population.

I feel that there should be a summit meeting of leading livestock organizations, health authorities, market associations, trucker associations and livestock feeders to zero in on this problem at the earliest possible time. It is an industry problem and no one segment can be singled out and blamed. The key is national cattle identification. This need has been brought to the attention of the USDA authorities several times during the last 10 years.

If you desire further specific information, I would be happy to supply it if available.

Sincerely,

JOHN B. HERRICK,
Extension Veterinarian.

EXHIBIT 4

[From the New York Times, Apr. 29, 1973]

THE FALLACY OF PRICE CONTROLS FOR FOOD

(By Leo Melamed)

Too little of the true nature or cause of the food price rise has risen to the surface or been properly explained. Take, for instance, the so-called meat boycott.

The power of the housewife has been extolled as if it were a new invention comparable to, say, the discovery of the wheel. The truth is that consumer price resistance is a time-honored weapon of the marketplace and is as old as the marketplace itself. It is today no more than it has been from time immemorial, the check in the balance between supply and demand.

Sooner or later, every commodity is liable to face the price resistance level of the consumer at which point the supply will begin to outweight the demand. Price resistance is second only to supply in affecting the price of any given commodity.

The recent boycott was not, therefore, an extension of women's liberation or an invention of 1973, nor need it have been given the reverence the press seemed to attach to it.

Such glamorization of an important but normal economic function will undoubtedly produce polarization between the consumer and the producer. This will reduce the matter to a war between boycott groups and

antiboycott groups, thus further distorting the supply and demand picture, and certainly be a disservice to our economy.

What is of much more significance, however, is the irresponsible response of many of our political leaders to this dilemma. To a man, it seems they have hopped aboard this bandwagon of sentiment with cries of "the President hasn't done enough," "roll back the prices" and so on.

Such talk may make votes; it certainly doesn't make sense.

Where are our leaders who have the guts to explain the true nature of this problem? Where are our officials who would point out that the present crisis was caused by the convergence of a number of contributing factors, including severe weather, previously depressed prices and profit squeezes and an enormously increased demand for meat?

This, as a result of higher wages and more employment, changed eating habits and Government food programs.

Who explained that some of these factors are of a permanent nature, others are cyclical and still others are temporary?

Who pointed out that one of the main causes has been the devaluation of the dollar, coupled with foreign inflation and increased world affluence, which created additional funds in foreign countries with which to increase their imports of our products; that American food products, such as grain and meat, were some of the biggest bargains available to them, and that our Government encouraged this eventuality to aid our balance of payments?

And who explained that this cause and its effect was a continuing one because you could not have your commodity and eat it too?

Finally, and most importantly, why has so little been written about the low nature of our present food prices?

Food prices in recent months have risen dramatically and out of proportion with other items; the price of meat has, in the last year, risen to an extreme. In fact, food prices in the last several years have been playing catch-up.

But the price of farm products cannot be measured in terms of weeks or months or even one year. The rise and fall of farm commodities are affected by a number of complicated factors that cause a constant tug-of-war between supply and demand.

At any given moment or during any given year, the price may rise or fall dramatically (drawing exceptional public attention to it), but it is unfair to judge this rise or fall as of that moment or that duration. To judge prices of farm commodities adequately and fairly, one must look at them over a longer period of time, say 10 or 20 years. Only then can you assess their cost increases on a basis that has taken into account all of the variables, cycles and adjustments.

How often is it explained that although food prices have risen significantly, they have risen far less than most goods? Or how often is it pointed out that while prices for all consumer items rose by 58 per cent during the last 20 years and housing prices rose by 64 per cent, prices for retail food went up only 47 per cent since 1952 and the price of food eaten at home rose less than 40 per cent?

Even this 40 per cent rise (18 per cent less than the rise of other consumer items) is not the full story, since our average food bill, which took 23 per cent of our after-tax disposable income in 1952, took only 15.7 per cent of the after-tax disposable income in 1972 and is projected even lower for 1973.

Who has had the courage to point out that during this same 20-year period, while home food prices rose by 40 per cent (but took 7 per cent less of our after-tax income), the hourly wages received by laborers went up 140 per cent?

It is not my intention to be critical of laborer's increased wages, but I certainly call it unfair when labor's leaders use the rise in food prices as a reason for higher wages. Who would point out to them that if food prices had kept pace with wages since 1952, then a quart of milk today would cost 55 per cent more, a dozen eggs 161 per cent more, a pound of hamburger 151 per cent more and a pound of round steak 267 per cent more?

Who would explain that while out of every $100 of after-tax income the average person spends 48 per cent more for medical care; 18 per cent more for his automobile, transportation, gas and oil; 14 per cent more for housing, furniture and household operation than he did 20 years ago, he spends 32 per cent less (yes, less) for food?

Little wonder that the rest of the world, with few exceptions, is envious of our food prices and has come to our counter for our cheap commodities. Has everyone made the comparison between our retail meat prices and the dollar equivalent in foreign countries?

How much has been written about the reasons for our plentiful breadbasket and that a paramount cause for its success has been a relatively free-enterprise system guided mainly by supply, demand and profit motivation; that price and market controls, ceilings and five-year plans (as some have suggested), have been tried in every other corner of the globe (and here, too) with disastrous results, and that we are still the only nation that has produced food commodities on a scale that is generally higher than we can consume?

Instead of facts, we have heard the demands that Government put more controls into this system; that we roll back prices, and that we install some magic bureaucratic system to guide and guard rather than allow it to adjust itself as in the past or as world economic conditions dictate.

The old successful way isn't good enough in these modern times, so let's adopt the unsuccessful policies of other nations. That way we can look forward to the same results that they have achieved and soon we can together lack the same commodities.

Controls, ceilings and such are wonderful ideas, but there are a number of basic things wrong with them:

They don't affect the fundamental cause of the problem in the first place. Increases in prices can be predominantly attributed to lack of supply, or put another way, demand in excess of supply.

An increase of supply or decrease of demand are the only real means of reducing prices. Controls on prices will in no way affect greater supply or lower demand.

They are counterproductive. For the producers, controls induce the psychology that no matter what he does for his product's quality, he cannot get a better price; no matter how hard he works or how much money he spends to produce more, his potential profit per item will remain the same, so his incentive to produce more or better quality diminishes.

For the consumer, controls induce the psychology that no matter how much he buys of the product, the price will not rise and probably won't go down. So his demand for the product has no reason to diminsh in fact, it increases. Controls have always, thereby in the final analysis, produced shortages.

Price controls create a political and public mass psychology that is dangerous. Just like any pacifier, it creates the impression that the problem is solved. Therefore, the real and underlying causes of the problem tend to go unattended. Even worse, often as not, such psychology leads directly to programs and attitudes that increase the basic problem.

Price controls are inherently inflationary. In order to regulate and enforce them, new Government agencies must be created; this is costly.

Such additional Government expenditures can be paid for by higher taxes but usually are not. Instead, the Government pays for it with borrowed or created funds.

Price controls create unforeseen complexities and, in the long run, are self-defeating. No control system has yet been devised that can foresee at the outset all the effects and countereffects on the nation's economy. New rules and interpretations must be constantly added.

Thus controls, in time, become an incomprehensible morass of rules and exceptions riddled with loopholes and conflicting interpretations. Furthermore, human nature will, in the long run, prompt many consumers to circumvent or violate control prices to get better quality or more of a given product. This, in essence, means that prices continue to rise—albeit unofficially.

Price controls tend to become "alive" once installed. Controls are most difficult to be done away with. The psychology that created them and the psychology that they in turn create seem to make them independent of their creator. Like opium or any artificial stimulant, once you have it, you think you can't live without it—regardless of the harm it causes.

If I have oversimplified these issues, it was for emphasis, but the facts remain for anyone to draw his own conclusions.

It is indeed sad that now we have meat ceilings in response to the public clamor for a pacifier. Should the price of meat recede, it will be attributed to the effectiveness of these controls. Forgotten will be the fact that any reduction in meat prices will unquestionably have been caused by stiff consumer price resistance, coupled with a continuing increase in meat supplies, and not at all by the artificial magic of the ceiling.

But, alas, no lesson will have been learned—just the opposite—an erroneous impression will have been created.

Food commodities are our biggest bargain even now and controls, ceilings or other artificial means won't help their production. If our food prices are rising, then it is caused by eventualities over which our farmers had little control. Penalizing them won't help.

It could be that our food prices won't ever come back down—they may even continue to rise—but the answer to this problem, as in the past, lies in production, production incentives and overall national economic management and not in politically inspired rhetoric or artificial price adjustments or controls. And certainly emotionally charged accusations and demands by consumer groups won't do anything except confuse the issues and delay the remedies.

THE AMERICAN FARMER

Mr. BELLMON. Mr. President, many Americans have misconceptions about farmers and the role they play in our everyday lives. There is a great lack of understanding about the business of farming and the individuals who are engaged in producing food and fiber for use by our citizens and to supply the needs of other countries.

One of the best descriptions of the American farmer that I have seen was prepared by DeKalb AgResearch, Inc. of DeKalb, Ill. Characterizing the farmer as "the world's most important businessman," this well-documented piece explains what a farmer is and what he is not. Among other things, he is an investor, a speculator, an environmentalist and conservationist, and a consumer. He is not a "hayseed," a big operator, or a freeloader on the Federal Government.

As the Senate debates the farm bill this week, many things will be said about the American farmer. In order that Senators may be accurately informed about the business of farming and those who make their living in agriculture, I ask unanimous consent that this factual presentation on the American farmer be printed in the RECORD.

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

THE AMERICAN FARMER

(NOTE.—Quotes throughout the text are attributed to James Gill, operator of a 500-acre grain and livestock farm near Wyoming, Ill.)

One operates 2,000 acres. His neighbor farms one-tenth that amount. One has a master's degree. Another's education is based on experience. One is young. His neighbor is old. One raises corn in Indiana. Another feeds cattle in Montana.

The American farmer . . . not an easy man to describe and define. But, for all their differences, they are still alike. Above all else, they are businessmen. Knowledgeable in the dozen or so areas that it takes to be a farmer in the 70's.

This businessman is both management and labor. He's in charge of a physical plant with fixed assets often reaching $300,000 or more. Although he often feels like it, he can't strike for higher wages.

He's chief purchasing agent, deciding which $20,000 machine will best harvest his crop during the two weeks out of the year that he needs it.

He's an efficiency expert, always trying to cut his costs and increase his slim margin of profit.

He's an investor—handling each dollar wisely, but putting it in a business that isn't known for its high rate of return.

He's an environmentalist and a conservationist, treating his resources wisely so his land will still be productive when the next man is ready for it.

He's a speculator, gambling on the weather, insects and disease. And hoping the law of supply and demand—his basic marketing tool—will treat him favorably in the marketplace.

Most of all, he's an optimist—knowing that next year has to be better.

He's the American farmer. And he's the world's most important businessman.

"The American farmer is an asset to our economy because he is both a producer and a consumer."

The farmer's business is producing food and fiber, recognized as the world's basic industry.

In any society, the necessities of life—food, clothing and shelter—must come first. A color television is of little comfort to a youngster whose stomach is gnawed by hunger. A dishwasher means little to the housewife whose first concern is having ample food to serve her family. Unlike many other products of our economy, food is one product we cannot do without.

As a basic industry, agriculture holds the key to the development of other industries. If most of the world's work force is required to produce food and fiber, then obviously fewer workers are available to develop other industries.

That is not to say that agriculture is the basic industry of every nation on earth. It isn't. The law of comparative advantage enters the picture: A nation develops those industries it is best suited for, based on the resources it has available for that industry. No nation is entirely self-sufficient. World trade helps fill any potential void.

For world trade to exist in the food market, some countries must produce agricultural goods in excess of their domestic needs. Few nations are doing this. But the United States is . . . and it's due to the efficiency of the American farmer.

During the past few decades, the American farmer has demonstrated his amazing ability to produce. He has increased his production more than any other major segment of our economy. During the past 10 years, his production has climbed 20 percent, and he's done it on six percent fewer acres. He has done it by taking the proper mix of land, labor, capital, technology and management, and coming up with the most efficient agricultural production the world has known. And the end isn't yet in sight.

His efficiency has made possible the export of the production from one of every four acres harvested in this country. He has made the United States the leading exporter of agricultural products, accounting for more than one-sixth of the world's agricultural exports in fiscal year 1970–71.

Perhaps a statement by Robert Stovall, vice president of Reynolds Securities, Inc., best sums up our amazing American agriculture. Writing in the February 1, 1973 issue of FORBES magazine, Stovall said, "it is ironic that the much maligned farmer and the risky, highly cyclical industries that serve him have now combined to produce the one area of expertise which the U.S. shares with no other country in the world. Others can produce automobiles, color television sets, transistors and pharmaceuticals of like quality to ours, and frequently cheaper. In the field of agribusiness, however, we have no real competitor."

As time goes on, the American farmer will likely play a bigger role in the world economy. If his full productive capacity is unleashed, he will be an even more important factor in the struggle to alleviate world hunger.

"Farming basically was a way of life until the 1960's. Now there is a much greater business aspect to it."

Who is this man—the American Farmer?

The vast majority of farms in the United States are family owned or operated. The primary business of these owners and operators is farming, although some supplement their farm incomes by off-farm employment.

Perhaps the term "family farmer" is misleading. Mention the words to many, and minds immediately dart back to "the good old days." They conjure up thoughts of a small farm being operated by a self-sufficient and independent family.

But the 1972 version of the family farmer isn't like that. He's not self-sufficient, and he knows it.

He has organized his farm as a business enterprise, and he operates it to achieve a profit. He provides most of the management and capital and he assumes all of the financial risk.

Along with his family, he performs most of the labor. He might hire extra labor, but usually only during peak work periods.

He may own his land or he may rent it. He may be the sole operator, or he and his son might have a partnership established. He sometimes incorporates his operation—for tax or inheritance purposes—with his wife and children serving as officers in the corporation.

He's willing to go into debt and finds, in fact, that he must rely on credit to keep his operation competitive and efficient enough to support an acceptable standard of living.

Unlike farmers of past generations, he's not suspicious of new ways and new technology. He believes in agricultural research and he's quick to put it to work on his farm.

He's not a "hayseed." He may dress differently or drive his truck more often than his car, but he knows the world. His areas of knowledge range from ecology to economics.

During the past three decades, he's seen more than half of his neighbors leave their farms and seek other employment. They did this, not always by choice, but because the rules of our economy demand efficiency. He is the man who made it this far—the "fittest" survivor of the unrelenting economic pressures of our freely-competitive society.

"Large corporations can't make it in farming until the return from agriculture is at least equal to the return from other industries."

Some express concern that agriculture is under the control of large corporate farms. Of the 2.9 million farms in the United States, less than 0.1 percent are owned or operated by corporations with ten or more shareholders, and they account for less than three percent of total farm sales.

Several corporations have entered farming, many of them to their own regret. The results have been nothing short of financial disasters. Farm Journal recently analyzed these corporate flops and cited the major reason for their failures: "Financially oriented brass didn't really understand farming."

Farm Journal found another difference between the corporate farmer and the family farmer—thriftiness! "The front-line manager farmed strictly first class, figuring he had plenty of money to spend because the outfit was big." One of the family farmers' biggest assets is his ability to watch his dollars carefully and invest them wisely, because he's never known it any other way.

Corporate farmers can't afford to overlook the one factor that makes farming different from other industries. Because they produce commodities and operate under totally free competition, farmers—unlike many businessmen—have never enjoyed the freedom to tack on a suitable margin of profit to the products they sell. In agriculture, the buyer normally commands more power than the seller. The farmer takes what he can get.

You can bet he'll be mighty careful when it comes time for him to buy equipment. And you can bet, too, that he will use it well. When it comes time to plant corn, and bad weather has set him behind, he'll be on the job 24 hours a day. There are no eight-hour days, five-day weeks or overtime pay checks for the farmer.

The Farm Journal story also revealed that many companies entering farming tried to grow too fast. "They didn't have a chance to make little mistakes before they made big ones." It all seems to point to one conclusion: It takes a farmer to understand farming.

"It's getting more expensive to improve efficiency."

Half a century ago, agriculture's major inputs were land and labor. Higher production normally brought higher profits, and the way to higher production meant putting more labor to work on more land.

Now, however, land and labor are both limited and expensive. And, as such, they have been overshadowed in importance by three other inputs—capital, management and technology.

The capital requirements of the average American farm are by no means small. Consider that an acre of land may cost $1,000 or more. Or that the cost of a new tractor often exceeds $10,000. Add to this the thousands of dollars needed each year to cover operating costs—fuel, fertilizer, etc.—and the total often reaches several hundred thousand dollars.

It's obvious that most farmers cannot by themselves take on the job of financing their operations. They have to turn to other sources for credit.

According to the 1971 Fact Book of U.S. Agriculture, "In recent years, credit has been used to finance four-fifths of all farm sales. Federal land banks and life insurance

companies are the largest institutional holders of farm mortgages, with outstanding balances on January, 1971, of $7.1 billion and $5.6 billion respectively. Commercial and savings banks held loans of $4.4 billion."

The American farmer is also a heavy user of non-real estate farm loans. He uses these mainly to finance seasonal production costs and living expenses. The Fact Book reports, "In 1971, about $12.3 billion of the non-real estate farm debt was owed to merchants, dealers, individuals, and other miscellaneous lenders and creditors. Commercial banks, which supply the most non-real estate credit to farmers, held outstanding loans of $11.1 billion."

It's an ironic cycle—credit is necessary if the American farmer is to maintain or increase his efficiency. But because the use of credit increases his operating costs through interest payments, it is even more imperative that his operation be efficient . . . to offset the increased costs credit brings to the operation.

Management is the second important new input. In simple terms, management means making the right decisions at the right times.

Modern farming is full of decisions. It's more than pulling a plow behind a tractor or throwing a bale of hay onto a wagon. It's deciding when to sell, what to buy and which way to speculate. The decisions hold the potential to keep a farmer in business . . . or to put him out. They're often lonely decisions.

The emphasis on management has brought a new generation of farmers. They are more educated and better informed than generations past.

The third major input is technology. Combined with the farmer's land, labor, capital and management, technology has played an important role in the amazing productive capacity of the American farmer.

Technology is the development of hybrid seed. It's better-bred animals. It's disease-resistant crops. It's vaccines and other medications for livestock. It's improved pest control.

Modern agricultural technology is responsible for the so-called "Green Revolution," which has given new hope to the struggle to feed the world. Technology is the basis of the revolution brought about by the acceptance of hybrid corn. If American farmers returned to non-hybrid seed—given current advances in such areas as fertilizer and insect control—it would still require 20 million more acres, or approximately 29 percent more acreage, to meet the present demand for corn.

Technology is the result of research efforts by universities, agricultural companies and even farmers themselves. And technology will play an even more important role in tomorrow's agriculture.

"Disasters in the chain of food production can happen. We must have continuing research."

As world population continues to increase, the land area available for production of food and fiber continues to decline. Each year, acres of valuable productive land give way to masses of steel and concrete in the form of highways, airports and urban expansion. More space is required just to satisfy our increasing population. And more people mean greater demands for more food. The way to increased food and fiber supplies, then, is not through increased acreage, but through greater production on the acreage that is available. That is the role of research.

What more can be said about the actual operations of the American farmer? He drives a tractor. He feeds cattle. He plows his land. He harvests his crops.

But, that's not all. The American farmer combines the inputs of land, labor, capital, management and technology and produces food and fiber for the world.

It's time we recognize the importance of the American farmer's ability to produce, and accept what it has done and can do for our economy. In the October 8, 1972, issue of the Chicago Tribune, Economist Pierre A. Rinfret is quoted as saying, "Most people haven't realized yet that a principal part of the President's new economic drive is utilizing in full the incredible productive capacity of American agriculture."

Full employment in our economy, Rinfret continued, "requires maximum economic expansion until all idle capacity is used up, and the turning on the full productive capacity of agriculture."

The farmer's efficiency has enabled American consumers to enjoy an ample supply of the most wholesome and nutritious food products in history—at the best prices ever. In 1971, the consumer spent an average of 16.3 percent of his pay check for food, or less than half of what he paid in 1929. This has enabled consumers to spend an increasing portion of their incomes for products other than food, thereby encouraging the development of non-agricultural industries. The result . . . a higher level of living for everyone.

The export of American agricultural products is a "plus" in our attempts to achieve a balance of payments in foreign trade. In 1971, total U.S. exports were valued at $43.5 billion. That same year, the United States exported a record $7.7 billion of agricultural products, accounting for nearly one-fifth the value of all U.S. exports. And a side benefit . . . American agricultural exports require financing, storage and both inland and ocean transportation—thus maintaining more jobs for more people.

"We all know the farmer—he gets another nickel in his pocket and he's going to spend it on more tools, better seed, or perhaps on improvement in his family living. This is reflected back into the economy and multiplied many times."

The American farmer may be a farmer, but he's also a consumer. He puts billions of dollars back into the economy to maintain his operation. In 1971, American farmers spent $1.8 billion for petroleum, $1.1 billion for tractors, $3.5 billion for hired labor, and paid $3.1 billion in property taxes. He also helps support the same industries that his non-farm neighbors do. He, too, buys refrigerators, television sets, automobiles, furniture and processed foods. In simple figures, five percent of the population accounts for nearly 20 percent of the domestic market for steel, petroleum, rubber, and other major products.

The effect of all of this is that three out of 10 jobs in America are related to agriculture. And at the heart of this is the American Farmer.

"One reason farming does not return much on its investments is that the producer has so very little to say about the pricing of his product."

Efficiency is the name of the game. The gap between costs and prices represents profit. It's this gap that every farmer tries to keep as wide as possible.

The farmer has little control over the prices he receives. He can protect himself by hedging in the futures market, but this market, in itself, reflects a totally free supply-demand situation. Another alternative is to contract for sale of his crops, but when he does this he often trades off opportunity for top profits in favor of security.

Prices paid to farmers for many commodities are actually lower now than they were two decades ago. The price of beef, for example, has finally climbed back up to the level it was 20 years ago. The following table helps tell the story:

PRICE RECEIVED BY FARMERS

Commodity	1951	1952	Sept 15, 1972
Choice steers (per hundredweight at Omaha)	$34.92	$32.37	$34.85
Barrows and gilts (per hundredweight)	20.56	18.13	29.25
Corn (per bushelt)	1.66	1.52	1.22
Wheat (per bushel)	2.11	2.09	1.73
Broilers (per pound)	.285	.288	.155
Eggs (per dozen)	.477	.416	.339
Index of prices received by farmers (1910–14 base)	302	288	326
Index of prices paid by farmers (1910–14 base)	271	273	376

"We have the cost-price squeeze and as time goes on, the squeeze seems to get tighter."

Since the market doesn't respond to the farmer's wish, the most practical means of assuring himself of a profit is to keep his production costs as low as possible. This is hard to do when the costs of his inputs keep rising. For example, between 1957–59 and 1969, farmers were faced with a 77 percent increase in hired wage rates, a 33 percent increase in the price of motor vehicles and a 106 percent increase in taxes. Again, the table (Index of prices paid) illustrates the comparison.

Faced with a situation like this, farmers have been forced to seek efficiency—or else stop playing the game!

Last year, the American farmer earned an average income of $7,980. Compare this with the average blue-collar family income of $10,340. Or the average white-collar income of $14,900. It's ironic that this is the way the American farmer is rewarded for his increase in productivity—an increase that far exceeds the increases in productivity of both his blue-collar and white-collar neighbors.

The cost-price squeeze is making it difficult for young farmers to get started. A recent study in Illinois found that nearly 20 percent of the farm boys who entered farming during the period 1945–54 failed to make it in that vocation.

Another problem facing the American farmer is the tendency for some consumers to associate him with rising food prices.

It is a fact that food prices are lower now, in proportion to expendable income, then ever before in history. For example, consumer income increased 63 percent in the 1960's, while the food expenditures were up only 31 percent during the same period. Income less food expenditures was up $960 or 73 percent. Still, someone has to absorb the blame when prices do climb.

The farmer is seldom the cause of such increases, and he seldom benefits from an increase. He receives an average of 40 cents out of each dollar spent on food at the grocery store—the remainder goes for processing and marketing. Compare this 40 cents to the 50 cents he received from each food dollar in 1947–49.

We tend to take for granted the adequate supply of wholesome food products provided by the American farmer. But, take away the supply and then see how we complain!

"We have a big job of passing the word along so that consumers can really understand how their food is grown and the problems associated with it."

What about the future of the American farmer?

He's likely to continue to decrease in number unless the rules of the game change. The relentless pressures of economies of scale, increasing technological complexities, high "start up" costs, and his minority political position combine to suggest that farms of the future will be fewer and bigger. But he's not going to be driven off by big, ver-

tically-integrated conglomerates. He's too tough a competitor, too flexible, too dedicated, for them.

He is important to America. He has made it possible for Americans to eat the best food at the lowest price in the world, and he is by far our biggest producer of foreign exchange. He's tired of being criticized because government production controls are necessary to avoid disastrous overproduction. Instead of being appreciated because he produces food at the lowest cost in the world, he hears demands for price controls when the price of his product starts moving upward for the first time in 20 years.

The United States faces a national policy choice; to continue to encourage him, to help him survive as the world's most efficient food producer; or, by shortsightedness, to force him into the control of marketing conglomerates through the ruthless economic pressures of disastrous overproduction.

Mr. TALMADGE. Mr. President, I send to the desk three amendments and ask that they be considered en bloc. They are in the nature of technical and clarifying amendments, and I know of no objection to them.

The PRESIDING OFFICER (Mr. BIDEN). The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the further reading of the amendments be dispensed with. I will explain them.

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

The amendments are as follows:

On page 2, line 19, after the period, insert the following:

"In the event the total marketings of milk of any such producer during any period for which prices to producers or production history is computed or determined, including milk delivered by his association to persons not fully regulated by the order, is less than the base allocated to his association for his account hereunder, such base shall be reduced for such period to the amount of such total marketings."

On page 4, lines 20 and 21, strike the following, ", including but not limited", and insert the following:

"who is given the opportunity to purchase the milk with or without such services and elects to receive such services, such services to include but not be limited".

On page 6, beginning in line 18 with the word "and", strike all through line 20 and insert the following:

", (ii) furnishing other services of an intangible nature not hereinbefore specifically included, and (iii) providing any services, whether of a type hereinbefore specifically included or not, which handlers are ready and willing to perform without charge',

EXPLANATION OF FIRST AMENDMENT

Mr. TALMADGE. Mr. President, the first of these amendments is an amendment to the provisions of the bill which permits an order to provide for allocaton of members' bases to their cooperatives. The purpose of that provision is to eliminate wasteful transportation costs by permitting cooperatives to substitute one member's milk for the base milk of another in making deliveries in the most efficient manner possble. But there was no desire to permit the cooperative to make such substitution for base milk that was not produced or delivered to it.

The provision of the bill which begins on page 2, line 19, in describing the base which will be returned to the member when he leaves the cooperative, makes it clear that the base returned to him will be based on his total deliveries to his cooperative, and consequently will be less if his deliveries have been less than the base allocated to the cooperative for his account.

I believe the bill and the existing law should be construed as requiring the same rule to apply while the member continues to belong to the cooperative, as bases are updated annually, If a member fails to deliver milk equal to the base allocated to his cooperative for his account, that base should be reduced accordingly. However, I believe the law would be clearer on this point if the bill specifically so provided.

An appropriate corollary to this is that the cooperative should not be permitted to substitute the milk of one member for base milk that was not produced or delivered to it in order to obtain payment for the greater quantity of base milk.

The first amendment I have proposed would make the corrections described above.

EXPLANATION OF SECOND AMENDMENT

The second amendment deals with the provision of the bill which permits an order to prescribe minimum charges for services performed for a handler. It was intended that this provision of the bill should apply only to services which the handler desired and requested, and the language "for a handler" on page 4, line 20 was thought adequate to accomplish that objective. However, it has now been suggested that this provision might be applied to services which the handler would prefer to perform himself, but which he must accept in order to obtain the milk. This was not intended and my second amendment would make it completely clear that this provision is applicable only to services performed "for a handler who is given the opportunity to purchase the milk with or without such services and elects to receive such services."

EXPLANATION OF THIRD AMENDMENT

The third amendment deals with the provision of the bill permitting orders to provide for payments from the pool to cooperatives for services of marketwide benefit. My amendment would make it clear that this provision would not be applicable to services which handlers are ready and willing to perform without charge. This amendment makes essentially the same change in the provision dealing with marketwide services that my second amendment makes in the provision dealing with services performed for an individual handler.

Mr. President, each member of the committee has been sent the proposed amendments and the clarifying nature has been explained. They have been discussed with the ranking minority member. I know of no objection to the amendments. I urge their adoption.

Mr. DOLE. Mr. President, would the Senator yield? There are no objections to the amendments. I think they go a long way to clarifying some of the misunderstandings about these particular sections.

I would like, however, before they are accepted, to ask four questions which I think could be simply answered and which may clear up some further misunderstandings about what the committee may or may not have done and the intent of the bill.

I ask this question of the committee chairman. First, under the bill pending before the Senate, would a milk marketing cooperative be able to block vote for their members to put into effect a Federal class 1 base plan?

Mr. TALMADGE. Absolutely not. A class 1 base plan cannot be put into effect except by the individual vote of producers.

Mr. DOLE. That is my understanding. However, as I have said earlier, there seems to be some misunderstanding.

The second question relates to how many individual dairy farmers would be necessary or, in other words, what percentage would have to vote to create a Federal class 1 base plan?

Mr. TALMADGE. Mr. President, 66⅔ percent, the same as the law now provides.

Mr. DOLE. Mr. President, my third question concerns what official action must be taken by the USDA prior to the vote to approve a Federal class 1 base plan.

Mr. TALMADGE. They must conduct full hearings, determine that all provisions of the plan tend to effectuate the act, and the plan must be approved by 66⅔ percent of the producers, voting individually.

Mr. DOLE. Mr. President, if a farmer wants to drop his membership in a cooperative, does he retain his class 1 base plan arrangement or can he retain his base under the provisions of the bill pending before the Senate?

Mr. TALMADGE. Absolutely. The bill is very specific in this regard.

Mr. DOLE. Mr. President, I have discussed this particular question with the chairman of the committee. I understand it to be that way. There cannot be any misunderstanding as far as the committee is concerned. However, there apparently have been some.

Mr. TALMADGE. Mr. President, the first technical amendment I propose would clarify that misunderstanding on the part of some people. That was not in the bill. It merely clarifies the bill to make certain that there be no misunderstanding.

Mr. DOLE. Mr. President, I thank the distinguished chairman of the committee.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time and urge the adoption of the amendments.

The PRESIDING OFFICER. Does the Senator from Kansas yield back his time?

Mr. DOLE. 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 amendments en bloc.

The amendments were agreed to en bloc.

Mr. TALMADGE. Mr. President, I believe the distinguished Senator from Oklahoma has a further amendment of a clarifying nature that he desires to propose at this time.

Mr. BELLMON. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 8, line 8, immediately after the word "hearing" insert the following: "if the proposed amendment is one that may legally be made to such order".

On page 8, line 14, immediately after the period, insert the following: "The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within 90 days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.' "

Mr. BELLMON. Mr. President, at my request the Committee on Agriculture and Forestry added a provision to S. 1888 to require the Secretary of Agriculture to call a hearing on a proposed amendment to a milk-marketing order upon petition of 30 percent of the dairy farmers in the order area.

This proposal now at the desk makes two changes in that particular section of the bill.

First, it makes clear that the petition would be valid only if the proposed amendment to the order is legally permissible.

Second, it provides that the Secretary may not be required to call a hearing on any proposed amendment within 90 days after having announced a decision on a previously proposed amendment which is essentially the same in content.

Mr. TALMADGE. Mr. President, I have discussed the amendment proposed by the Senator from Oklahoma with members of the staff. I wholeheartedly agree that it would be foolish to the extreme to mandate the Secretary of Agriculture to call a hearing on an amendment that he could not lawfully implement.

I, therefore, urge the adoption of the amendment and yield back the remainder of my time.

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, again let me commend the chairman of our Senate Committee on Agriculture and Forestry, the distinguished gentleman from Georgia. The Honorable HERMAN E. TALMADGE for the excellent leadership he has provided within our committee in fashioning S. 1888, the Agriculture and Consumer Protection Act of 1973. He has, through his able and superb leadership, along with that of the distinguished Senator from Nebraska, Senator CARL CURTIS, and other members of the committee, done a good job in developing this historic piece of legislation.

Serving as I do both as a member of the Senate Committee on Agriculture and as chairman of the Consumer Affairs Subcommittee of the Joint Economic Committee, I can say that this proposed legislation serves both the interests of the farmer and the consuming public—both here in this country and throughout the world.

If ever there was a time in our Nation's history when the basic interests of both agricultural producers and consumers were parallel, it is today. The matter of reaching an agreement on national agricultural policy has never before been so important as it is today.

With 210 million people of this Nation and the hundreds of millions of people throughout the world depending upon the American farmer for adequate supplies of food and fiber at reasonable prices, it is imperative that our Nation's agricultural policy provide the necessary incentives to the farmer to produce those commodities. This means at price and income levels commensurate with costs of production, plus a fair return on investments and labor. Anyone wishing to compromise these basic principles, will have to answer sooner than they may think to the public for their failure to understand or properly represent the essential requirements of producing food and fiber in this Nation of ours.

As chairman of the Consumer Affairs Subcommittee of the Joint Economic Committee, I am actually aware of "consumer" concerns about recent increases in food and feed grain prices. Housewives are neither the first nor the only group that has felt the impact of these recent price increases. Farmers who feed beef cattle, poultry, hogs or dairy animals have felt them most dramatically. High protein feed ration costs have more than tripled in the last 6 to 8 months.

And as was pointed out in a study released through our Consumer Affairs Subcommittee earlier this year, the basic cause lying behind recent shortages of red meats, soybeans, feed grains, and wheat were: First, the corn blight of 1971; second, mismanagement of our farm programs subsequent to that event; and third, failure of our National Government to properly assess all relevant factors surrounding sales of wheat and feed grains to Russia last fall, particularly those factors relating to overtaxing our Nation's rail transportation system.

Providing for a proper supply balance of wheat, feed grains, and soybeans is essential to both our Nation's cereal industries and to our Nation's livestock and poultry industries. Failure to provide and maintain that balance undermines the basic stability of both supply and price of such commodities, which usually results in a speculators' field day and a consumers' nightmare with little or no benefits occurring to the individual producers of those commodities.

And also, let not the laboring man in Detroit, Rock Island or Houston forget for a moment that the biggest consumer of the products he produces, is the American farmer. To produce as efficiently as he does, the American farmer is our Nation's biggest consumer of steel, rubber, and petroleum, to say nothing of the huge amounts of chemicals he utilizes or the enormous amounts of credit he must have access to through our Nation's banking and other financial institutions, He may constitute a small percentage of our Nation's population today, but do not underestimate his importance to our national economy—or to our Nation's position in the world marketplace.

The American people pay a relatively small price for the abundant agriculture it enjoys today. American agriculture is over twice as productive as the nonfarm sector of our Nation's economy. The American farmer produces enough for himself and 51 other people. He has more than twice the invested capital per production unit than any other sector of our economy. And yet, the American consumer—even at today's prices—spends less of his disposable income for food than any other person in the world or in the history of mankind. Now I challenge any other segment of our Nation's economy to match those accomplishments—whether it be in the field of industry, labor, or services—Government or private.

Up until about 12 months ago, prices for most raw agricultural products had been averaging at 22-year lows—and they had been at those low levels for a long time. Yet I do not recall reading or hearing from any of our national news media on how either the farmer was being hurt by such low prices or how the consumer was benefiting. Silent. That is all. Now, however, with the American consumer getting a taste of scarcity, how do some areas of our national news media react? Rather than try to understand the real causes of this scarcity, they immediately want to throw 40 years of public policy which has created this incredibly productive industry right out the window.

The proposed Agriculture and Consumer Protection Act of 1973 is truly a major and comprehensive piece of legislation. It not only provides a new 5-year program for wheat, feed grains, and cotton but also extends for a similar period of time, our Nation's food stamp program, our Nation's food for peace program—Public Law 480—and the class I dairy program. It also extends the wool program for 5 years and repeals the wheat processor certificate requirement effective January 1, 1974.

The bill also provides a new forestry incentives program to help stimulate the development of forestry and forestry products on private lands. It provides for creation of a national transportation committee to monitor and recommend actions for avoiding and alleviating transportation crises of the type our Nation is now suffering as a result of earlier lack of planning. It provides for needed additional research concerning wheat, feed grains, and cotton. And it provides for added and needed emphasis on stimulating further expansion of our Nation's farm exports. It also contains provisions recommending that the President initiate action leading to an international agreement on grains involving both exporting and importing nations of the world.

While this bill, as it was reported by our committee, is in need of a few strengthening amendments—which I will comment on later—I want to make it very clear that I support this bill. I participated in many of the hearings held in connection with this legislation and in the committee's markup sessions. I understand its provisions and the reasons for their inclusion.

Let us first look at the dairy provisions in this bill.

There is controversy about some of these features. Therefore, let me help set the record straight regarding statements and charges that have been made against many of them. I do not question anyone's motives or their right to raise questions or concerns regarding provisions of this or any other piece of legislation, but I do wish to express my personal resentment when opponents to some of these provisions suggest or charge that I and other committee members did not understand what we were voting for—or that we did not believe in what we were voting for—or worse yet—that our motives in voting for these provisions were based upon something other than on the merits of each amendment as we saw them.

Each and every provision contained in this bill pertaining to dairy was examined and discussed by the committee before final adoption. Over 50 pages of testimony was presented in public hearings concerning these and other suggested dairy provisions. There were many provisions relating to dairy marketing orders that were recommended to the committee that were rejected. There were others that were accepted but modified. But there were none adopted that were not duly considered by the committee beforehand.

Despite the fact that these provisions and other dairy amendments were first proposed to our committee on February 28 of this year in public hearings—over 3 months ago—and made public through farm and dairy organization journals and newsletters, the charge has been made by some critics that "the Department of Justice, competing dairies and dairy farmers, and consumer groups had no opportunity to express their views on these proposals." Well, let any of them document an instance where our committee refused to hear their views. If they did not express their views, it was because they were asleep or because they do not follow or read the farm or dairy press, not because of any refusal on the committee's part to hear from them.

And speaking of the Justice Department, its record does not qualify it as a particular friend of the farmer. Show me one instance where it has tried to help or assist the farmer. When has it ever tried to move in and prevent big processors or buyers of farm produce from taking advantage of hundreds of individual farm producers.

Apparently it is alright for the Justice Department to take out after the laboring man and his unions, the farmer and his cooperatives. But for some strange reason, the Department of Justice does not seem overly concerned about our Nation being down to "three" big auto companies, or "four" big steel companies, or a handful of oil companies.

But as soon as a few thousand farmers get together to cut their costs and improve their marketing efficiency and to gain some bargaining strength in dealing with big processors or food chains, look out. The Justice Department is ready to sock them with an antitrust suit. One week, it has a suit against the National Farmers Organization, and the next it has a suit against one of the dairy cooperatives.

Well, let me set the Justice Department straight regarding the dairy provisions in this bill. First of all these amendments are supported not by just two or three big co-ops. They were proposed and supported by the National Milk Federation, which has 65 producer cooperatives as its members, some big, some small, from all over the United States. And as I recall, not one of these member coops of the federation dissented regarding these proposed amendments, whether the co-op was in California, Wisconsin, Florida, or Minnesota.

The provisions in this bill relating to dairy are basically designed to enable farmer-cooperatives working through marketing order arrangements to do a better job of moving milk where it is needed and when it is needed. In other words, to do a more efficient job in getting it to the housewife and consuming public in a timely manner.

Enactment of these dairy marketing provisions does not automatically make them part of a marketing order. In the case of those amendments included in this bill relating to Class I base plans, a referendum must be conducted with each individual producer voting whether he wants such provisions included in his marketing order plan. And I want to especially point to the fact that that vote must pass by a two-thirds majority.

In the case of the other amendments included in this bill relating to other types of marketing orders, a two-thirds vote also is required, although so-called "block voting" is permitted. Also it is important to understand here that the Secretary of Agriculture must hold public hearings preceding the holding of any referendum relating to the adoption of such provisions in any marketing order. In fact, the Secretary must be satisfied that following such hearings inclusion of such "proposed" provisions in any marketing order carries out the purpose of the Agricultural Marketing Agreement Act. If he decides that such "proposed provisions" do not meet that criteria, then the proceeding is stopped right there. And the hearings that are conducted in these instances are "public" hearings. Anyone—dairy farmer or housewife—living within the marketing area involved is welcomed and entitled to attend and speak their piece at such hearings.

And now let us examine the charge that the dairy marketing features in this bill would broaden coop exemption from anti-trust laws. Nonsense. They do nothing of the sort.

First, the Justice Department and others, should be reminded that what exemption co-ops have to anti-trust laws was spelled out and incorporated in the Capper-Volstead Act, which Congress passed back in 1922.

Not one of the provisions in this bill amends that act. I would like to further point out that under that Act the formulation of marketing cooperatives is encouraged—not discouraged. The following language, which appears in that Agricultural Marketing Agreement Act of 1937, further reflects congressional policy in this regard.

The Secretary, in the administration of this title shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

And then there is the general charge that adoption of these dairy marketing provisions will result in escalation of milk and cheese prices to consumers. Again, such a charge is simply not true. These marketing provisions have nothing to do with dairy product pricing to consumers. They are designed to give dairy marketing cooperatives an opportunity to further increase their efficiency in collecting, distributing, and marketing dairy products, an objective which helps to reduce—not increase—the price of milk to consumers.

Now let us examine each of these dairy provisions in detail—and on their merits. The explanation of each provision follows the sequence of appearance as shown on page 2 of the committee report:

First. Extends class I base plan authority, armed services' milk program and dairy indemnity programs 5 years.

This section merely extends for 5 years those dairy provisions which were in the Agricultural Act of 1970. It is the same extension as is granted other sections and commodities.

Second. Permits members' bases under a class I or seasonal base plan to be allocated to their cooperatives.

This is a controversial section. Opponents originally contended that a farmer turned his base over to a cooperative who could dispose of it—for gain—and do anything else they wanted with it.

This is not true. As is stated on page 27 of the report "The base would revert to the producer when he leaves the (cooperative) association." In other words, the cooperative has use of the base while they are marketing the producer's milk. Title to the base remains with the producer.

There are two benefits to such a proposal—one for the producer who holds the base; the other to the cooperative As an illustration, let us assume the cooperative finds a market for some milk outside the area—market order—for which the base applies. Under the rules for which bases are established an individual farmer would lose the right to have future base established on the milk which he sold outside of the market. In other words if he produced 500,000

pounds a year but 150,000 went to another market for future base purposes they would say he produced only 350,000 pounds.

If, however, this milk is sold on the other market by his cooperative he would still be entitled to credit for this in any new base. To that extent the producer fundamentally benefits.

The cooperative benefits by having an opportunity to more orderly market its members' milk. In the cited illustration they have a chance to make a good sale. But without this new provision whose milk should they move? Whoever they choose will be penalized in establishing future bases. With the new provision they could move whichever milk available to them was most feasible to move—closeness to the new market, et cetera—without worrying about penalizing any producer.

Again let me make it clear that it is not the intent of this section to take the base away from the farmer other than to assist in orderly milk marketing and that in effect title to the base stays with the farmer.

Third. Permits history represented under a cooperative, State, or Federal base plan to be considered as history under a Federal order class I base plan.

This section is slightly controversial. In many areas of the country, cooperatives have been operating a base plan, under which a producer has been asked to reduce his production in line with the local market needs. As new base plans are established under milk market orders it may be advisable to incorporate the old—cooperative—base plan into the new—market order—base plan. Certainly it makes little sense to have two plans functioning.

Again, a hypothetical example may best explain what this section is intended to do. Suppose you have two farmers in the market, one a cooperative member, the other not a cooperative member. Every year they each average 1,000 pounds of milk a day. Then in 1972 the cooperative sets up a base plan, setting bases at 80 percent of past production. The cooperative member then gets a base of 800 pounds and he reduces his production to it. The nonmember keeps on producing his 1,000 pounds a day. In 1973 a base plan is established under the milk marketing order, also calling for a base of 80 percent of production history.

The cooperative member says in effect "I have already cut my production 20 percent under our—cooperative—plan last year. Must I cut another 20 percent? That would bring my base down to 640 pounds while my neighbor who never cut his production and is causing this problem will get a base of 800 pounds."

The new provision recognizes the existence of such a situation and allows recognition for the history used in establishing bases under the cooperative plan.

Fourth. Permits the orderly phasing out of prior cooperative, State, or Federal base plans.

As indicated above it does not make sense to operate two base plans in the same market. If a base plan is set up under the milk market order this permits procedures to phase out the old—cooperative—base plan in an orderly manner.

Fifth. Makes it clear that the return to a producer for milk in excess of a class I or seasonal base may be fixed at a rate below the lowest class price.

This section is somewhat controversial primarily because it is not well understood.

Under market orders buyers of milk from farmers pay for that milk on the basis of how they use it. Normally class I is milk going into bottle use and class II is in other manufactured products. This method of payment is not changed by this new section. In other words it will have absolutely no effect on the price to the consumer, nor will any milk dealer get a windfall.

Under a base plan from all the money which buyers pay into a market pool payments are made to farmers for milk which is base milk and for that which is overbase milk. Existing law however says that overbase milk cannot be priced any lower than the lowest class price on the market.

The intent of a base plan is to discourage production of milk beyond that which is needed for the market. The present limitation—on overbase milk—hampers reaching this objective.

Perhaps overbase milk is priced at $6 and base milk at $8 at the present time, but the farmers feel they can still produce this extra milk for $6 so they do not reduce production. However $6 is also the lowest present class price on the market so that price presently cannot be reduced.

Perhaps the overproduction could be reduced if this overbase price was set at $4. The new section would permit this to be done. In that case the base price would also go up, because all of the money which dealers have paid in will be paid out to the farmer. In other words it is a different cutting up of the pie.

Some have expressed the concern that the Secretary of Agriculture could set the overbase figure ridiculously low—such as at 5 cents a hundred pounds—permit me again to point out that these provisions become effective only after the farmers who ship their milk to that market approve them by a two-thirds vote.

Sixth. Permits issuance of manufacturing milk orders without minimum price provisions, and provides for price posting in manufacturing milk orders which do not provide for minimum prices.

Presently the interpretation is that minimum prices must be established in any milk order which is set up. For milk used strictly for manufacturing purposes—butter, cheese, and so forth—such as is found in Wisconsin, Minnesota, and Iowa, minimum prices are impractical because such milk is used for products which move nationally, thereby sort of automatically setting a minimum national price.

However there are other features of milk orders which are desirable. Weights and tests are checked to assure that farmers are paid what they are told they are paid. Manufactured milk producers have wanted an order to get these benefits. This provision would permit it. The dealer would, however, have to publicly announce his price and the order administrator would determine that farmers were paid accordingly.

Cost of operating such an order is borne by the milk involved. It is not an expense of the Federal Government. This is also true of all other orders.

Seventh. Permits milk orders under section 8c(5) to fix minimum charges for services performed for handlers—to assure that minimum price guarantees will not be impaired.

Smaller cooperatives will probably benefit the most from this. As we have pointed out present orders are set to establish minimum prices. However through the years the milk handlers have obliged the cooperatives to provide certain services for them.

Instead of taking milk every day they may now want it only 3 or 4 days a week. When milk is in long supply in the spring they ask the cooperative to move the excess, et cetera. Such services cost money, and in some instances the cooperatives are expected to provide them to dealers without compensation. As a result the minimum price which the order establishes is not met.

For example, assume the minimum price established for a market is $7 but it cost 15 cents to provide services to certain dealers. That dealer is in effect not paying the minimum price; he is paying 15 cents under it and the farmers to that extent—who must pay these costs through their cooperative—are underpaid.

This provision permits the fixing of minimum charges for this type of service. Here again such charges are established only after a public hearing, after USDA approval and after an affirmative two-thirds vote of the farmers involved.

Eighth. Permits location differentials used in computing minimum prices paid by handlers to differ from those used in computing producer returns where appropriate to direct the flow of milk.

This is an extremely difficult one to explain but it is very helpful in the orderly marketing of milk.

In every milk order there is now one prime pricing point, usually the biggest market—Chicago, Twin Cities, et cetera—as one moves away from that point the price a farmer gets is lower because of the cost of moving that milk to the major market.

A good illustration is Milwaukee and Chicago. The price to farmers for milk at Milwaukee is 4 cents less than at Chicago—even though they are in the same order—fundamentally because it would cost 4 cents to truck it from Milwaukee to Chicago.

This is basically a part of every order and has much more logic to it than we recite here.

The proposal in the bill would not change that pricing method.

However, let us assume that suddenly there is need for more milk so that some milk going to Chicago has to be "moved backward" into Milwaukee. The farmers whose milk would be involved object because they are going to get 4 cents less.

This provision would permit special

adjustments in the rates of payment to farmers in such cases without completely disrupting the regular pricing relationships on the market.

Ninth. Makes it clear that the provisions for assurance that handlers pay for milk purchased by them is applicable to such payments to cooperatives, and permits milk orders under section 8c(5) to provide for payments to cooperatives for marketwide services performed by them—such as furnishing facilities, regulating the flow of milk to the market, absorbing surplus milk, et cetera.

This section is controversial.

In some ways it is similar to item (7) except that the services are provided marketwide and, in the method of accounting in milk market orders they are charged against all producers in the market.

In various markets services are carried out by cooperatives which benefit all producers in the market. They may for example, have the only facility for handling surplus milk, whether this surplus accrues on weekends or in the spring flush. Therefore, when milk is diverted to such a plant, though it be co-op milk, it has cleared the entire market of the surplus.

This proposal is based on the principle that whenever "everyone benefits everyone should pay." It is no more nor less than that.

Two arguments seem to have been raised. One is that not all such services may be marketwide in scope. Here again we must point out that this proposal is only permissive—as are all the others on market orders—and that the determination of whether or not a service is marketwide would have to be determined by public hearing, USDA approval and farmer ratification by a two-thirds vote.

The second argument is that this becomes a sort of a "union shop" and that farmers must pay to the cooperative even when not members. Again this would apply only to those services for which all producers benefit. As the committee report clearly states—page 30—"This amendment is intended to provide that producers who are not members of the cooperative bear a proportionate share of the cost of the cooperative's activities that have benefit to all producers." It clearly does not oblige nonmembers to pay for all services of the cooperative. In fact the bill itself excludes certain services—economic, educational and legal. Cooperatives may—and likely do—have many other services, such as contributing to advertising programs, et cetera. Under this provision nonmembers could not be charged for these. It is strictly limited only to those activities involving the product—milk—and only to those which benefit all producers.

Tenth. Provides authority for standby reserve pools supported by payments from one or more orders which would supply milk when needed to such order areas.

This is controversial and has been badly distorted particularly by the Justice Department.

Presently there are certain areas, such as Florida, which do not have adequate year-around supplies of milk. When milk gets short, usually in the fall, they used to have to scramble around all over the country to get the milk they needed.

Under the standby pool however, the cooperative associations in an area of that type contract with cooperatives in the surplus milk areas to have their milk "on call" when the short supply market needs it. Producers in the short supply area pay a couple of cents—currently 2.25 cents—on their class I sales which goes to producers in the contracting cooperatives in Wisconsin and Minnesota. Under this agreement the short supply areas have "first call" on milk from the cooperative plants with which the agreement is made. During the remainder of the year they can run it through their local butter and cheese factory.

Under it both groups benefit. The producers in the surplus area get a premium over what they would get if their milk was on call. And the short supply area is assured of a supply of milk.

For some unknown reason—or is it the Justice Department comment—this has been painted as a device to pay farmers to keep their milk off a market. Actually it is just the opposite. It is to pay them to have their milk on the market when it is needed.

It is just good business. This section would permit it to be formalized under Federal orders; currently it is run by the cooperatives.

Eleventh. Requires a hearing on a proposed amendment to a milk order if requested by one-third of the producers.

Currently the Secretary of Agriculture can, on his own volition, deny a hearing to be held under a milk order. Sometimes there is good reason to do so. Action may just have been completed on something very similar. Or the petition for a hearing may involve proposals which are clearly illegal under milk orders. However, late last year—primarily we think, because of public concern over rising food costs—the Secretary of Agriculture denied a number of hearings to consider emergency price increases—as feed and other farm costs soared.

This proposal would require hearings to be held if one-third of the affected producers so petition.

Twelfth. Enlarges the criteria for determining minimum prices under marketing orders and support prices to include assuring a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

Presently in setting prices under milk orders and in establishing the price support level the Secretary of Agriculture gives almost exclusive consideration to the current adequacy of the milk supply.

This proposal would oblige him to consider the future. Is farm income adequate to continue an adequate supply? What are future needs?

Thirteenth. Provides milk price support at not less than 80 percent of parity for current marketing year.

The Secretary of Agriculture has set price supports at 75 percent of parity—$5.29—on April 1. Milk production is dropping alarmingly; costs have soared, but further adjustment after April 1 is not required of the Secretary.

Actually the current market price is approximately 80 percent of parity so this move would not materially affect existing prices—only a few cents if at all. However, it would give farmers assurances against further efforts to drive his prices down, such as the Cost of Living Council indicated was behind the recent nonfat dry milk import move.

Fourteenth. Makes the suspension of the butterfat support program and addition of the new price support criteria described in item 12 permanent.

Under the 1970 act the price support level for butter can be set at less than 75 percent of parity provided the "mix" of support prices for all three supported commodities—butter, nonfat dry milk, and cheese—is above that level. This provision makes that feature permanent.

Fifteenth. Extends the dairy product indemnity program to cover cows and to other environmental pollutants contaminating cows or milk.

This provision merely extends existing provisions of law and further extends indemnity coverage to include cows, the latter feature being provided in an effort to reduce indemnity costs to the Government. Rather than continuing to indemnify a farmer for destroying contaminated milk emanating from a contaminated cow, it is often far more economical to indemnify the farmer for destroying the cow.

Sixteenth. Restricts foreign imports of dairy products into the United States to 2 percent of domestic consumption and provides for U.S. dairy producer associations to participate in further expansion of such imports.

This provision is designed to provide the dairy farmers of this Nation with some minimum protection from foreign countries dumping wholesale amounts of manufactured dairy products onto the U.S. market which could do severe economic harm to our own dairy industry. Current levels of dairy imports have been running about 1½ percent of domestic consumption. Therefore this provision in the bill does not unduly restrict further imports. This particular provision in the bill also provides authority to the President to exceed the 2-percent level whenever he deems such additional imports to be of overriding economic or national security interests to the Nation.

Given the fact that most all dairy imports coming into the United States are heavily subsidized by the exporting nations supplying them, I believe the 2-percent limitation is a reasonable guard against "dumping" whether initiated by exporting nations or inspired by our own Government.

Now, Mr. President, I would like to turn my attention to what I consider the most important provisions of this legislation, namely those relating to our basic wheat, feed grains and cotton programs. Under this bill a new target price system is designed to provide for no Government payments to producers of these commodities if the average market price

for them during the first five months of the marketing year is at or above those levels specified in this bill which are: $2.28 per bushel for wheat; $1.53 per bushel for feed grains; and, 43 cents per pound for cotton. These price levels represent only 70 percent of parity as of May 1973.

Under existing programs for these commodities, producers are guaranteed a minimum payment-certain regardless of the level of average market prices. And of course, market prices for all three of these commodities presently are well above the so-called target levels specified in this bill. The same is true with respect to present prices for these commodities as they are being traded in the "futures" market.

While our Nation is expecting record crops of wheat, feed grains and soybeans this fall, USDA also is projecting another record domestic and export market for these commodities during the forthcoming marketing year. Wheat producers I am told, in the High Plains can contract new crop wheat today for $2.50 per bushel, well above the target price for wheat specified in this bill.

In short, Mr. President, if such market forecasts for these commodities continue in future years there should be little or no Government costs incurred with respect to these programs.

If, however, markets do not remain relatively good, or if producers are asked to overproduce by their Government in order to lower prices they receive for their commodities, then the Government would have to provide a differential payment to them in an amount equal to the difference between the target prices specified in this bill and the average price they received in the marketplace during the first 5 months of the marketing year.

This, simply stated, Mr. President, is what I call "sharing the risk." Instead of farmers being asked by their Government to accept or assume all the risks of the marketplace—both international and domestic—the Government would help share that risk. In return for sharing that risk with the producer, the Government can more legitimately ask the farmer to produce at levels determined by the Government to be needed to meet both domestic and export demands.

This new target price system also provides for adjusting subsequent year target price levels based upon changes in farmers costs of production, including wages, interests and taxes paid. Again, this is provided as a matter of simply equity and fairness. Farmers should not be expected to absorb production costs increases while laboring people are assured minimum wages, cost of living pay increases, or while other industries are permitted to pass on their increased production costs to the consumer.

In short, this new system provides basic minimum protection for the farmer while making it possible to encourage him to produce abundantly for domestic and world needs. Two other significant provisions of this bill are those extending our Nation's food for peace program—Public Law 480—and those relating to pursuit of a world grains agreement among exporting and importing nations.

It is a very special pleasure for me to be able to speak once again on the food for peace program, because it is a program which I had the privilege of authoring back in 1954. Over the years this has been one of our most successful means of aid to the less developed countries of the world. We have been able to proudly watch many countries through the Public Law 480 program get "on their feet" in an economic sense and become major cash customers for our agricultural output. Japan, Italy and Spain for example, were all former Public Law 480 recipients which currently are large commercial importers of American farm products. In addition to the outstanding success of the program in helping to build commercial markets for U.S. agricultural exports, the program has played a central role in combatting hunger and malnutrition abroad in supplementing other congressional appropriations for economic development. Under title II of the program hundreds of thousands of lives have been saved through emergency food aid. Most recently millions of refugees were provided urgently demanded food during the India/Pakistan war, and the program now helps supply the acute food needs of the new Bangladesh state.

It is then with great pride in the program with its outstanding record of achievement that I ask for the extension of the Public Law 480.

Section 812 of the bill provides authority for and recommends that the President initiate a conference of the major grain importing and exporting countries of the world, including the Soviet Union and the Peoples Republic of China, for the purpose of negotiating an agreement to provide for the stability of world trade in grains and a reasonable and deserved margin of security for the people involved in the grain production.

Primary commodities, of which grain is one of the most important, present special difficulties in international trade. The conditions under which they are produced, traded, and consumed are characteristically affected by persistent disequilibrium between supply and demand and wide fluctuations in price levels. Therefore, it is understandable that commodity agreements have found increasing acceptance among both exporting and importing countries as more and more of them are committed to improvement of consumers' interests and to policies which give farmers some assurance that they would not be wiped out by the whims of market forces far beyond their control. Major changes in world demand can occur precipitously creating short-term market shifts that cannot be foreseen in advance. The ability of the farmer then to gain a reasonable return for his output may be dependent on the weather and its effects on production on the other side of the world. And some of us are just not as ready as the USDA to gloss over the element of erratic weather conditions as only a temporary problem. These concerns made all the more significant with the recent dramatic increase in the volume of grains moving through world markets have presented the need to adapt the marketing and distribution of these commodities to these "facts of trade."

Critics of commodities agreements have yet to produce evidence that reliance on free trade principles alone is an answer to market stability. Left unanswered is the question of how to deal with the increasing practice of governments to institute policies of agricultural price supports and subsidies for exports all of which greatly distort any hopes for a "free market."

Despite a number of unsuccessful agreements whose remains have littered the world trading scene, there remains the compelling need to stabilize world markets for grain trade. There remains quite a few examples of achievements which urge the conclusion that such arrangements contain the possibility of achieving stable world markets, provided the conditions of the arrangement are observed. The most recent grains agreement which was completed in 1971 was found ineffective because it lacked substantive provisions for maximum and minimum prices and for reciprocal supply and purchase obligations. The lack of such provisions was a matter of serious concern for many Members of Congress. The Senate before ratifying the 1971 agreement, adopted a joint resolution by unanimous vote calling on the President to seek to negotiate substantive provisions in that agreement. The administration, however, has chosen to ignore this resolution.

The seriousness of the present world grain situation presents such uncertain trade conditions that most major trading nations have indicated an interest in renewed grain negotiations toward a commodity agreement.

And without heavy stocks presently hanging over the market, in any of the principle producing nations, a condition which was not present at previous negotiations and one which is generally detrimental to successful negotiation of an agreement, the outlook for few negotiations could not be better.

The stake of American farmers in an effective international grains agreement is now more real and more significant than ever before in our history. For in the years ahead, the price that farmers receive for basic commodities will be very substantially dependent upon the price levels that prevail in the world market. For the present and for the foreseeable future, the American farmer will depend for his livelihood most of the time upon the price that his product commands in world trade. It then remains our responsibility to give the American farmer minimum level of income security and the American consumer an adequate and reliable source of food.

Other important provisions of this bill include:

First. A provision requiring the Council of Economic Advisers to analyze and report quarterly to the President and to the Congress on all happenings that either occur or that are proposed to occur that may affect the ultimate cost

to the consumer for food and fiber. Most costs that are charged eventually to the consumer for his food and fiber are nonfarm related. Unfortunately, however, many people today fail to understand this fact of life. I would hope these new reports that are called for will set the record straight in that regard by reflecting everything—not just some things—that affects the ultimate costs to the consumer.

Second. A provision establishing a national transportation committee charged with the responsibility of avoiding emergency situations such as the one we are now experiencing as a result of last year's sale of grains to Russia.

Third. A requirement that all exporting firms applying for export subsidies register their sales with the U.S.D.A. for publication within 72 hours following such sales. This again is designed to avoid some of the problems we experienced as a result of last year's Russian grain sale, when many farmers and domestic buyers were hurt due to the lack of adequate export sales information.

Fourth. Authorization for the establishment of new forest incentives program designed to provide cost-sharing to small private forest owners to assist them with reforestation and development of their forestry resources in an effort to provide increased lumber supplies for the Nation, and

Fifth. Extension of our Nation's food stamp program for 5 years which is so essential to meeting the basic nutritional requirements of millions of low-income families in our Nation. In addition to extending existing provisions of law concerning this program, this bill also contains amending language to restore benefits under this program to old age beneficiaries, the blind and the disabled which were removed by H.R. 1 last year.

In addition to the many provisions of this bill that I have commented on, there are more which are covered in detail in the committee report which I commend to the attention of my Senate colleagues.

While I am proud to have played a part in drafting and putting this historic piece of legislation together with my committee colleagues, the bill still lacks a few provisions which I feel are essential to the overall welfare of American agriculture and of the American public. I am referring to three amendments which I will offer at the appropriate time during Senate deliberation on S. 1888.

The first amendment will deal with the establishment of a national inventory of wheat, feed grains and soybeans to protect domestic users and consumers of these commodities from shortages and extremely high prices. This amendment will also protect farmers against plummeting prices during periods of overproduction and from capricious dumping of commodities by the Commodity Credit Corporation.

The second amendment provides authority for the Secretary of Agriculture to initiate multi-year contracts for the establishment of vegetative cover for acreage set-aside under the wheat, feed grains and cotton programs. Millions of acres of farmland stand idle and without adequate cover each year which creates loss of soil, water sedimentation and wildlife. The amendment that I will be offering in this regard is needed to meet these basic objectives, which the committee bill does not do in its present form. Senators cosponsoring this amendment with me include most of the members of the Senate Agriculture Committee and many other Senators.

The third amendment that I will be offering will require the Secretary of Agriculture to provide recipients under the Government commodity distribution program with a basic diet of foods whether such foods are in surplus or not. He would be required to go out and buy those food items to meet the requirements whenever such foods were not available through surplus disposal programs.

Mr. President, I want to go on record once again as strongly favoring the provisions of this bill. The provisions of the bill, along with my amendments which I have presented at the desk, will provide this Nation, in my judgment, with the basic programs and policies that it must have in order to continue to supply the people of this Nation with the food abundance to which they are accustomed and to which they are entitled.

The American public owes a great debt of gratitude to the farm families of this Nation for providing them with the highest quality and variety of foods provided to any people anywhere in the world, and, might I add, at prices that are reasonable.

I, therefore, urge my Senate colleagues to support this bill, and I shall call up certain of my amendments which have been presented that relate to vegetative cover for set-aside acreage, food reserves, and proper nutrition, and hope that they might be included in the ultimate decision of the Senate with respect to this measure.

AMENDMENT NO. 196

I now send to the desk an amendment on behalf of myself and Senators KENNEDY, CASE, and MCGOVERN, to assure the national integrity of the Federal surplus commodity program.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. DOLE. Mr. President, I yield myself 2 minutes.

First, Mr. President, I certainly would commend the chairman of the committee, the distinguished Senator from Georgia (Mr. TALMADGE). Like all members of the committee, I have been serving on House and Senate Agriculture Committees now for my 13th year, and I do not recall a session, when we were trying to reach agreement on a farm bill, where we have had more unanimous agreements and more good discussions than this year, in discussing, considering, and finally approving unanimously the 1973 farm bill.

Mr. President, within 10 days the combines will be rolling in the Kansas wheat fields to harvest the reported 353.3 million bushel crop.

For the next 60 days following that harvest, the farmers will be plowing their lands in preparation for planting the 1974 winter wheat crop in September and October.

By July 1 these farmers need to know the provisions of the 1974 wheat program if they are to make their plans for preparation of a seedbed and planting. While the present farm program does not expire until December 13, these wheat farmers need to know now what the new farm legislation will be.

I would hope that we learned a lesson from the Agricultural Act of 1970 which was passed in November of that year, 60 days after the winter wheat crop was planted. Winter wheat farmers were unable to take advantage of the flexibility of the new program until the following year with the crop they harvested in June and July 1972.

This need for advance knowledge and leadtime for decisionmaking is the primary reason I urge my colleagues in the Senate to take prompt action on this legislation and provide winter wheat farmers the planning time we afford farmers producing other crops.

When the Senate Agriculture Committee commenced work on this legislation February 27, the chairman announced a goal of having the bill through Congress by the 1st of July. I congratulate him on maintaining a rigorous effort to accomplishing this goal, and I, for one, believe it is attainable.

SET-ASIDE PROGRAM ACCEPTED

During the past 3 years, farmers in Kansas and in many other States I have visited have voiced their approval of the present set-aside farm program. They particularly like the options it gives them to plant whichever crop they determine will provide them the best income.

Since February 27, we have heard testimony from 300 witnesses, most of whom were actual crop-producing farmers. Nearly every witness testified in support of the set-aside program and its flexibility.

They welcomed the chance to get out from under the cross-compliance of previous programs that required that they plant a particular crop in order to preserve their usual allotment.

That was the background against which Senator MILTON YOUNG, Senator CARL CURTIS, Senator GEORGE AIKEN, Senator JAMES EASTLAND, and I introduced S. 517, the original bill to simply extend the present program for 5 years.

I want to emphasize at this point that this is still the main thrust of this legislation, for it does provide a 5-year extension for: The set-aside concept for wheat, feed grains, and cotton; the dairy program; the wool program; and the food-for-peace—Public Law 480—program. Through committee considerations, we also added extension of the bee indemnification program and the food-stamp program.

THREE-YEAR PHASEOUT

Much to the disappointment of the committee members, the administration indicated its desire that the income supplement payments to farmers be phased out over a 3-year period. That is to say, payments made for idling acres from

production would be segregated and maintained, but that portion of payments made to farmers over and above the price received in the marketplace would be eliminated in 3 years. Such a program would have affected mainly cotton and wheat programs, since payments in the feed grain program were made to control production.

Based on testimony presented at committee hearings and from contact with our constituents, committee members were unanimous in opposition to this proposal.

Repeatedly the administration contended its justification for this phaseout proposal was the expectation that worldwide demand for food will continue to expand and that our farmers will continue to receive the best prices in history for their crops.

THE TARGET PRICE CONCEPT

I concur in these optimistic forecasts. In fact, at the annual meeting of the National Farmers Organization in December 1971, I predicted that agricultural exports would exceed $10 billion by 1980. I believe we are on the threshold of further expanding exports. Recent hearings on the worldwide demand for agricultural products by the Subcommittee on Foreign Agricultural Policy support this optimism. Every member of the Senate Agriculture Committee believes that the future is, indeed, bright for exports.

But with all due respect for our ability to foresee and predict this continued expansion, we cannot ask our farmers, who still live on only 83 percent of the income enjoyed by nonfarm workers, to assume all the risk.

When Senator MILTON YOUNG presented his target price concept, it was closely evaluated and accepted by all committee members. Essentially it provides that if these prices are not maintained, the farmers will receive payments to make up the difference between the target price and the market price. Through this change in the method of payment to participants in the set-aside program, income supplement payments will be phased out in direct proportion to the accuracy of the Government's prediction that market prices will stay at higher levels. If those predictions are wrong, however, the Government will share the risk with farmers.

The flexibility of the set-aside program will be maintained to the benefit of the farmer, and yet it will also serve the Department of Agriculture as a control on overproduction that would depress prices through accumulated surpluses.

Mr. President, I believe that—in the face of increasing worldwide demand for more and improved food—this new target concept, coupled with the flexibility of the set-aside program is truly a step ahead in the future of this Nation's agriculture—especially for the farmer.

Our farmers do not want farm payments from the Federal Treasury. They would rather receive their income from the marketplace. This program provides the incentives to accomplish this goal—incentives for the farmer to produce adequate supplies at a fair price—incentives for the Government to maintain exports and control production to minimize Federal expenditures.

Mr. President, I recognize that there are some changes and additions made in this bill that are questioned by other Members of this body, but I am confident these differences can be worked out shortly. I urge my colleagues to support the bill and act promptly for the benefit of our farmers and the Nation.

Mr. President, I would briefly like to comment on several additional provisions of the bill.

PAYMENT LIMITATIONS

Only a few Kansas farmers receive payments in excess of the present $55,000 limit, but I opposed the adoption of that limitation because it might be taken by some as a signal of the gradual decline of the farm program in general. But more importantly, it could have the effect of forcing the large farmer out of the program, thus weakening the effectiveness and purpose of the whole program.

Some now favor lowering the maximum payment limitation even further. I would recommend the present limitation be extended. Any additional reduction would work against the purpose of the bill. This proposition will face considerable discussion in the House of Representatives, and any differences could be well arbitrated in the conference committee.

DAIRY AMENDMENTS

Mr. President, I recognize that some of the amendments to the dairy title are under criticism. I would attempt to bring some clarity to the confusion that has been generated over these considerations.

First, it should be recognized that operating a dairy farm is one of the hardest jobs there is, and even with all the technological improvements and mechanical developments, the cows still have to be milked twice a day, 7 days a week, 365 days a year. And the margin on which a dairy farmer operates is seldom sufficient for him to hire someone to do the milking. In 1950 twice as many cows were producing milk as in America today.

In Kansas, for instance, there has been approximately a 3-percent reduction in the number of dairy cows each year, a drop of 40,000 milk cows in the past 10 years. But milk production needs have been met through increased output from the remaining cows; although, under the pressures of rigid price structures and rising costs dairy farmers are dispersing their herds at an increasing rate and converting to calf production, because they can make more money with less work in that type of operation than in dairying. A prime example of these cost increases can be seen in soybean meal, a major ingredient in dairy livestock feed, which in the past 18 months has increased from $70 per ton to $385 per ton, and some recent reports indicate if has gone for $400 per ton.

As with other perishable commodities, milk is sold for whatever the farmer can get in the market. The individual farmer does not have any means to increase the price he receives, even though his costs increased dramatically. However, in recent years many farmers have organized cooperatives to process and market their milk production. Through this effort they have been able to market their milk more efficiently and have improved their incomes somewhat; however, the loan level for milk is still a major factor.

In the State of Kansas there are 12,563 dairy farms. Eighty-nine percent of these dairy farmers market their milk through dairy cooperatives.

If we expect to have an adequate supply of milk in the future, we must provide milk prices at sufficient levels that will provide incentives to dairy farmers. And we must protect our dairy farmers against excessive dairy imports. The dairy provisions in this bill provide for an increase in milk price supports for the remainder of this year and impose a limit of 2 percent of the prior year's domestic consumption on the amount of dairy products that may be imported. These provisions are essential to keep our present dairy farmers in business.

FOOD FOR PEACE

This bill will extend the food for peace—Public Law 480—program for 5 years.

Food for peace is one of America's great success stories, and it is uniquely American. Those who have studied and admired the food for peace program initiated by President Eisenhower in 1954 have quickly recognized it had a much broader significance than as a mere means of surplus disposal. It was recognized early in the program that it could be used to advance the foreign policy of the United States.

When he signed the law, President Eisenhower emphasized the purpose of the program as supporting U.S. foreign policy and expansion of our agricultural trade. Yet to this day too many people still tend to think of the program merely as a means to dispose of surplus. It is more accurate, however, to think of it in Ike's terms, as an element of our foreign policy designed to serve America's humanitarian goal of improving the quality of life for millions around the world.

In considering the food for peace program we should take into account the following major benefits at home and abroad:

First, it generates higher income for our farmers, processors, and exporters, and increases tax receipts for the Government.

Second, it increases employment, both rural and nonfarm.

Third, it produces CCC inventories and, along with them, storage income in the private economy.

Fourth, it increases the volume of agriculture commodity processing, especially that of wheat to flour and soybeans to meal and oil.

And, fifth, it improves the health of those who receive the foods and fosters better international relations.

It is well that this program be extended. Two improvements proposed in the bill would enable participation with Communist nations when they qualify under other criteria, and would promote

cash sales of commodities to nations receiving donation assistance under title II.

Extension of this program will provide a valuable tool for future market development of underdeveloped nations.

CHANGE IN AVERAGE PRICE

This past year some of our wheat farmers were unable to take advantage of increased prices resulting from expanded exports. They received an advance partial payment of $1.28 on the domestic certificate, fully expecting to receive an additional 37-cent payment in December on their domestic production. With constant and rapidly increasing prices, the 5-month average was greatly increased and the final December payment was only 8 cents per bushel.

A provision of this bill would change the computation of the 5-month average to a weighted basis, whereby grain sold early at lower prices would affect the average price more than the relatively small quantity sold in the later months at higher prices. It is hoped this computation will protect the farmer against the adverse position in the future.

SUMMARY

Mr. President, I would summarize the reasons for my support of this legislation as follows:

There is a worldwide thrust to improve the diets of all people. While our demand for red meat has nearly doubled in the past decade, we find that Europe and the U.S.S.R. have increased their per capita consumption from 63 pounds to 89 pounds—a 41-percent increase. Japan has increased its per capita meat consumption two and one-half times. This trend to higher protein-content diets has kept pace with the growing affluence of these nations. Most nations are making plans to expand their livestock production. Expansion of livestock production means an increase in demand for soybeans and feed grains, for no nation other than the United States has the proven ability to produce these commodities. This bill provides incentives to the farmers, to the grain trade, and to the processor to supply this increasing demand and at new higher world prices, with less cost to the taxpayer.

Farming is a big business. The average farm operation today is valued at over $200,000. As long as the farmer is dependent on and has no control over the prices paid in the marketplace, he needs the assurance this bill provides to protect him against disaster. The bill provides that the Government—or the people of the Nation—will share the risk he is taking with such a large investment. If our projections are correct, the incentives provided will eliminate the cost to the taxpayer.

I would only stress, as has been stressed by the Senator from Oklahoma, that I think time is of the essence, because the harvest is now underway in the State of Texas, and before long the combines will be rolling in Oklahoma, then in Kansas, and so forth.

The last farm bill that was passed, in 1970, was passed 60 days after wheat planting time in the State of Kansas, and I think the early consideration of this farm bill will be very beneficial.

Again, let me stress that it has been accomplished through the efforts of the committee chairman and all members of the committee, who understand the importance of the enactment of legislation of an early date.

As the distinguished Senator from Minnesota has indicated, he has amendments. I have amendments, one of which would extend certain portions of the wheat program, which I hope will be accepted.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged against the bill on either side for the remainder of the day.

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

JOHN F. KENNEDY COLLEGE DAY

Mr. CURTIS. Mr. President, let me take just a minute or two to inform my colleagues of the significance of this day. In Nebraska, this is John F. Kennedy College Day.

The honor, I believe, has national significance, because the college's women's basketball team, the Patriettes, has been selected by the U.S. State Department to travel to the Peoples Republic of China commencing on June 11. The Patriettes will be accompanied in this good will mission by an all-star amateur men's team, to be coached by Gene Bartow of Memphis State.

It is a terrific thrill for a college of this size. John F. Kennedy College in Wahoo, Neb., the first 4-year liberal arts college to choose the name of our former President, first opened its doors in 1965 to fewer than 200 students. Now nearly 400 students are taking advantage of a first-class educational experience in this small, midwestern city.

Though the college is fully dedicated to the value of an intellectual education, the belief on that campus exists that total development for college students requires physical fitness in the true John F. Kennedy tradition.

And so, Mr. President, it comes as no surprise to me that the Kennedy College women's basketball team is being honored in this extraordinary way.

This past year the women's team won the national AAU title for a second straight year. In doing so, the Patriettes finished with their best season record to date, 34–7.

The winning team—not an unusual entity in Nebraska you know—will leave Omaha June 11, next Monday, and arrive in China 2 days later after a stopover in Los Angeles. The tour will consist of eight games in a 21-day span. The Kennedy girls will also give demonstrations on workout and training techniques.

According to Mike Bernard of the college, the trip might be termed "a sport and training technique international exchange program."

Th games will take place in various cities, including Peking, Canton, and Shanghai.

According to reports I have, Mr. President, the girls on the squad are about four steps above cloud nine. They realize they have been selected from over 2,000 other colleges and universities in the United States.

Squad members representing our country on this trip include: Barbara Wischmeier, Linda White, Gail Ahrenholtz, Diana Reviello, Juliene Brazinski, Joyce Stephens, Mary Nelson, Nita Stephens, Barb Hill, Jaci Junkman, Dea Martin, and Deb Croft.

They will be accompanied by student manager, Kathy Leu, and their hard-working coach, George Nicodemus.

I am extremely proud of them and know Senators will join me in wishing them the best of luck.

Mr. President, our country will be represented on this international tour by the finest specimens of American young womanhood, and we believe much good will come from this trip. I want to say also, Mr. President, that I fully expect this team to win all its games, and I will look forward to so reporting to the Senate.

ORDER TO HOLD HOUSE JOINT RESOLUTION 533 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as House Joint Resolution 533 is messaged over from the House of Representatives, it be held at the desk.

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

ORDER FOR ADJOURNMENT UNTIL 10:45 A.M.

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:45 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS CLARK, EAGLETON, STEVENSON, MATHIAS, ROTH, JAVITS, GRIFFIN, AND ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. CLARK, Mr. EAGLETON, Mr. STEVENSON, Mr. MATHIAS, Mr. ROTH, Mr. JAVITS, Mr. GRIFFIN, and Mr. ROBERT C. BYRD, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes.

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

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning busi-

ness tomorrow, the Senate proceed to the consideration of the conference report on the Public Works and Economic Development Act, and that there be a time limitation of one-half hour thereon, to be equally divided between and controlled by the distinguished senior Senator from West Virginia (Mr. RANDOLPH) and the distinguished senior Senator from Tennessee (Mr. BAKER).

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

ORDER FOR RESUMPTION OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the conference report tomorrow, the Senate resume the consideration of the unfinished business, S. 1888.

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

INFLATION

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Mississippi (Mr. STENNIS) I ask unanimous consent to have a statement by him printed in the RECORD.

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

STATEMENT BY SENATOR STENNIS ON INFLATION

EXTREME INFLATION ROBS US ALL

We now have excessive and unacceptable inflation which eats up our earnings and our pay checks faster than we can earn them. Prices are going up at a dangerous rate. It is this inflation, as I see it, which is at the heart of most of our present economic problems. I know that economics is a difficult and complicated subject, but it doesn't take a computer or a financial wizard to tell a housewife or a breadwinner that prices are increasing at such a rapid pace that it is impossible for the great majority of our citizens to increase their income enough to keep up with exorbitant prices. They are playing a losing game.

Nor does it take a financial genius to know that the value of our dollars, compared to the currency of other nations, has gone down in value by nearly twenty per cent in the past couple of years.

At the same time we are now hearing talk that taxes may be raised to help halt inflation or even that a special, heavy tax may be placed on gasoline to discourage people from using it because it is in short supply.

People all over America are deeply disturbed about these developments. I am, and have been, deeply disturbed about them. I feel that the only way to cure them is by immediate and firm action by Congress and the Administration.

During January of this year, when the wage-price freeze, the so-called Phase 2, was taken off, I immediately warned that this action was premature and would inevitably lead to a new round of dangerous and damaging inflation. I regret to say that my worst misgivings have come about. The so-called "voluntary restraints" on prices and wages under Phase 3 have been applied very sparingly, if at all, and such "restraints" certainly have not been effective. Inflation continues to climb, month by month. That such inflation is rapidly devouring earnings and savings by rapid price increases is painfully evident to anyone who buys almost any article available for sale in the United States. Inflation is rapidly eating up savings and salaries of our citizens. This is especially true for those on fixed incomes of all kinds including social security payments. The destructive inflation must be stopped.

For many months now we have been hearing that these galloping price increases were merely "seasonal" or temporary. That idea is no longer believable. Prices are climbing uncontrollably no matter what the season, and the cause is a pervasive and rampant inflation, which only firm price-wage controls can stop.

Inflation is also at the heart of our balance of payments problems in international trade. Our money is worth less now than it once was, when compared to the money of other nations, because of inflation here at home. International speculators continue to gamble against the dollar, betting that its value will decrease still further. All this is happening in spite of the fact that our economy itself, that is our production, is steadily growing and outdistancing every other nation. It is inflation and the lack of confidence in our economy which inflation causes that are at the heart of our economic problems. Clearly we must stop this inflation and its effects. To my mind the only way to do so is by putting back into effect some tough, firm controls on prices and wages. I have always felt that such controls were contrary to the fundamental nature of our free economic system and should be used, if ever, only on a temporary basis to halt a particularly bad inflationary trend. I would favor removing the controls at the earliest possible moment when it would be safe to do so. It is now abundantly clear that the controls were taken off too soon.

The other remedy suggested, to raise taxes, seems to me to be a total mistake. Our people are already oxertaxed. Taking more money out of the pockets of men and women who have worked hard to earn it, and who do not have enough income now to pay the constantly increasing prices is no solution to inflation. In economic terms, increased taxation would temporarily take money out of the economy, thus slowing it down, but we all know that the government would simply turn right around and spend that tax money for new programs, thereby putting more money into the economy and pushing inflation back up again. Thus increased taxation in itself is not the answer.

It is clear to me that a far better alternative to raising taxes is to cut down on some of the present excessive big government spending, as I suggested when I co-sponsored the bill this year to require Congress to establish an over-all ceiling on federal spending. Only by reducing government spending can we really help to cool down our present overheated economy, and that is what I now urge Congress to do. By holding down spending and re-freezing prices and wages we can get this present runaway inflation under control and get our national economy back on a steady, secure basis.

The control law has been extended by the Congress. I urge the Executive of the Government, which deserves credit for initiating control with Phase I in August 1971, to now reconsider its position and reinstate and enforce Phase II, which was abandoned last January. This done, I urge the people of all groups to cooperate and help enforce Phase II of these controls which will pave the way toward controlling inflation. A good job was done on Phase II as to enforcement and another good job can be done. The people deserve it and are behind it.

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. 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 tomorrow at 10:45 a.m. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Senator CLARK, Senator EAGLETON, Senator STEVENSON, Senator MATHIAS, Senator ROTH, Senator JAVITS, Senator GRIFFIN, and Senator ROBERT C. BYRD.

There will then be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Senate will proceed to the consideration of the conference report on the Public Works and Economic Development Act, H.R. 2246, with a time limitation thereon of 30 minutes, to be equally divided between the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Tennessee (Mr. BAKER).

On the disposition of the conference report, the Senate will resume the consideration of the unfinished business, S. 1888, the farm bill, with the time limitation agreement continuing thereon.

Yea-and-nay votes will occur tomorrow, and Senators are so alerted.

ADJOURNMENT UNTIL 10:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:45 a.m. tomorrow.

The motion was agreed to; and at 5:59 p.m. the Senate adjourned until tomorrow, Wednesday, June 6, 1973, at 10:45 a.m.

NOMINATIONS

Executive nominations received by the Senate June 5, 1973:

DISTRICT OF COLUMBIA GOVERNMENT

The following-named persons to be Members of the District of Columbia Council for terms expiring February 1, 1976:

Henry S. Robinson, Jr., of the District of Columbia. (Reappointment)

Marguerite C. Selden, of the District of Columbia, vice Stanley J. Anderson, term expired.

W. Antoinette Ford, of the District of Columbia, vice Carlton W. Veazey, term expired.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Timothy F. Cleary, of Maryland, to be a Member of the Occupational Safety and

Health Review Commission for a term expiring April 27, 1979, vice Alan F. Burch, term expired.

COUNCIL OF ECONOMIC ADVISERS

Gary L. Seevers, of Virginia, to be a Member of the Council of Economic Advisers, vice Ezra Solomon, resigned.

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service Officers for promotion from class 1 to the class of Career Minister:

William G. Bowdler, of Florida.
William B. Buffum, of New York.
Jack B. Kubisch, of Michigan.
Thomas W. McElhiney, of the District of Columbia.
Albert W. Sherer, Jr., of Illinois.
Malcolm Toon, of Maryland.

U.S. AIR FORCE

The following officer for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of Chapters 35, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Edward R. Fry, [redacted] FG, Air National Guard.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of major general:

Samuel Jaskilka
Edward S. Fris
Thomas H. Miller, Jr.
Robert H. Barrow
Herbert L. Beckton

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of major general:

Richard Mulberry, Jr.
Louis Conti.

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

William L. McCulloch
Robert W. Taylor
Adolph G. Schwenk
William H. Lanagan, Jr.
Francis W. Vaught
Robert L. Nichols

HOUSE OF REPRESENTATIVES—*Tuesday, June 5, 1973*

The House met at 12 o'clock noon.

Rev. Nathaniel A. Urshan, Calvary Tabernacle, Indianapolis, Ind., offered the following prayer:

Our God and Saviour before whom empires crumble and fall, we beseech Thee. Come with the presence of Thy Holy Spirit. Send a powerful revelation of our own personal need upon us. Show us, O Lord, like Job of old stated, "I have heard of Thee with the hearing of the ear, but now mine eye seeth Thee, behold I repent in dust and ashes." Individually we exclaim our need! Nationally we earnestly cry, "We need Thee!" We need more than mind stimulation. We need a national revival that baptizes our spirit with the power of Pentecost; that scrapes away hypocrisy; takes from us boasting of tongue, arrogance of mind, and restores a knowledge of the beauty of Jesus. Please do break in upon us today, tomorrow, and enlighten the minds of these leaders with spiritual perception, as well as practical decisiveness. Through and by Thy great name, Jesus, we pray. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 296. Joint resolution to authorize the President to proclaim the last week of June 1973, as "National Autistic Children's Week."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 6077. An act to permit immediate retirement of certain Federal employees.

And that the Senate recedes from its amendment to the title.

The message also announced that the Senate had appointed Senator EAGLETON as an additional conferee on H.R. 7447, second supplemental appropriation bill.

PERSONAL EXPLANATION

Mr. JONES of Oklahoma. Mr. Speaker, yesterday, I was necessarily absent from the House of Representatives because my presence was required on official business in Federal court in Tulsa, Okla. Had I been here, I would have voted "aye" on House Resolution 398, supervisory positions, U.S. Capitol Police force. I ask that the permanent RECORD so indicate.

MAJORITY LEADER THOMAS P. O'NEILL, JR., SAYS THE CONSUMER AND THE JOBLESS RATE ARE THE VICTIMS UNDER PHASE III

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

Mr. O'NEILL. Mr. Speaker, May was the 35th consecutive month in which unemployment in this Nation exceeded 5 percent. That is what the Bureau of Labor Statistics reported.

Last month that figure meant 4.4 million Americans without jobs.

Meanwhile, those lucky enough to have work were paying fantastically inflated prices for food and other necessities. Living costs have climbed sharply and consistently—month by month—since President Nixon prematurely lifted wage-price controls last January. The Labor Department has reported that consumer prices rose at an annual rate of 7.2 percent in April. That follows a 10.8-percent rate of increase in March and 8.4 percent the month before that.

On the other side of the ledger, the Commerce Department reported that corporate profits jumped $11.6 billion in the first 3 months of this year. Profits are running at an annual rate of $113.1 billion, before taxes. The Commerce Department said it had underestimated the rate of price increases for those months by 10 percent.

We can see who have gained from President Nixon's phase III policies: the wealthy and the corporate interests.

And we can see that the President has left the ordinary citizen to suffer the consequences and to bear the cost of this devastating inflation.

OIL BARONS COLLECT FEDERAL SUBSIDIES

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

Mr. CONTE. Mr. Speaker, continuing my exposé of the farm subsidy program, today I want to show how the oil barons are tilling the Federal Treasury.

Farmers cannot get enough gas this spring to run their tractors. They cannot get their crops planted. But the oil barons are harvesting plenty of Federal cash for not growing crops.

Last year three of the Nation's largest oil companies collected $340,000 in subsidies for "farms" they own in California.

Tenneco, the Nation's eighth ranking oil baron, got $230,000. Standard Oil of California, the fifth largest, got $86,000. Occidental Petroleum, ranked 14th, got $24,000.

Farm subsidies are taxable income. But our big oil companies have so many tax breaks, they pay Federal taxes at a much lower rate than the average farmer.

Food prices are skyrocketing. Gasoline supplies are scarce. Farm tractors are sitting idle in the fields.

With all this going on, I cannot understand how the Federal Government can pay these oil barons huge subsidies for not growing crops.

This is the ultimate Government giveaway.

PERSONAL EXPLANATION

Mr. REGULA. Mr. Speaker, I am recorded as not having noted on the rollcall vote 170, passage of an amendment to H.R. 7724, the biomedical research program that would have prohibited live fetus research.

That vote occurred on May 31.

Mr. Speaker, I was on the floor at the time of that vote and attempted to vote for passage of the amendment by inserting my card in the voting station and pressing the "yes" button. For some rea-